# \*\*State Recognition Topic Paper 22-23\*\*

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## \*\*Executive Summary

### Why State Recognition?

#### Reasons we should debate this topic:

The NDT-CEDA community has not debated a state recognition topic since 1954-1955 when the resolution asked students whether the US should extend diplomatic recognition to Communist China.[[1]](#footnote-1) Despite topics that peripherally interact with advantage/disadvantage areas of state creation, state failure, and state contestation, as well as the critical literature that interrogates issues of sovereignty, the authors believe the mechanism of recognition may prove to be a fundamentally new controversy angle for our debate community and thus worth selecting for 2022-2023.

As we write, Russia has invaded Ukraine under the absurd justification of a peacekeeping mission to defend the “states” of Donetsk and Luhansk, two breakaway regions that Russia has unilaterally recognized (if not created). The US military presence was forced out of Afghanistan under haste as the Taliban took over the country, thus removing the Ashraf Ghani government from positions of power. The Afghan government’s status as a US recognized entity remains undefined. [[2]](#footnote-2) The tense relationship amongst Turkey, Iraq, Syria, and Kurdish territories repeatedly sparks without clear resolution. The two-state solution in Israel-Palestine and the China-Taiwan sovereignty dispute seem to have lost a great deal of American foreign policy leadership. From this vantage point, 21st century students have largely observed stagnant and intractable contestation as a norm with limited true “statehood” developments.

Our research suggests that the assumption of stagnation and slow state development as have limited value, if not “boring,” to debate would be off the mark. The dramatics of secessionism, decolonialism, and the creation and destruction of governments has been a norm for the past 200 years. Inherent in this process is a disagreement about what a “state” should be and whether an entity aspiring to be a state meets these legal and political standards. The ontology that researchers use to define entities as a state-to-be-recognized inherently produces disagreement in the literature. This disagreement also spills over into international institutions, norms, and the competing interests of established powers. The result is a controversy that is ripe for debaters to challenge the inclusion/exclusion boundaries of statehood through the process of recognition.

At any given time, de facto states tend to include about ~10 states.[[3]](#footnote-3) According to Caspersen 2014, there are on average around 40 partially independent and non-self-governing territories (cited by Visoka 2021).[[4]](#footnote-4) As the graph below reveals, there have been very few periods in the past 200 years where new states have not been created (Wimmer Feinstein 2010):[[5]](#footnote-5)

Chart, histogram

Description automatically generated

You may ask why now? There have certainly been a few contemporary explosive events that directly challenge state existence that may prove exciting for members of the community. A clear-eyed view of the controversy would suggest that this topic could be debated nearly every season considering the volume of states in-waiting, states failing, and states coming into being. Beyond declarations of independence and secessionist movements around the globe, the authors also found avenues for state recognition law being linked directly to future management of inevitable catastrophes of global climate change as ice recedes revealing new lands, melt waters raise oceans flooding state boundaries while mobilizing climate diaspora. From an academic standpoint, while a few experts around the globe have written extensively from their theoretical corners of their institutions (history, geography, political science, public policy, IR etc.), the interdisciplinary nature of debate, where we take literature from across these fields may promote new perspectives building in better research questions for future leaders.

You may also ask, is there enough solvency evidence to sustain a year-long topic? First a caveat—Legal topics do not necessarily need to rest on solvency literature that is immediate. Historically legal topics require debaters to look at decades of precedent and legal evidence to resolve the controversy. Whether an entity is “state worthy” can rest on “facts” of the case in 2022 plus disagreements on historic precedence on what international law has deemed acceptable for statehood. What this means is that you can write an affirmative that rests on a foundation of solvency evidence from the past few decades with the usual use of contemporary uniqueness evidence for the advantages that you write. Second, yes there is recent solvency evidence. The groups who are advocating for statehood, if they are active, will continue to update their calls for state recognition. We have included evidence proving that this is the case under the heading “Areas to Recognize.”

A major argument for the controversy is that it lends the community an opportunity to debate areas of the world and more specifically about populations that have not been included in most topics within the past few decades. Somaliland, Cyprus, Hawaii, Puerto Rico, Catalonia, Nagorno-Karabakh, Transnistria, Western Sahara, the Republic of Lakhotah, are (again arguably) a few locations that include aspirant statehood movements.[[6]](#footnote-6) If the community opts for an expansive version of the topic, we believe debaters of various backgrounds can find a subject matter and angle of the topic that interests them.

