THE INSTITUTIONALISATION OF THE MULTILATERAL POLICE COOPERATION IN THE AMERICAS: A BOTTOM-UP APPROACH TO THE PATHWAY OF AN INFORMAL GOVERNMENT NETWORK

A Institucionalização da Cooperação Policial Multilateral nas Américas: um Enfoque de Baixo para Cima do Caminho de uma Rede Governamental Informal

La Institucionalización de la Cooperación Policial Multilateral en las Américas: un Enfoquede Abajohacia Arribade la Trayectoria de una Red Gubernamental Informal

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ABSTRACT

The Police Community of America – AMERIPOL was created in 2007, at the 3rd Meeting of Directors, Commanders and Chiefs of Police of Latin America and the Caribbean that took place in Bogotá, Colombia. At the end of this meeting, official delegates of 15 national police institutions signed AMERIPOL's bylaws. This decision led to the creation of a government network with broad cooperation faculties that – even without an international treaty – has operated since 2007 as a multilateral police cooperation mechanism. States did not oppose AMERIPOL, and several international organisations,

the European Union, private actors and police institutions outside the Americas established cooperative alliances with it. The peculiar scenario where police forces – not States – lead the institutionalisation of multilateral police cooperation in the Americas begs the question: is it possible to reconcile the particular political conjuncture of creation and consolidation of AMERIPOL with international law? In this article, I sustain that the harmonisation of that specific political context and legal theory is, indeed, possible by articulating Anne-Marie Slaughter's disaggregated state interpretation of the transnational agency of domestic government institutions with Janet K. Levit's Bottom-Up Approach to International Lawmaking. This theoretical proposition reconciles AMERIPOL's informal origins with the legitimacy needed to participate in any lawmaking process.

KEYWORDS: AMERIPOL; multilateral police cooperation; disaggregated state; government networks; bottom-up approach to international lawmaking.

RESUMO

A Comunidade de Polícias da América - AMERIPOL foi criada em 2007, no 3º Encontro de Diretores, Comandantes e Chefes de Polícia da América Latina e do Caribe, realizado em Bogotá, Colômbia. No final desta reunião, os delegados oficiais de 15 instituições policiais nacionais assinaram os estatutos da AMERIPOL. Esta decisão levou à criação de uma rede governamental com amplas faculdades de cooperação que - mesmo sem um tratado internacional - funciona desde 2007 como um mecanismo de cooperação policial multilateral. Os Estados não se opuseram à AMERIPOL, e várias organizações internacionais, a União Europeia, atores privados e instituições policiais de fora das Américas estabeleceram alianças de cooperação com ela. O cenário peculiar em que forças policiais - não Estados - lideram a institucionalização da cooperação policial multilateral nas Américas levanta a questão: é possível conciliar a conjuntura política particular de criação e consolidação da AMERIPOL com o direito internacional? Neste artigo, sustento que a harmonização desse contexto político com a teoria jurídica é, de fato, possível ao articular a interpretação de Anne-Marie Slaughter sobre a agência transnacional das instituições governamentais nacionais em "Chave do Estado Desagregado com a Abordagem de Baixo para Cima da Construção do Direito Internacional! de Janet K. Levit. Esta proposta teórica concilia as origens informais da AMERIPOL com a legitimidade necessária para participar em qualquer processo de criação de direito.

PALAVRAS-CHAVE: AMERIPOL; cooperação policial multilateral; estado desagregado; redes governamentais; abordagem de baixo para cima da criação do direito internacional.

RESUMEN

La Comunidad de Policías de América - AMERIPOL fue creada en 2007, en la III Reunión de Directores, Comandantes y Jefes de Policía de América Latina y el Caribe que

tuvo lugar en Bogotá, Colombia. Al final de esta reunión, los representantes oficiales de 15 instituciones policiales nacionales firmaron el estatuto de AMERIPOL. Esta decisión dio lugar a la creación de una red gubernamental con amplias facultades de cooperación que -aún sin tratado internacional- funciona desde 2007 como un mecanismo de cooperación policial multilateral. Los Estados no se opusieron a AMERIPOL, y varias organizaciones internacionales, la Unión Europea, actores privados e instituciones policiales de fuera de las Américas establecieron alianzas cooperativas con ella. El peculiar escenario en el que las fuerzas policiales -y no los Estados- lideran la institucionalización de la cooperación policial multilateral en las Américas plantea la siguiente pregunta: ¿es posible conciliar la particular coyuntura política de creación y consolidación de AME-RIPOL con el derecho internacional? En este artículo, sostengo que la armonización de esa coyuntura política específica y la teoría jurídica es, en efecto, posible, articulándose la comprensión de Estado Desagregado de Anne-Marie Slaughter sobre la agencia transnacional de las instituciones gubernamentales nacionales con el enfoque de abajo hacia arriba, de Janet K. Levit, sobre la construcción del derecho internacional. Esta propuesta teórica reconcilia los orígenes informales de AMERIPOL con la legitimidad necesaria para participar en cualquier proceso de construcción del derecho.

PALABRAS CLAVE: AMERIPOL; cooperación policial multilateral; estado desagregado; redes gubernamentales; bottom-up approach to international lawmaking.

Introduction

"Networked threats require a networked response." (SLAUGHTER, 2004, p.2)

The Police Community of America – AMERIPOL was created in 2007, at the 3rd Meeting of Directors, Commanders and Chiefs of Police of Latin America and the Caribbean that took place in Bogotá, Colombia. At the end of this meeting, official delegates of 15 national police institutions signed AMERIPOL's bylaws¹. Although

The following institutions signed the original bylaws: Gendarmería Nacional Argentina (Argentina), Policia Nacional Boliviana (Bolivia), Policia Federal (Brazil), Policia Nacional de Colombia (Colombia), Carabineros de Chile (Chile), Fuerza Pública de Costa Rica (Costa Rica), Policia Nacional Revolucionaria (Cuba), Policia Nacional de Ecuador (Equator), Policia Nacional Civil (El Salvador), Policia Nacional Civil (Guatemala), Policia Federal de México (Mexico), Policia Nacional del Paraguay (Paraguay), Policia Nacional de Perú (Perú), Policia Nacional (Republica Dominicana) y Policia Nacional del Uruguay (Uruguay). It was also signed by representants of the Canandian Royal Mounted Police (Canada) and of BKA (Germany) as observers (AMERIPOL, 2007).

not a Treaty², in article 1³, the signees manifested the intention of creating the first police cooperation mechanism in the American continent (AMERIPOL, 2007, p. 2). Since then, AMERIPOL has developed a consistent practice of multilateral police cooperation, gaining new members and observers⁴, establishing partnerships with leading international actors in the field of public security and executing coordinated joint operative actions in response to several criminal threats (CASTRO et al., 2018a; INTERPOL, [s. d.]; LA LIGA, 2019).