The previous paragraph may excite and may alarm. The reader may be worried that a list of de facto states of ~7-10 or a list of aspiring states well over 30 is too expansive considering list topics of the past tend to include less than six target areas. A few responses:

1) Core negative ground is strong on this topic. Any move to recognize one entity will not be “small” and missed by the world. Each instance of recognition can send signals to other secessionist movements. Policy disadvantage wise, any change of recognition can also irritate or excite allies and/or rivals. On the critical side of things, there is literature about the benefits of unrecognized statehood for secessionist movements and there is clearly historic evidence on the legacies of state power politics around this process.

2) The resolutional terms the community selects before “recognition” (policy of recognition, official recognition, support for state recognition etc.) followed by the entity seeking recognition (quasi-state, aspiring state, unrecognized state) will each have limitation outcomes on what the affirmative’s can do towards a number of entities seeking statehood. The action of an official recognition can be as limited as sending a status change letter to the newly recognized country followed by legal consequences between the US and the newly recognized country. Policies supporting recognition can be more expansive of activities that support international-legal and government developments of a newly recognized state.

Furthermore, the term we select to describe the entity to be recognized has constraints on the size of the topic. “De facto states” is likely the smallest list of nations (close to 7 maybe 10) while “aspiring” or unrecognized states may be the most expansive.

3) A few things to consider around the size of the topic and the number of entities to be recognized. The US has already recognized some de facto states (Kosovo is an example). Second, a few of the states are patron states of governments the US is in direct conflict with. While there may be solvency evidence for recognizing states Russia has used to justify intervention, an affirmative that recognizes these states may upend contemporary foreign policy.[[7]](#footnote-7) Rather than selecting a “list” it may be worth writing a topic option that allows for an expansive scope of entities seeking statehood to allow for affirmative innovation in the face of negative ground.

### Small Topic > Mega Topic

#### One strength of this topic is the size. While some of our wording options are flexible enough to allow for a slightly larger topic, we strongly believe in the value of selecting a more limited topic for a few reasons:

1. Novice/JV: a smaller topic is generally more beneficial for novice and JV students. We acknowledge the existence of other barriers for novice/JV and believe a smaller topic would still help immensely. Even if your program is not focused on novice/JV, we encourage the community to think of these students when casting your votes.
2. Manageability: all of us know how difficult it can be to keep up with bigger topics, especially if you’re a student/coach at a program with limited resources. Selecting a more manageable topic makes life more livable for coaches and students because it requires fewer tradeoffs in our daily lives. It gives students more time to focus on their courses, jobs, and other obligations. It gives coaches more time to focus on their families, teaching/grading, academic work, etc.
3. Depth: a smaller topic does not equate to a stale topic. The NHI resolution was a great example of a more limited topic resulting in excellent in-depth debates throughout the season. Quality of arguments > quantity of potential new affs you can break in elimination rounds.
4. Retention: there are many factors that affect the retention of debaters and topic size is one of them. Many debaters feel like they can’t keep up with the research burdens of larger topics, which leads some students to exit the activity. We’re currently witnessing a serious drop in participation; we should address this crisis by using all of the tools available to us.

### T – Legal Topic

#### According to the topic committee, authors must provide:

#### “A topic that relates to a controversy within legal jurisprudence and where the topic wording emphasizes legal research.”

The controversy meets T-Legal. The act of recognition establishes a state as a legal personality within international law. Recognition creates a legal standard between two entities along with a legal expectation that the recognized state must follow international legal norms. Whether the recognition status is non-recognition, derecognition, de facto recognition, de jure recognition, ambiguous recognition, or other permutations, a granting nation that establishes a recognition stance towards an entity, sends a message to their domestic government structures and foreign powers/organizations how the entity should be treated under laws. The legal spillover has consequences on international norms, political, economic, judicial decision making (and more) that will make for good advantages.

If the standard for evaluating this T-legal debate is whether students must engage in legal jurisprudence research to succeed, the paper authors believe a recognition controversy is irrefutably within this standard. Affirmatives that try to reside entirely outside of legal by focusing on political “engagement” literature will lose if they fail to include legal “recognition” based advantages. The majority of the academic published solvency advocates will include an evaluation of how the to-be-recognized target entity is contested under legal standards set by the Montevideo Convention and whether that convention’s standards or other legal precedence are unjust and should be changed.

Considering the evidence below, we believe most will conclude that the controversy of recognition includes a healthy balance of legal focused research without over-constraining students to ONLY law reviews and published court decisions. In other words, the topic is both/and. We can have our cake and eat it too.

#### Criteria of recognition is “disputed” across disciplines which means the legal controversy is indefinite and thus a ripe for policy debate

Mehrabi 2018, Wais. M.A., International and Comparative Politics Graduate Program, School of Public and International Affairs, Wright State University, 2018. “Politics of International Recognition: The Case of Aspirant States” <https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=3345&context=etd_all>

International Recognition

The concept of recognition, much like de facto state, is somewhat disputed in the literature because of its multidimensionality crossing-cutting different disciplines. There is no agreement over the precise definition of recognition. The concept is variegated connoting different meanings. Its complexity arises from the fact that the concept entails a combination of politics, national and international law, formal and informal practices of recognition (Kelsen, 1941). One reason it is difficult to “resolve the controversy over state recognition theory is because the international legal system translates political controversies into legal questions that can then be addressed through legal means”, and therefore, raise the question over the entity’s “nature of statehood [and the] degree of discretion that states have in acting on the international plane” (Worster, 2009, p.116).

#### The topic rests on tensions between legal precedent around sovereignty and political decision making. This means every debate will have precedential legal consequences.

Macklem 2008, Patrick Macklem, Indigenous Recognition in International Law: Theoretical Observations, 30 MICH. J. INT'L L. 177 (2008). Available at: <https://repository.law.umich.edu/mjil/vol30/iss1/3>

At the height of the Second World War, Hans Kelsen, one of the world's leading proponents of the view that there exists a sharp distinction between politics and law, published an essay entitled "Recognition in International Law: Theoretical Observations" in The American Journal of International Law.' What Kelsen meant by recognition was the recognition of a State and its government in international law. In classic Kelsenian fashion, he argued that "the term 'recognition' may be said to be comprised of two quite distinct acts: a political act and a legal act. ' Political recognition, such as the establishment of diplomatic relations, means that the recognizing State is willing to enter into a political relationship with the recognized community. But this willingness, even if reciprocal, does not turn the community in question into a State in international law. In contrast, legal recognition is constitutive of statehood. It is a legal conclusion-Kelsen calls it "the establishment of a fact"'-that a community meets international legal requirements of statehood. According to Kelsen, "by the legal act of recognition the recognized community is brought into legal existence in relation to the recognizing [S]tate, and thereby international law becomes applicable to the relations between these [S]tates."' Contemporary accounts of recognition in international law treat recognition in declaratory terms, as an act by one State that affirms the legal existence of another State.5 On a declaratory account, whether a State exists in international law does not turn on whether other States recognize it as a State; instead, it turns on whether it possesses the objective attributes of a State. Despite their differences, what declaratory and constitutive accounts of recognition share is the insight, eloquently articulated by Kelsen in 1941, that international law itself supplies the criteria for determining the international legal existence of a State. This insight assumes renewed relevance in light of the fact that international law increasingly structures and regulates relations between States and individuals and groups. Numerous international legal instruments assume that individuals belong to certain communities. In some circumstances, communities themselves exist in international law-not as States, but as international legal actors in their own right.6 In Kelsenian terms, what criteria does international law provide to determine the legal existence of a community that is legally distinct from the State in which it is located?

#### Diplomatic engagement is distinct from state recognition

**Morrison 67 – \_**Fred Morrison holds bachelor's degrees from University of Kansas and Oxford University, a PhD from Princeton University, and a legal degree from University of Chicago. He taught law at University of Iowa College of Law from 1967 to 1969, After leaving Iowa, he joined the faculty of University of Minnesota College of Law, where he continues to teach. His work focuses on international law (“Recognition in International Law: A Functional Reappraisal”, 1967 The University of Chicago Law Review, Vol. 34:857, https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=3544&context=uclrev)