The creation of AMERIPOL was led by the National Police of Colombia (ATLANTIC COUNCIL, 2019, p. 17; SANTOS, 2008, p. 167-168; U.S. DEPARTMENT OF STATE, 2008, p. 155, 2017, p. 290) and also the first concrete step towards the institutionalisation of multilateral police cooperation in the Americas. Before its creation, the existing structure was mainly limited to the exchange of police intelligence (UGARTE, 2012, p. 180). On the other hand, AMER-IPOL's purpose is much more comprehensive: strengthening police cooperation concerning technical-scientific assistance, intelligence and criminal investigation as much as improving strategies of capacity building aiming at the prevention and neutralisation of transnational organised crime (AMERIPOL, 2007, p. 4; SANTOS, 2008, p. 167).

The above-mentioned decision of 15 police institutions to create a government network with broad cooperation faculties resulted in a body that – even without a treaty – has operated since 2007 as a multilateral police cooperation mechanism⁵. States did not oppose

² Under article 7, letter a, of the Vienna Convention on the Law of Treaties (UNITED NATIONS, 1969), holding full powers is a requirement to commit states into treaties. This means having an express and written delegation of powers. This requirement was not fulfilled by those representing police institutions in the Meeting of Directors of 2017 and, thus, AMERIPOL's bylaws was not regarded as a Treaty.

³ Author's translation from Spanish of AMERIPOL's bylaws', article 1: "The police institutions agree in this Statute on the creation, organisation and functioning of the Police Community of America - AMERIPOL, the first police mechanism to be constituted as a categorical, effective, practical and permanent instrument of cooperation to strengthen police education, doctrine and philosophies on technical-scientific assistance, intelligence and criminal investigation, favouring the prevention and neutralisation of transnational organised crime in the region" (AMERIPOL, 2007, p. 2)

⁴ In 2020, AMERIPOL has 33 members and 26 observers (AMERIPOL, 2019b).

⁵ The legal nature of AMERIPOL is still under dispute. However, this issue falls short of this paper, which focuses on providing an account of its process of institutionalisation. To better assess the legal nature of AMERIPOL, a different framework would be needed (mostly a review of international institutional law) and, due to this reason, it shall be explored in another research endeavour for a more precise assessment. Finally, according to the bottom-up approach to international lawmaking,

AMERIPOL, and several international organisations, the European Union, private actors and police institutions outside the Americas established cooperative alliances with it.

The peculiar scenario where police forces – not States – lead the institutionalisation of multilateral police cooperation in the Americas begs the question: is it possible to reconcile the particular political conjuncture of creation and consolidation of AMERIPOL with international law?

In this article, I sustain that the harmonisation of that specific political context and legal theory is, indeed, possible. I start by arguing that – politically – AMERIPOL was initially envisioned to function as an informal government network. While co-existing with more traditional state-to-state associations, government network is "a pattern of regular and purposive relations among like government units working across the borders that divide countries from one another and that demarcate the 'domestic' from the 'international' sphere" (SLAUGH-TER, 2004, p. 14). Slaughter's government networks concept is political and mainly centred in the development of global governance institutions by actors strongly tied to governmental bureaucracy, but not the State itself. In this sense, AMERIPOL was created and mostly managed by police institutions of different countries to better articulate the cooperation among them. Aiming at enforcing more effectively their national legal system in their territories, its members carry out information exchange, capacity building and create convergence to facilitate cooperation (SLAUGHTER, 2004, p. 171-172).

Applying Slaughter's political perspective on this case is valuable because it renders a narrative where the foregoing leadership of police institutions do not clash with State's sovereignty, unlike most approaches to international law. However, it is not suited to provide an account on the process of institutionalisation of multilateral police cooperation in the Americas, a phenomenon with a substantial legal component. Due to this particular trait, I deem it necessary to complement this analysis with a legal framework that could not only accept the findings reached under Slaughter's government networks

a myriad of actors can be part of this process (LEVIT, 2005, p. 178-179). Therefore, discussing the legal nature of AMERIPOL – apart from unnecessarily expanding the theoretical framework and distracting from the research question – is not mandatory to the scope of this research.

theory, but also complete this discussion – from a legal standpoint – assessing more broadly the very diverse interactions that took place in the creation and consolidation⁶ of AMERIPOL. For that, Janet K. Levit's Bottom-Up Approach to International Lawmaking provides a more inclusive system of legal analysis (LEVIT, 2005, p. 125-126).

To accomplish this objective, in the second section, I advance on the study of this process. The central argument is that AMERIPOL is the result of a bottom-up international lawmaking process because it is possible to gather and present sufficient evidence that it fulfils the necessary conditions outlined in Janet K. Levit's writings. To support this assertion, it is necessary to analyse the traits of the actors involved just as much as the practices and behaviours that compose it because '[b]ottom-up lawmaking, like transnational legal process, is a process-oriented theory' (LEVIT, 2005, p. 181).

To conclude this introduction, the discussion held in this paper is relevant both empirically and theoretically. In fact, the case of AMER-IPOL is useful to provide both Slaughter's and Levit's theory with empirical evidence and, therefore, strengthen their academic pertinence. From this perspective, Slaughter's thesis will be nourished by the factual particularity materialised in the growing influence of both state and non-state outsiders in what was, at first, an informal network of governmental officials. Although this hybridisation⁷ of actors is theoretically mentioned in her work, the author herself acknowledges the need of good empirical evidence to prove to what extent "convergence has actually resulted from network activity" (SLAUGHTER, 2004, p. 177).

Meanwhile, the very actors that seemed natural protagonists in Slaughter's view are the ones that pose a challenge to Levit's Bottom-Up Approach to International Lawmaking, since past studies using this framework have mostly involved private actors leading the process⁸. Therefore, this article contributes to providing empirical

⁶ The expression "creation and consolidation of AMERIPOL" denotes two stages of the case study. I find it important to differentiate them because the actors involved in the first stage – the "creation" – were the police institutions who, in the stage of "consolidation", were actively joined by other actors, as it will be further described.

⁷ In this article, I consider *hybridisation of actors* the fact that actors of different natures influenced the phenomenon.

^{8 &}quot;Some have described bottom-up lawmaking as lawmaking by private parties, and top-down

evidence from governmental actors' engagement or – at least – from hybrid actors' involvement in the bottom-up process of international lawmaking.