Much confusion has been generated by the use of the word "recognition" to describe entry into diplomatic relations. The two concepts should be clearly distinguished, although the latter may correctly be called "diplomatic recognition" or "political recognition." Recognition of a state implies the acceptance by 64 one state of another into the legal framework of international law. The recognized state becomes a creature of that international law, capable of holding rights and duties under it. Recognition of a government is acceptance of it as the lawful agent of that state. The establishment of diplomatic relations is, however, only the creation of formal means of communication between the governments of two states. Abstention from diplomatic intercourse may imply political and possibly total nonintercourse between two states, but it need not imply nonrecognition. The breach of diplomatic relations can imply nonrecognition only when the government in one of the states has never been recognized by the government in the other, and even then the nonrecognition is only at the governmental and not at the state level. If a changing policy occasions the breach, but there is continuity of personnel administering the states involved, governmental recognition clearly continues. Entry into diplomatic relations is certainly not required by positive international law. Indeed, for most states the entry into direct diplomatic relations with every other state would be a practical impossibility. For the major powers and for those having regular dealings with one another, regular diplomatic communication is certainly desirable, but even in its absence communication between states is usually possible. This can be by informal negotiations carried on by commissioners, 2 or by conferences at third capitals or at international assemblies, 73 or through the use of the good offices of some third state. 4 At worst diplomatic nonintercourse causes serious inconvenience. It is a situation which should be avoided as far as possible, especially by the major powers, but it cannot be described as illegal.

#### The material cited below is further “we meet” evidence to T-Legal. The Siroky and Abbasov 2021 article is citation list that the authors update somewhat infrequently. The list is an argument by the authors that recognition resides in cross-disciplinary research objectives, including AND especially the legal precedent and consequences around I-Law.

David Siroky and Namig Abbasov 2021**,** “Secession and Secessionist Movements” Oxford Bibliographies, LAST MODIFIED: 23 JUNE 2021 DOI: 10.1093/OBO/9780199756223-0336, https://www.researchgate.net/profile/Namig-Abbasov-2/publication/352910544\_Secession\_and\_Secessionist\_Movements/links/60df6db4299bf1ea9eda5d5b/Secession-and-Secessionist-Movements.pdf

Secession and secessionists movements have proliferated since the end of the Second World War. The academic literature has extensively explored these movements from different aspects. To begin, scholars have developed several legal approaches to explain when and if so how secession should take place, resulting in debates about the normative basis and legality of self-determination. Normative and philosophical approaches have sought to establish a number of necessary preconditions for secession. States, according to some of these authors, should allow secession to happen when they believe that it is morally and practically acceptable. The political economy of secession and secessionist movements has been another key area of research. Debates among scholars in this area have focused on whether wealthy or poor regions are more or less likely to pursue secession, how the presence of oil resources may establish more opportunities for the groups to secede along with incentives for the state to hold onto the territory, and what role state capacity and movement capabilities play in secessionist dynamics. Scholars have also emphasized economic approaches to the study of secession that highlight the costs and benefits of staying in the union compared to seceding. Others have studied secessionism from an international perspective and have particularly focused on exploring the impact of external kin on secessionist movements and on why and how self-determination movements obtain international recognition. International approaches have also explored the roles of ethnic ties and vulnerability in stimulating and curbing secessionist movements. Other scholars have focused on institutional approaches by exploring how different domestic and international institutions have shaped secessionistconflicts. In particular, research in this area has explored the relationship between democracy and secession, institutional legacies, and the role of autonomy and lost autonomy on separatism. Scholars have also examined the strategic choices and behaviors used by both secessionist groups (violence vs. nonviolence) and by states (concession and repression), and relatedly how reputational concerns for resolve and setting precedents shape state behavior toward secessionists. Some research shows that most states are more likely to fight against secessionist movements than to grant them concessions, particularly states facing multiple (potential) separatists. However, other scholars have challenged these claims, and shown that states can use organizational lines to grant some concessions to secessionist groups without damaging their reputations. Looking toward solutions, some scholars have emphasized institutional solutions, such as consociationalism, and still others have looked to international organizations to resolve secessionist conflicts, while skeptics have suggested that approaches like partition are often the only way forward. Finally, there are several new datasets fors tudying secession and secessionist movements, including All Minorities at Risk (AMAR), Family EPR, SDM, and others.