Lastly, it is noteworthy that the process under study has been effective and resulted in the establishment of a real and functioning institution of multilateral police cooperation, one that was born as an informal governmental network but matured enough to seek international legal personality by means of negotiating a constitutive treaty, a process currently being pushed by actors other than the unitary State, but pursuing their support. This exact route from informality to a desired formality is also what makes this an unlikely case under both theories, as obtaining international legal personality and being regulated by treaties are not the usual path to transnational informal government networks that have been originated from the bottom-up by domestic government institutions, mostly based on practices and informal codes (LEVIT, 2005, p. 173; SLAUGHTER, 2004, p. 33).

1. GOVERNMENT NETWORK: A COMMON GROUND TO AMERIPOL'S DAILY PRACTICE AND ORIGINS

According to Anne-Marie Slaughter (2004), scholar discussions about globalisation have focused on two major shifts: "from national to global and from government to governance". But she stresses that "they have paid far less attention to the third shift, from the unitary state to the disaggregated state" (SLAUGHTER, 2004, p. 12).

This third shift is of special interest to the case of AMERIPOL because it provides a framework where the circumstances of its creation do not clash with State's sovereignty. Slaughter (2004, p. 12) portrays the *disaggregated state* as "the rising need for and capacity of different domestic government institutions to engage in activities beyond their borders, often with their foreign counterparts", as opposed to the traditional unitary State. To this author, "States still exist in this world; indeed, they are crucial actors. But they are 'disaggregated'. They relate to each other not only through the Foreign Office, but also through regulatory, judicial, and legislative channels" (SLAUGHTER, 2004).

lawmaking as lawmaking by government actors" (LEVIT, 2005, p. 129).

The disaggregated state supposes a profound change in the social construction of the traditional conception of the State – unitary – in order to better comprise the daily reality of the disaggregated practice of State affairs, in which domestic government institutions and a diversity of actors partake in the composition of State's interests (BERMAN, 2012, p. 63; KEOHANE; NYE, 2012, p. 29). Besides, this shift has the virtue of exposing a long-standing conflict between theory and reality when it comes to the unitary conception of State and its respective exercise of sovereignty, since "[i]nternational lawyers and international relations theorists have always known that the entities they describe and analyse as 'states' interacting with one another are in fact much more complex entities" (SLAUGHTER, 2004, p. 12).

One of the reasons why Slaughter (2004, p. 32) criticises the unitary perspective of the State is because this particular approach obliterates the highly diverse cluster of institutions responsible for the government. In this sense, she states that:

The old model of the international system assumes unitary states that negotiate formal legal agreements with one another and implement them from the top down, with a great emphasis on verification and enforcement. The new model advanced here assumes disaggregated states in which national government officials interact intensively with one another and adopt codes of best practices and agree on coordinated solutions to common problems—agreements that have no legal force but that can be directly implemented by the officials who negotiated them. (SLAUGHTER, 2004, p. 263)

From the perspective of the disaggregated state⁹, the creation of AMERIPOL is an enigma that begins to make sense; it ceases to be a Frankensteinian intervention of police institutions in international law and global governance. Put simply, AMERIPOL is the result of

^{9 ,} Slaughter is not alone interpreting the effects of globalisation as disaggregating. Saskia Sassen (2008, p. 423), when historically examining sovereignty, argues: "As the unitary character of the nation-state becomes disaggregated, even if only partially, sovereign authority is itself subject to partial disaggregations". In the same sense, Keohane & Nye (2012, p. 28) argue that "[t]he multiple channels of contact found in complex interdependence are not limited to nongovernmental actors. Contacts between governmental bureaucracies charged with similar tasks may not only alter their perspectives but lead to transgovernmental coalitions on particular policy questions. To improve their chances of success, government agencies attempt to bring actors from other governments into their own decision-making processes as allies".

the constant interaction of domestic government institutions (police forces) with their foreign counterparts, that coalesce through an informal agreement (AMERIPOL's Bylaws), to tackle common problemsnotably transnational organised crime.

It is important to note that, in the context of disaggregated states, the domestic government institutions are still the State while interacting with their foreign counterparts. Conversely, if the result of this interaction is a government network, this new body is an instrument of global governance, created by these domestic government institutions (hence, the State disaggregated) to address common problems cooperatively. This instrument of global governance – or the government network – belongs to all members; it cannot be confused with the State anymore.

Through Slaughter's viewpoint, police institutions of different countries relating to one another to create AMERIPOL were States themselves interacting; a true expression of the disaggregation of State affairs in action, where police forces represented the State. But the resulting body of this interaction, AMERIPOL, is not the State anymore. It is an instrument of global governance, to be used by its members to handle the problems that motivated the creation of this network.

In my opinion, Slaughter's political concept of government networks based on the disaggregated state provides a common ground to start solving the puzzle of the process of institutionalisation of the multilateral police cooperation in the Americas. By recognising the disaggregated practices of State affairs, this approach imprints legitimacy on the cooperative interaction among police institutions of the Americas that characterises AMERIPOL. Through this lens, domestic government institutions are allowed to transnationally interact with their counterparts to address common problems in an informal and agile manner, forming government networks and exercising global governance instead of global government.

This framework, therefore, as it stamps AMERIPOL with the political nature of a government network, it has the virtue of granting political validation to its creation and daily practice. But, as said be-

fore, in this particular case, it lacks the legal instruments to explain the process of institutionalisation of the multilateral police cooperation in the Americas. Also, it prioritises the agency of government institutions and – in the case of AMERIPOL – there were many different actors involved. For this reason, in the next section, this case will be observed from a legal standpoint, one that can accept the findings under Slaughter's approach and is able to fill in the legal gap in the analysis of this case.

2. THE INSTITUTIONALIZATION OF MULTILATERAL POLICE COOPERATION THROUGH THE LENS OF THE BOTTOM-UP APPROACH TO INTERNATIONAL LAW

In recent years there has been a discussion around who can participate in the creation of international law and how. While classic legal scholarship has tried to hold a close grip on the actors involved with a top-down state-led approach¹⁰, the increasing role of a multiplicity of real-life actors involved in global governance (civil society, private sector, think tanks and even domestic bureaucrats, among others) has made it difficult to keep those doors closed.

Scholars have sought to explain this phenomenon from different perspectives, and, among them, two approaches have gained notoriety in defining the role that actors other than the unitary State can have in the creation and consolidation of international law. Even though each one refers to different types of actors and processes, the similarities of their names have caused some confusion. To avoid this problem, in this section, I will first briefly present and differentiate *International Law from Below* from *Bottom-up Approach to International Lawmaking*, to then focus on dissecting the necessary conditions to consider a process bottom-up lawmaking.

International Law from Below was conceived – in the context of the Third World Approaches to International Law – by Balakrishnan Rajagopal (FALK; RAJAGOPAL; STEVENS, 2008; FITZGERALD et al., 2018; RAJAGOPAL, 2003, 2005, 2006, 2012,

¹⁰ For an example of a modern take on this approach, see *The Limits of International Law* (GOLDSMITH; POSNER, 2005).

2013). He emphasises the empowering of social movements as actors that use multidimensional strategies to reduce the power asymmetry among state and non-state actors, aiming at a legal transformation from below. Such change occurs "when we focus on the lived experience of ordinary people with international law when they encounter international institutions, frame their demands in international legal terms, and network for influencing international or domestic policy" (RAJAGOPAL, 2003, p. xiii). According to this author, the transformation from below is achieved by resistance, understood as "not merely always a reaction to hegemony, but is, in fact, a complex multitude of alternative visions of social relationships and, therefore, of human history" (RAJAGOPAL, 2003, p. 10). Hence, the approach from be*low* carries within it a historic struggle to overcome power asymmetry among players, in such a way that traditionally weaker actors can defend their own agenda in the international arena. There is, indeed, a solid vindicatory blueprint in it.

Bottom-up Approach to International Lawmaking has in Janet K. Levit (2005, 2007, 2008) its most prominent scholar. Instead of power struggle, it favours the outcome of a spontaneous process in which, although from the bottom, actors do not consider themselves coming from below. From the bottom – in this approach – is a way of classifying all those actors that are not the all-mighty State impersonated (or the unitary State) and, therefore, it does not imply a dominance-resistance duality, as it does in the International Law from Below. On the contrary, even very powerful players, such as multinational corporations, can partake in bottom-up lawmaking processes. In fact, Levit has directly addressed the distinction between from below and from the bottom: "Instead (...) bottom-up lawmaking refers to a process whereby discrete groups of transnational practitioners translate their practices and customs into code-like rules that ultimately harden into law" (LEVIT, 2005, p. 129).

As a result, *from the bottom* indicates that those actors do not have international legislative powers as the State does, but have the influence to transform practices and customs into soft law that, with time, produces hard legal results. In short, *Bottom-up International*

Lawmaking has more to do with the process¹¹ observed and the results obtained than with the vindication of rights.

Bearing this in mind and using the tools provided by Janet K. Levit's Bottom-up Approach to International Lawmaking, by confronting them to the evidence gathered about the process of institutionalisation of multilateral police cooperation in the Americas through (AMERIPOL's creation and consolidation) I aim at assessing if the aforementioned process can be classified as bottom-up. But before rendering this analysis, it is mandatory to describe the conditions to identify a bottom-up lawmaking process.

To single out those conditions, I will use two of Janet K. Levit's concepts of Bottom-up International Lawmaking. The first one refers to the process itself: "[f]undamentally, bottom-up international lawmaking is a soft, non-choreographed process that produces hard legal results" (LEVIT, 2005, p. 129). The second one is functional to put into evidence the kind of actors admitted:

Private parties, nongovernmental organisations (NGOs), and/or mid-level technocrats coalesce around shared, on-the-ground experiences and perceived self-interests, "codifying" norms that at once reflect and condition group practices. Over time, these informal rules embed, often unintentionally, in a more formal legal system and thereby become "law". (LEVIT, 2007, p. 395)

From the concepts above, a process of creation of international law is bottom-up if: (i) the actors driving it do not have international legal personality and can be of diversified nature, (ii) it is a non-choreographed and soft process, and (iii) it produces hard legal results. In other words, if a phenomenon fulfils these requirements, it should be considered a bottom-up international lawmaking process.

In the following subsections, after a brief account of what each condition states, I will contrast the existing evidence about the creation and consolidation of AMERIPOL with the condition debated. With this, the aim is to verify if the process of creation and consolida-

^{11 &}quot;Bottom-up lawmaking, like transnational legal process, is a process-oriented theory" (LEVIT, 2005, p. 181)

tion of AMERIPOL complies with all conditions to be classified as bottom-up international lawmaking.

2.1 Police Institutions Do Not Possess International Legal Personality

When Levit (2005, p. 178-179) asserts that this process can be triggered by a myriad of actors, she implies that these actors are not the State. This is the reason why the first condition states that the actors driving bottom-up international lawmaking processes do not have international legal personality and can be of diversified nature.

In that regard, Roland Portman (2010, p. 8-9) explains:

[...] international personality not only denotes the quality of having rights and duties as well as certain capacities under the law, but that it also includes the competence to create the law. This association of international personality with law-creation is an effect of there being no centralised legislator in the international legal system as opposed to municipal private law where the creation of law lies in the competence of centralised state power (and consequently is not exercised by the legal persons of private law).

According to Portman, the direct effect of not having international legal personality is not having the formal capacity of creating law. Otherwise, it would be top-down lawmaking, just as States do with the international legal instruments available to them.

Police institutions do not hold international legal personality; they do not have formal competence to create international law. Traditionally, only States¹² have *erga omnes* international legal personality and, in different degrees of rights and obligations, some other subjects of international law might be entitled to it too¹³ (SHAW, 2017, p. 195-263).

^{12 &}quot;[T]he state's legal subjectivity is premised on the fiction that it, too, is a person ('an international legal person'), and legal relations among states are modelled on those that govern interactions among individuals in their private capacity (the so-called private law analogy of international law)" (RUSKOLA, 2016, p. 145).

¹³ The discussion about which actors and to what extent they have, or not, international legal personality is far from being pacified. This is the reason William T. Worster (2016, p. 208) states that "[a]lthough some schools of thought suggest that once an entity is identified as a legal person, it enjoys that personality in an objective, *erga omnes* manner, actual practice is more equivocal, and

Concerning police institutions, they are an indissociable part of the States' executive branch and, as such, scholars have never posed them – or any other domestic government institution, for that matter – as a legitimate international person, one with legislative powers as much as rights and duties. Not even Anne-Marie Slaughter, whose approach to government networks and the disaggregated state was debated in the previous section, said so. Hence, theoretically, according to the first necessary condition stated above, police institutions could drive bottom-up international lawmaking processes.

This first necessary condition is of particular significance to the study of the case of AMERIPOL because the agency of police institutions was decisive in the creation of it, and – along with the agency of other actors – this process was forged ahead to the consolidation of this network of multilateral police cooperation.