… (ellipse to cut out other areas of the online list. It may be easier to just click the link and look)

**Legal Approaches to Secession**

Musgrave 2000 reviews overarching legal issues involving self-determination, particularly since the establishment of the UN.

Raič 2002 also revisits the right to self-determination and examines its significance for the creation of new states.

Horowitz 2003 contends that the alleged right to secede is ill considered.

Pavkovic and Radan 2007 outlines secession in legal theory and practice.

Crawford 2006 evaluates the principles for recognizing new states and analyzes the role of secession in state formation.

Crawford, James. The Creation of States in International Law. Oxford: Oxford University Press, 2006. Crawford analyzes the principles of recognizing new states and the role of secession in state formation.

Horowitz, Donald L. “The Cracked Foundations of the Right to Secede.” Journal of Democracy 14.2 (2003): 5–17.

The author argues that the alleged right to secede, held by ethnic groups and derived from a reinterpretation of the principle of the self-determination of nations, would be a reversal of existing international law, and is poorly considered. Among other reasons, it is notedthat a right to secede is likely to dampen efforts at coexistence in the undivided state, including federalism or regional autonomy.

Musgrave, Thomas D. Self-Determination and National Minorities . Oxford: Oxford University Press, 2000.

This book examines the relationship between minority rights and self-determination in international law and outlines the core legalissues involving self-determination, particularly since the creation of the UN.

Pavkovic, Aleksandar, and Peter Radan. Creating New States: Theory and Practice of Secession . Aldershot, UK: AshgatePublishing, Ltd., 2007

The authors discuss legal, political, and social processes in secession practice by exploring eight case studies. The book also outlinesnormative and positive theories of secessions.

Raič, David. Statehood and the Law of Self-Determination . The Hague: Kluwer Law International, 2002.

Raič discusses the right of self-determination and its significance for the formation of new states from a legal perspective.

#### By its nature, statehood translates politician decision-making and actions into legal controversies through I-Law

Mehrabi 2018, Wais. M.A., International and Comparative Politics Graduate Program, School of Public and International Affairs, Wright State University, 2018. “Politics of International Recognition: The Case of Aspirant States” <https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=3345&context=etd_all>

The concept of recognition, much like de facto state, is somewhat disputed in the literature because of its multidimensionality crossing-cutting different disciplines. There is no agreement over the precise definition of recognition. The concept is variegated connoting different meanings. Its complexity arises from the fact that the concept entails a combination of politics, national and international law, formal and informal practices of recognition (Kelsen, 1941). One reason it is difficult to “resolve the controversy over state recognition theory is because the international legal system translates political controversies into legal questions that can then be addressed through legal means”, and therefore, raise the question over the entity’s “nature of statehood [and the] degree of discretion that states have in acting on the international plane” (Worster, 2009, p.116).

#### The constitutive theory says that recognition is what creates the state

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

Known as the "father of international law," German jurist Lassa Oppenheim summarizes the constitutive conception as a principle under which the State can become an international person through recognition only.12 His definition complies with Stefan Talmon's statement of the "status-creating" nature of recognition.13 Under the constitutive model, recognition by others renders the entity as a State, and non-recognition consigns the entity to non-Statehood even if the entity has the attributes of Statehood, such as the possession of a territory, power over a defined population, and a government. 4 This model is explained by Hersch Lauterpracht, who noted that the full international legal personality of rising communities cannot be automatic and that ascertainment requires a prior determination of fact by an international body or by existing States.15 This approach was criticized by James Crawford who claimed that no State can remove or limit any competence of other States established by international law relying on its own independent judgment only.16 According to Crawford, such an approach of recognition features the substantial difficulties of practical application.17 First, it is not clear how many States must express recognition; moreover, will the existence of the State be related only to those States that recognize it?I 8 Finally, will nonrecognition by other States allow such States to treat an entity as a non-State for purposes of intervening in its internal affairs or annexing its territory?19 There is, however, some evidence of support for the constitutive theory in State practice. Malcolm Shaw says that if a new State and its government are established by unconstitutional means or by occupying a territory that is under the lawful jurisdiction of another State, then non-recognition will indicate non-conformity with the basic criteria of Statehood.20 This idea was reflected by the Yugoslav Arbitration Coimmission Opinion No. 8, which stated that recognition by other States evinces conviction that the entity is real and confers certain rights and obligations on it.21 Another argument that Shaw refers to is the mere fact that an unrecognized entity has no access to the rights available to recognized States before the municipal courts.22 These facts show that despite its perceived weaknesses, the constitutive theory is still relevant and can explain the difficulties that the unrecognized entities have to cope with.

#### The declarative theory argues that a state begins to exist once it declares statehood and recognition only sometimes follows.

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

In contrast to the constitutive model, the declaratory theory states that recognition is the acknowledgment of Statehood that has already been achieved.23 Crawford defines the recognition under the declaratory model as "a declaration or acknowledgment of an existing State of law and fact" and a "legal personality having been conferred previously by operation of law."24 According to Professor Fred L. Morrison, the practical difference between the constitutive and declaratory models is that under the constitutive model, the State's act of extending recognition is voluntary, whereas under the declaratory model the State's act of extending recognition is mandatory.25 His statement reflects the Bosnian genocide case 26 where the Socialist Federal Republic of Yugoslavia argued that the allegations made by Bosnia and Herzegovina regarding the breach of the Genocide Convention27 were irrelevant as both countries (being parties to the dispute) did not recognize each other as States at the time of the events in question. Nevertheless, the court dismissed this argument on the basis that both parties were recognized in the Dayton-Paris Agreement and, subsequently, the parties had to adopt recognition as well.28 Crawford says that the Bosnian genocide case is evidence of a declaratory model being accepted by the International Court and suggests that substantial State practice supports the declaratory view.29 Nevertheless, the practical significance of constitutive conception is clearly illustrated by the legal effects of recognition, which will be analyzed below.

## \*\*Mechanism Suggestions

### Top Level

#### The suggested topic wordings below are submitted in no particular order. Each topic submission can be modified with terms proceeding “recognize” or “recognition.” Each topic can also be altered by finding the best term to represent the entity that will receive changes in its recognition status. Some members of the controversy paper advocate for a broad topic while others want a smaller or list-based topic. We think the community should have a vote once vetted terms and the topic writing process is completed.

### State Recognition

#### Resolved: The United States federal government should (at least) recognize one or more unrecognized states.

Broad, most inclusive, and succinct. This phrasing allows debaters to determine the boundaries of the topic: what “recognize”/”recognition” means and what is included within “unrecognized states.” The open-endedness provides ample ground for Topicality debates. As verbiage is required to be specific within law, this version of the topic provides the most portable skills for legal practice.

This approach requires less intrusion from the topic committee and allows more flexibility for the aff based on solvency advocates. A “large” topic would lean on the assumption that neg ground is relatively easy to produce within this controversy and that affirmatives need more flexibility for a balanced topic. Despite limited research into solvency evidence by the paper authors, we are not entirely confident that we have adequately represented what a year-long pursuit of solvency would look like for each potential aspiring nation.

### Policy of Recognition

#### Resolved: The United States federal government should pursue a policy of state recognition of one or more of the following: [Taiwan, Republic of Somaliland, Palestine and/or Iraqi Kurdistan, etc.].

#### Resolved: The United States federal government should pursue a policy of state recognition of at least one aspiring state.

Some entities are still in a stage of development whereby a single announced act of recognition may be too provocative and inappropriate. A resolution that does something akin to a “policy” of recognition, would allow affirmatives to build in support, conditions/qualifications and benchmarks for recognition for that state. For example, Puerto Rico does have a statehood movement and some groups who want independence. Absent a vote by Puerto Rico for independence however, it may be odd for the US to just assert the removal of Puerto Rico as a territory ad hoc. Realistically, there would be a lead up period and conditions set for Puerto Rico’s removal from US control.

A ”policy” of recognition may empower more affirmative action beyond “recognition” that it may be worth curtailing the number of entities that are included in the topic to help focus community research. Thus, the committee may want to have a sliding scale whereby the more an affirmative can do towards an unrecognized state, the number of entities included in the resolution may need to be reduced. This may help balance out the research demands of a yearlong topic.   
  
We have not fully vetted the term “policy”; there may be other terms that would suffice.