Also, this first condition is closely related to a central aspect of bottom-up international lawmaking: the diversity of actors that it comprises. While identifying a variety of actors that were admitted in lawmaking processes by different approaches to international law¹⁴,

many non-state actors exist as quasi-persons or hybrid entities that blur the distinctions. These entities are considered international legal persons for some purposes but not others, or only in relation to certain actors but not others. Thus, within the category of non-state actors, a challenge of personality fragmentation exists: identifying which actors are international legal persons vis-a-vis existing legal persons and for which purposes they can be treated as international legal persons".

Martin Shaw (2017, p. 260) also uncovers the state of uncertainty that international legal personality holds: "The above survey of existing and possible subjects of international law demonstrates both the range of interaction upon the international scene by entities of all types and the pressures upon international law to come to terms with the contemporary structure of international relations. The International Court clearly recognised the multiplicity of models of personality in stressing that 'the subjects of law in any legal system are not necessarily identical in their nature or in the extent of their rights'. There are, however, two basic categories – objective and qualified personality. In the former case, the entity is subject to a wide range of international rights and duties, and it will be entitled to be accepted as an international person by any other international person with which it is conducting relations. In other words, it will operate *erga omnes*".

In the same direction, but particularly about international organisations, Jan Klabbers (2002, p. 3) contends that "the law of international organisations is still somewhat immature. We lack a convincing theory on the international legal personality of international organisations, to name just one thing. Moreover, if an international organisation fails to meet its legal obligations, we are not at all sure as to whether and in what circumstances it can be held responsible, let alone whether its member states incur some responsibility as well".

14 Janet K. Levit builds her International Bottom-up Lawmaking Approach to International Lawmaking after reviewing and critically comparing different approaches to international law, such as: Public International Law, Transnational Legal Process, Transgovernmental Networks, Private Lawmaking, Global Legal Pluralism and New Haven School of Law (LEVIT, 2005). Levit (2005, p. 178-179) concluded that, in fact, it was key to the bottom-up approach the assumption that "on-the-ground practices of a myriad of transnational actors (private individuals, corporations, and highly specialised governmental technocrats) are constitutive of law".

In specific regard to the agency of domestic government officials, Levit (2008, p. 62) made it clear that "one of the defining features of bottom-up lawmaking is that the law-makers (...) tend to be non-state actors and career civil servants rather than elected politicians". Also, she elucidates a common misconception about this process:

Some have described bottom-up lawmaking as lawmaking by private parties, and top-down lawmaking as lawmaking by government actors. (...) This Article deliberately steers clear of that usage, recognising, as shown herein, that government actors can engage in bottom-up lawmaking, which is one of the important but unstated insights of transgovernmental network theories. (LEVIT, 2005, p. 129)

Notwithstanding the favourable theoretical settings described above, it is an unexpected finding to see police institutions contribute to the construction of international law from the bottom. Despite the hierarchical and highly rigid character of these institutions, they created law (mostly soft law) through the performance of actions that resulted not only in the creation of an informal transnational government network named AMERIPOL but also in the set of norms that regulate how its members interact and cooperate.

The perception that this case is an unlikely outcome stems, mostly, from the notion of that only States can fully intervene and interrelate in the international arena. Such an understanding (based on the unitary view of the State) brings forth the distorted notion that police institutions should only carry out orders and meticulously follow the chain of command rather than, like in this instance, transnationally network with their counterparts to engage on actions that fulfil their common regional purpose of neutralising criminality.

The perception depicted above is a good example of the bias Slaughter pointed out, which lies in the fact that analysing the transnational agency of domestic government institutions through the lens of the unitary State can handicap the scrutiny of real-life phenomena. With that in mind, she states:

Abandoning that fiction [the unitary State] and making it possible to see and appreciate these networks is particularly important in a world confronting both the globalisation paradox—needing more government but fearing it at the global level—and the rising importance of nonstate actors in the corporate, civic, and criminal sectors. (SLAUGH-TER, 2004, p. 32)

From my point of view, the practical and very much rooted existence of AMERIPOL cannot be dismissed. The motors that made AMERIPOL gain traction in the international arena were the practices and behaviours promoted primarily by the police forces, and, in the end, it was those actions that have sustained its existence. Moreover, no evidence supports the presumption that the creation and consolidation of AMERIPOL was an exercise of insubordination of police institutions, one that could threaten statehood and, therefore, endorse their exclusion of bottom-up processes. On the contrary, the transparency of this process allowed several international actors to approach AMERIPOL and be involved with it as observers, public and private partners in the fight against organised crime and even as donors of technical cooperation to strengthen the institutional structure of AMERIPOL¹⁵.

Therefore, to domestic government institutions that daily face the consequences of globalisation in their own territory (police institutions included), one possible way around the traditional international lawmaking process may be the bottom-up approach because it provides an alternative way to give input on decisions that might deeply impact the accomplishment of their institutional mission, especially when in accordance to the national interests. In that respect, Berman (2012, p. 63) affirms: "international, transnational, and non-state norms can affect what nation-states view to be 'in their interest' and can empower actors within bureaucracies to pursue agendas that

¹⁵ Cooperation agreements, Memoranda of Understanding and Letters of Intention have been signed with: Organization of American States – OAS, European Union, International Atomic Energy Agency – IAEA, INTERPOL, EUROPOL, National Police Corps of Spain, Iberoamerican School of Police (IBERPOL, in Spanish), Liga de Futbol Profesional - LA LIGA, Police Educational Internationalization Network (RINEP, in Spanish), among others (CASTRO et al., 2018b, 2018a, 2018c; INTERPOL, [s. d.]; LA LIGA, 2019). The European Union upholds two technical assistance programmes that foster the institutional strengthening of AMERIPOL directly (EL PACCTO - Support to Ameripol Programme) and indirectly (EL PACCTO – Police Cooperation) (EL PACCTO, [S. l.]: [s. n.]).

might not otherwise have been available" The creation and consolidation of AMERIPOL was nothing more than the legitimate, bottom-up exercise of this faculty by police institutions of the Americas, in a demonstration that despite not bearing international legal personality, police institutions were able to create law from the bottom when creating AMERIPOL and its own set of governing norms.

2.2 THE CREATION AND CONSOLIDATION OF AMERIPOL WAS AN UNCHOREOGRAPHED, SOFT PROCESS

The second condition states that bottom-up international law-making is a non-choreographed, soft process. To Levit (2008, p. 65), these processes are: "messy and unpredictable in its spontaneity". She also explains that "[w]hereas top-down lawmaking (...) is a process of law internalised as practice, bottom-up lawmaking is a soft, unchoreographed pattern of practices externalised as law" (LEVIT, 2007, p. 395). In essence, it means that bottom-up international lawmaking is a spontaneous process with no specific set of rules (hence, soft), which expected result is to develop a pattern of practices that are externalised as law.

With the intention of better illustrating the opposite of a spontaneous process, Levit (2008, p. 56) reminds that "[b]ottom-up lawmaking is thus the antithesis of top-down lawmaking. It is not the world of jet-setting diplomats or Rose Garden signing ceremonies". Top-down processes are usually "open with diplomats at majestic negotiating tables, secluded in remote yet pristine locations, wrangling politely over the text of a treaty. The climaxes are photo-opportunity events – a treaty-signing ceremony or the founding of a new institution" (LEVIT, 2005, p. 126). On the contrary, "[b]ottom-up lawmaking also begins with a type of messy spontaneity absent from formal treaty mechanisms" (LEVIT, 2005, p. 177).

The creation and consolidation of AMERIPOL was, indeed, a spontaneous, soft process. The participation of so many actors is one indication of that because those involved were either not subjected to the rules of traditional lawmaking or chose not to act by them. Therefore, the actions that will be presented next, despite contributing to the creation and consolidation of AMERIPOL, do not follow any

particular route; still, ended up resulting in a network of multilateral police cooperation.

One of the actors whose actions were not consistent with the traditional international lawmaking was, surprisingly, the State. Firstly, it is essential to point out that, even though States have not signed AMERIPOL's bylaws (police directors did) and have not yet enticed any concrete action to formally recognise this body, not one American State protested or presented a persistent objector¹⁶ against the creation of AMERIPOL. On the contrary, several acts performed by the States represented in AMERIPOL could be interpreted as a symbolic endorsement to its existence and activities, contributing to its *de facto* consolidation in the international arena. This kind of agency is not expected from the States. Despite bearing international legal personality, oddly enough, high officials chose to follow a non-traditional path of recognition when concerning AMERIPOL.

An example is the executive order of appointment of AMER-IPOL's liaison officers, an act usually signed by Presidents, ordering their officials to represent their States before AMERIPOL (BRASIL, 2018; PRESIDENCIA DE LA REPUBLICA DEL PERÚ, 2016)¹⁷. Another example of the symbolic approval and recognition of AMERIPOL was the speech given by the former President of Chile, Michelle Bachelet, at the 10th AMERIPOL Summit, where she compares AMERIPOL's mission to that of EUROPOL and INTERPOL (BACHELET, 2017, p. 2). Also of great symbolism is the participation of the President of Panama in the 9th AMERIPOL Summit (EFE, 2016). Those actions reflect an unusual path States took to recognise *de facto* and enforce the existence and operation of this network of multilateral police cooperation.

Just as unlikely and unusual course of action of the diplomatic channels, though very symbolic, was the participation of Ambassadors in official public events of AMERIPOL. Ambassadors – as Head of a Diplomatic Mission – represent the States to which they belong

¹⁶ Persistent objector is the international legal instrument available to the State to manifest, via protest, its opposition to being bound to a customary international rule (SHAW, 2017, p. 90)

¹⁷ There are more executive orders signed by Presidents regarding AMERIPOL. In future field work, these documents will be properly collected, catalogued and presented as evidence.

(UNITED NATIONS, 1961). In a very brief account, there were Ambassadors present at the inauguration of AMERIPOL's Headquarters (AMERIPOL, 2019a), in the Annual Summits of AMERIPOL (AMERIPOL, 2018; EFE, 2016; EMBAJADA DE ECUADOR EN MEXICO, 2015) and, more recently, at Videoconferences held to address the COVID19 (YBANEZ, 2020). However, the most symbolic act from an Ambassador was perhaps when the Ambassador of Brazil received the office of the Executive Secretariat of AMERIPOL on December 6th, 2018 (BARBOSA, 2018), representing not only the Brazilian Federal Police but also Brazil itself.

It is also absolutely necessary to recall that, during the 2018 AMERIPOL Summit, Ministers responsible for public security¹⁸ signed the Reinforced Police Cooperation Agreement Against Organized Crime, also known as Buenos Aires Agreement. This inter-ministerial agreement, of operative nature, established rules to the multilateral police cooperation against organised crime, notably authorising the creation of a shared database¹⁹ with personal data of criminals, crimes as well as criminal organisations and approving the establishment of joint investigation teams among the signees²⁰ (CON-VENIO DE COOPERACIÓN POLICIAL REFORZADA CON-TRA LA DELINCUENCIA ORGANIZADA, 2018). The Buenos Aires Agreement is the first multilateral international instrument of this nature in the Americas and, in addition to providing joint operative tools to the signees, it appointed AMERIPOL as the depositary of this agreement. Also, AMERIPOL is responsible for storing, securing and managing the information fed into the database.

Although it was not a constitutive treaty of AMERIPOL, it is clear that the *Buenos Aires Agreement* had the effect of indirectly bestowing not only symbolical acquiescence to the existence of AMERIPOL, but also a *de facto* recognition of its value as the articulator of multilateral police cooperation in the Americas. After all, allowing a transnational government network to manage, secure and store national information in a database is, most certainly, a manifestation of trust in AMERIPOL by the signing States.

¹⁸ In 2018, Argentina, Bolivia, Brazil, Ecuador and Panama signed the Buenos Aires Agreement. Later, Dominican Republic, Paraguay and Colombia also adhered to this instrument.

¹⁹ This database was named SIPA and stands for AMERIPOL's System of Police Information.

²⁰ Argentina, Bolivia, Brazil, Colombia, Ecuador, Panama, Paraguay and the Dominican Republic.

The role of the European Union (EU) is too to be recognised as crucial in this process. The EU has long acknowledged the need to strengthen a capable partner in the Americas in order to establish with it effective channels of cooperation against the crimes that usually begin in this continent, but profoundly affect Europe, such as drug trafficking, people smuggling, counterfeit, terrorism, among others. In that regard, since 2010, the EU has continuously funded projects of technical assistance to AMERIPOL, the Support to AMERIPOL programme. These ventures had the underlying objective of developing a reliable partner in the Americas with whom its institutions of criminal prosecution (EUROPOL and EUROJUST) could securely exchange operative information and establish joint investigation teams to tackle transnational crime affecting both regions (SÁNCHEZ; FIIAPP, 2015; MARICA, 2017).

Again, the actions of the EU regarding AMERIPOL were conducted mostly via development aid programmes coordinated by the European Commission's Department for International Cooperation and Development (EL PACCTO, [s. d.]; EUROPEAN COMMISSION, [s. d.]). The institutional strengthening objective of these aid programmes, in the case of AMERIPOL, were not simply altruist; the EU supported the consolidation of a credible partner to engage transnational cooperation to cope with matters that affect both regions. So much that EUROPOL has recently recognised AMERIPOL as the regional police cooperation organisation for strategic cooperation in the Americas (EUROPOL, 2018b, p. 43).