### Formal Recognition

#### Resolved: The United States federal government should formally recognize one or more of the following autonomous regions as independent states: [list]

#### Resolved: The United States federal government should formally recognize one or more unrecognized states.

#### Resolved: The United States federal government should formally recognize and begin a diplomatic relationship with one or more of the following autonomous regions as independent states: [insert list]

Specifying that the USFG should “begin a diplomatic relationship” forces Affs to take specific action, rather than incredibly small Affs that do not create a wave of consequences. Neg teams can create unique links rather than Affs taking alternate routes of recognition such as signing a bilateral treaty that would “technically” be taken are recognition under international law but would not be normalizing relations to the extent of backlash or other impacts.

The highlighting can be swapped out for other terms. These are examples of how terms before “recognize” may significantly curtail the actions of the affirmative towards an entity.

### Bidirectional Topic

#### Resolved: The United States federal government should substantially change its state recognition (policy?) of at least one aspiring state.

#### Resolved: The United States federal government should change its state recognition policy of at least one aspiring or deteriorating state (failing, contested).

#### Why write a bidirectional topic?

States can rise and they can fall. One term used in the literature is derecognition (See Gezim Visoka below). Arguably the US may have done this with Taiwan with the one China policy. The current US stance towards the Taliban in Afghanistan is ambiguous, however considering the ambiguity, Afghanistan is still a government and Taliban is arguably in an unrecognized but de facto state. Some nations have derecognized Kosovo. There were some debates around whether nations should derecognize Germany during WWII.   
  
With climate change on the rise along with other tinderbox inflaming inputs and the rise of secessionist movements and turmoil, there may be room for affirmatives to set new precedents around state failure that can help with the likely future realities.

As professor Visoka writes, derecognition is much less common of a practice than recognition. There is a tendency to admit states and never let them leave. This may mean bidirectionality would only add a few additional but relevant areas of the topic. Some teams who want “negative state action” or who wish to criticize sovereignty may want to use derecognition as a mechanism. The topic committee may want to vet this term and its benefits. Remember, there are only so many “de facto” states on the list and some of these states have already been recognized by the United States.

#### A topic that derecognizes states may lend itself more to the critica anti-state literature that some teams may find appealing. Is there predictable ground if teams derecognize the United States?

Gëzim Visoka 2021, I am Associate Professor of Peace and Conflict Studies in the School of Law and Government at Dublin City University (DCU) in Ireland. My research and teaching focuses on post-conflict peacebuilding and statebuilding, diplomacy and state recognition, and critical international theory. http://gezimvisoka.com/9-gezim-visoka-2021-the-derecognition-of-states-ann-arbor-the-university-of-michigan-press/

This book is the first comprehensive study of the derecognition of states in world politics. It offers a global and comparative outlook of this under-explored diplomatic practice, guided by a new conceptual framework and informed by original empirical research. Although a great deal is known about the recognition of states, less is known about the practice of derecognition of states, namely why and how states withdraw the recognition of other contested and partially recognised states. The derecognition of states represents the withdrawal, revocation, or retraction of recognition of the international legal sovereignty of a state or government and in turn recognition or re-recognition of the sovereignty and authority of another state over the contested territory or derecognised state. The book looks at the process, justification, and effects of state derecognition, offering original insights from on four contested states which are currently experiencing withdrawal of recognition: Taiwan, Western Sahara, Abkhazia and South Ossetia, and Kosovo. The book argues that the derecognition of states plays a far greater role than we think in explaining the reversal politics and dynamics of secession and state creation, as well as understanding contemporary diplomatic battles that are shaping regional peace, increasing geopolitical rivalries, and endangering international order. This book fills a significant research gap in international relations, diplomatic studies, and international law.

### FAQ

#### 1 - Can affirmatives be conditional (quid pro quo) or would the quid pro quo counterplan devastate the affirmative?

The answer to the question is complicated. This likely means that the true response would best be found within a community theory debate and a normal means debate in competitive rounds in front of judges. We included four examples of what we believe are recognition documents from the United States to China (PRC), Kosovo, South Sudan, and Viet-nam, Laos and Cambodia (under “Wording Work” à US Historic Recognition). In the PRC document, there are standards that clearly seem like pre-negotiated conditions for the agreed upon one China policy. If the PRC breaks these agreements is there a threat to reverse the recognition? Should an affirmative be able to commit to recognition under a reasonable condition that the recognized state follows international law? It would seem to be a good interpretation to allow affirmatives to do this, but this is one person’s interpretation of the topic.