The signing of the aforementioned *Buenos Aires Agreement* is probably the most concrete result of the European effort. An unpredicted effect of it is that AMERIPOL's database (SIPA) is being built (and EU financed) to have complete compatibility with EUROPOL Information System (EIS) (FIIAPP, 2020). These European actions are, definitely, unchoreographed moves towards the consolidation and expansion of AMERIPOL when compared to those official channel instruments that are certainly available to the EU, but not put into action.

AMERIPOL has also received *de facto* recognition from governmental institutions and international agencies in different ways.

One of them is through the signing of memoranda of understanding²¹ with important global actors in both public and private sectors related to public security. AMERIPOL is also seen as the representative of the American bloc of police institutions on several occasions²², such as in the Dialogues on the design of an effective multilateral police structure against global threats (INTERPOL, 2019, 2020). Also, in The White House's (2011, p. 23) *Strategy to combat transnational organised crime*, to strengthen cooperation with AMERIPOL, referred to as international police organisation, is one of the actions recommended.

From the depiction above, it is possible to infer that those actions were not planned and executed to obtain the result of granting AMERIPOL the status of a formal international organisation. Most of the practices and behaviours were triggered by the virtuous cycle²³ that was implemented through the very practices and behaviours that preceded them. There were no specific rites or set of rules established. As actors approached AMERIPOL and perceived it as a transnational government network that, somehow, could contribute to their own agenda, new relationships and practices were established. And the result was a soft, messy, unpredictable and spontaneous process that reinforced the consolidation of it brick by brick.

²¹ Cooperation agreements, Memoranda of Understanding and Letters of Intention have been signed with: Organization of American States – OAS, European Union, International Atomic Energy Agency – IAEA, INTERPOL, EUROPOL, National Police Corps of Spain, Iberoamerican School of Police (IBERPOL, in Spanish), Liga de Futbol Profesional - LA LIGA, Police Educational Internationalization Network (RINEP, in Spanish), among others (CASTRO et al., 2018; INTERPOL, [s. d].; LA LIGA, 2019). The European Union upholds two technical assistance programmes that foster the institutional strengthening of AMERIPOL directly (EL PACCTO - Support to Ameripol Programme) and indirectly (EL PACCTO – Police Cooperation) (EL PACCTO, [s. d.]). According to preliminary interviews, MOUs are being negotiated with the International Committee of the Red Cross, Transnational Alliance against Illicit Trade – TRACIT and with the European Anti-fraud Office – OLAF.

AMERIPOL has led and taken part of a number of international operations tackling international criminality, as well as participated in important events regarding the design of public security measures (AMERIPOL, 2019b; Agustín Larre, 2019; CASTRO et al., 2018; COMERCIO, 2019; BONFANTE, 2019; EFE, 2018; EFE, 2018b; EUROPOL, [s. d.]; El COMERCIO, 2019; INSIGHT CRIME, 2013; INTERPOL, 2019; INTERPOL, [s. d.]; LA LIGA, 2019; LA VANGUARDIA, 2019; COUZENS, 2018; HOMELAND SECURITY TODAY, [s. d.]; LA CAPITAL, 2020; MARY, 2020; ORTIZ, 2019).

^{23 &}quot;In a positive feedback loop, a trend gives rise to forces which increase the trend (. . . .) A positive feedback loop can be called a virtuous cycle if it reinforces a desirable trend" (WEBEL; GALTUNG, 2007, p. 189).

2.3 THE PROCESS OF CREATION AND CONSOLIDATION OF AMERIPOL PRODUCED HARD LEGAL RESULTS

Finally, the third condition states that bottom-up international lawmaking is a process that presents hard legal results. This means that, through consistency and broad acceptance of a soft norm, it becomes part of the legal systems affected by the lawmaking community, domestically or internationally²⁴. When referring to this particularity, Janet K. Levit (2008, P. 56) conveyed:

bottom-up transnational lawmaking joins two interrelated sub-processes: 1) an informal process of norm creation and 2) a hardening process, whereby official legal systems embed such informal norms, either at the prompting of the informal group or because the norms offer attractive legal solutions to collective action problems. While the first necessarily precedes the second, the two processes become inextricably linked in a loop of interpretation, assessment, and alignment.

To this author, one of the characteristics that indicates hard legal results is that "as bottom-up lawmaking processes produce soft norms that evolve into hard law, the rules tend to impact groups beyond the original rule-makers, thereby triggering demands for expanded participation." (LEVIT, 2005, p. 203). Therefore, the broader the community that accepts and behaves accordingly to the soft norms²⁵, the harder the results are.

In the previous sections, although non-exhaustively, a quite thorough description of the practices and behaviours that supported AMERIPOL's creation and consolidation was made. This depiction was able to provide evidence that, with time, the increasing interest of actors that were not part of the 2007 bylaws entailed a series of multi-actors practices that, combined, resulted in the consolidation of

^{24 &}quot;[O]ver the course of these bottom-up lawmaking exercises, soft instruments frequently hardened into some type of law, either international law (i.e., a treaty or international agreement) or domestic law (generally a statute or judicial rule of decision)." (LEVIT, 2005, p. 172-173)

²⁵ Complementing this view, Andrew Guzman (2002) claims that to exist and continue operational, soft law – other than not being formally recognised as international law – demands commitment and compliance of those that are their addressees (GUZMAN, 2002, p. 1881-1883).

AMERIPOL as the [un]official²⁶ network of multilateral police cooperation in the Americas.

Also, the growing representativity of AMERIPOL in the global arena, already described in this article, can indicate the increasing acceptance of the soft norm that multilateral police cooperation in the American continent should be enforced and operationalised mainly through AMERIPOL²⁷. This high compliance, or the consistent embedment of this fundamental soft norm in the practice and behaviours of a broader community of actors (not only the original bylaws' signees, but every other actor that established cooperative alliances with AMERIPOL), is, indeed, the hard legal result of this process.

Especially regarding the role of compliance, Levit (2005) explains that "[i]n a bottom-up approach to international lawmaking, rules emerge from the practices of group members. (...) The primary determinant of compliance becomes the extent to which an ongoing lawmaking process accurately reflects the practices and preferences of the group members" (p. 193). In other words, the expansion of actors that accept the fundamental soft norm of a particular lawmaking group and behave accordingly represents the hard legal results expected in this process. And this is precisely the interaction that can be observed in the process of creation and consolidation of AMERIPOL.

It is noteworthy that the group of actors that comply with the hardened soft rules of AMERIPOL has substantially increased when compared to the police forces that signed AMERIPOL's bylaws in 2007. In this context, this network enables the daily exchange of information between members, observers and partners, promoting the fight against organised crimes in the Americas as well as in other continental blocs, with the establishment of joint investigation teams and with the coordination of simultaneous operative actions among all those actors (COUZENS, 2018; EL COMERCIO, 2019a; LA VANGUARDIA, 2019). In addition, AMERIPOL has led and par-

²⁶ Here,-is used to convey that, up to now, AMERIPOL is an informal government network.

²⁷ Along with this fundamental soft norm (multilateral police cooperation in the American continent should be enforced and operationalised mainly through AMERIPOL) a number of other rules have been created, especially regarding its internal functioning and relationship with third parties. The acceptance of the primary soft norm implies that the expanded community also accepts the other rules, that basically regulates the object of the primary soft norm.

ticipated in several international operations to tackle organised crime, which also involved a myriad of actors (AMERIPOL, 2019b; BON-FANTE, 2019; COUZENS, 2018; EFE, 2018; EL COMERCIO, 2019a, 2019b; EUROPOL, 2018b; HOMELAND SECURITY TODAY, [s. d.]; INSIGHT CRIME, 2013; LA CAPITAL, 2020; LA LIGA, 2019; LA VANGUARDIA, 2019; LARRE, 2019; MARY, 2020; ORTIZ, 2019).

As part of its mission of providing technical assistance and reducing asymmetries among its members, AMERIPOL has recently organised events - in partnership with the EU's Support to AMERIPOL programme – for the promotion of best practices regarding CO-VID-19, with the participation not only of members and observers but also public and private international actors²⁸ related to health and public security (AMERIPOL.ORG, 2020a, 2020b, 2020c, 2020d; YBANEZ, 2020).

In addition, although formal hard international law is not the objective of a bottom-up lawmaking process (hard legal result is, instead), it is important to convey that AMERIPOL is also tracking in that direction. As mentioned in the previous section, in 2018, the *Buenos Aires Agreement* was signed, binding eight American countries²⁹ (CONVENIO DE COOPERACIÓN POLICIAL REFORZADA CONTRA LA DELINCUENCIA ORGANIZADA, 2018). This single event consubstantiates by itself one good example of the real hardening of the soft norms that involved AMERIPOL because, at least to the signing countries, AMERIPOL is now a legal entity in charge of building a database of criminals personal data, just as criminal organisations operative and intelligence information³⁰. By using the tools stipulated in this agreement, it is also in charge of articulating more concrete actions of multilateral police cooperation against organised crime in the Americas.

²⁸ The following actors took part in these events: EUROPOL, INTERPOL, International Committee of the Red Cross, Transnational Alliance against Illicit Trade - TRACIT, European Anti-fraud Office - OLAF, Spanish National Police, Italian Ministry of the Interior, University of Alcalá de Henares, among others (AMERIPOL.ORG, 2020a, 2020c, 2020b, 2020d; YBANEZ, 2020).

²⁹ Argentina, Bolivia, Brazil, Colombia, Ecuador, Panama, Paraguay and the Dominican Republic.

³⁰ The information that is to compose the SIPA database is strategic to the public security of those countries and its leak could affect their active strategy of neutralising the criminal organisations in their territory. Therefore, entrusting AMERIPOL with this mission is a recognition not only of its existence, but also of its reliability.

Nonetheless, the *Buenos Aires Agreement* is not an isolated event. With the technical assistance of the EU-Support to AMER-IPOL programme, a group of Brazilian and Argentinean experts drafted the Constitutive Treaty of AMERIPOL. Since 2019, through the initiative of police institutions of the Americas, it is being negotiated by the Foreign Relations Ministries (BRASIL, 2019). This particular initiative – even if not yet concretised – can also be considered a strong indication of the hardening of AMERIPOL's soft norms, since it evidences that this informal network has gained sufficient political influence to propose its own legal institutionalisation before the Foreign Relations Ministries of the States represented in it.

The pursue of a formal constitution via Treaty is also the result of AMERIPOL's acknowledgement of the importance of the State as the most relevant actor of the international arena, despite being disaggregated (SASSEN, 2003, p. 1148; SLAUGHTER, 2004, p. 5). Just as AMERIPOL matures its role as an informal transnational network, the ambition of cooperating by exchanging – in an accountable manner – reliable information about criminal activity and, more than that, engaging in joint investigation teams to better tackle transnational crime, falls short of its current institutional modelling. Therefore, seeking a formal constitution via a Treaty is the materialisation of this ambition, one that also provides it with a structure that enables protection from political shifts and ensures a more transparent public accountability system.

The result of this endeavour, if AMERIPOL is to remain an informal government network or to become a treaty-based organisation, is yet to be known. Anyway, it is clear that the process of creation and consolidation of AMERIPOL produced hard legal results.

3. Conclusion

The first section of this article was dedicated to illustrating the effect of globalisation on States, through the lens of Anne-Marie Slaughter's disaggregated state and government network. In short, this political approach defies the unitary notion of the State and contends that the reality of the State's functioning in the international arena is much more complicated. As such, the establishment of transnational government networks composed by domestic government institutions is a pattern of global governance by which those officials can articulate cooperation to attack common problems. In particular, stamping AMERIPOL with the political nature of a government network through this approach supports the legitimacy of its creation and daily practice.

Also, it was thoroughly debated that the process of creation and consolidation of AMERIPOL is full of important events and practices that are consistent with Levit's bottom-up approach to international lawmaking. They were initially led by police institutions but, with time, what was initially a group of domestic national institutions transformed itself in a much broader community composed of members and observers of AMERIPOL, as well as public and private actors that associated themselves to this network. That had the effect of hardening the fundamental soft rule that regulated this group: multilateral police cooperation in the American continent should be enforced and operationalised mainly through AMERIPOL.

The articulation of Slaughter's disaggregated state interpretation of the transnational agency of domestic government institutions with Levit's Bottom-Up Approach to International Lawmaking, also, had the effect of providing a more grounded reading of the events that led to the creation and consolidation of AMERIPOL. This theoretical proposition reconciles AMERIPOL's origins with the legitimacy needed to participate in any lawmaking process. As a government network that – politically – is the outcome of the will of the disaggregated state, the process of institutionalisation of multilateral police cooperation in the Americas is rendered legitimate and, therefore, legally explained by the bottom-up approach.

There is still much to be studied about AMERIPOL and its processes. In future research endeavours, it is yet to be better assessed not only the institutional legal nature of AMERIPOL but also the mechanisms that guided this process, so that the pathway of institutionalisation of the multilateral police cooperation in the Americas can be better described and explained.

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