There is evidentiary support for either side of the “condition” debate. Some definitions of recognition would include “conditions” and others would include “unconditional” recognition.

One way to resolve these debates before they occur is if the community decided to use a term like “de jure recognition of….” or “official state recognition.” The adjectives before recognition may serve as a constraint on affirmative fiat power to condition. If the term recognition is used in isolation, I think a lot of affirmatives will try to expand the interpretation to various degrees of recognition instead of the singular act. That could be good for affirmative flexibility, but some may deem it annoying and far too many actions for a balanced topic. Maybe this is a T debate to be had or a reason to have a smaller list of recognizable entities.

#### 2 – Recognition of a state seems ambiguous, does this mean Guam/Puerto Rico could be recognized as the 51st state under this controversy?

No.

You can likely find evidence that uses the term “recognize” in reference to Guam or Puerto Rico becoming the 51st state. However, the majority of this evidence will be from non-experts using awkward non-legal terminology of “state recognition.” Furthermore, the process of admission into the union of the United States requires more steps than just “recognition.” A state must be admitted through congressional actions and states typically also need a population that votes to be admitted. Even if a president unilaterally announced Guam was a “state” it would not meet the constitutional test of a new state. Also, a fun note, the US constitution provides a clear process for admitting new states to the union, but it fails to include a process for removing states. Once you join, you can never leave (looking at you Texas).8

# \*\*Wording Work\*\*

## Recognition Terms

### State Department Letter +

#### Recognition could be as simple as the state department sending a document to the recognized state – the evidence goes on to discuss legal consequences associated with recognition.

Kobey 1951**,** Eugene F., “International Law - Recognition and Non-Recognition of Foreign Governments” Marquette Law Review Volume 34 Issue 4 Spring 1951, Article 6, <http://scholarship.law.marquette.edu/mulr/vol34/iss4/6>

Recognition is the assurance given to a new government that it will be permitted to hold its place and rank, in the character of an independent political organism, in the society of nations. The rights and attributes of sovereignty are said to belong to it independently of all recognition, although it is only after recognition that it is assured of exercising them. Recognition is usually accomplished through a formal note sent by the Department of State to the diplomatic representatives of the country in question.' De facto and de jure recognition are convenient abbreviations for recognition of a de facto government and recognition of a de jure government. When a government is recognized as being de facto or de jure the distinction refers to the requirements of international law. A de jure government is one which, in the opinion of the person using the phrase, ought to possess the powers of sovereignty, though at the time, it may be deprived of them. A de facto government is one which is really in possession of them, although the possession may be wrongful or precarious. De facto recognition is a declaration that the body claiming to be the government actually wields effective authority without, however, satisfying other conditions of a full de jure recognition. De facto recognition, then, is merely an admission of the fact of the existence of the new government and such admission is conclusive evidence of such existence in the courts of the recognizing government.3 The United States regards itself as free to withhold recognition from a regime professing to function and even successfully functioning as a government of a foreign state. The recognition of a newly created government is an act which the recognizing government may or may not do. The practice of the governments shows that recognition is a political question which the recognizing government decides of its own free outlook upon the entire situation.4 The recognition of a foreign state or government is a matter peculiarly within the province of the political as distinct from the judicial department of the government and the propriety of what may be done in the exercise of this political power is not subject to judicial inquiry or decision.5 The rule as to recognized governments seems to be without exception, that the judicial follows the political branch of the government.0 Although there is much uncertainty and conflict in the courts as to the extent to which effect should be given to confiscatory decrees of recognized foreign governments, the more recent cases support the rule that such decrees are binding upon the courts of the United States in so far as that government acted upon persons and property within its powers, if that foreign government is formally recognized by the political department of our government as the de Jure or de facto government of that country.7 As to decrees of governments not recognized by the political department the courts have some discretion, but the nature and extent of this discretion is indefinite and depends on the nature and facts of the particular case. Usually the .courts do not concern themselves with what an unrecognized government intended by its decrees, but cbnsider what effect should be given them according to principles of justice and public policy8 The unrecognized government itself has no standing in court and may neither sue or be sued in the courts of the United States.9 Speaking of Russia, justice Stone said: "It is not denied that in conformity to generally accepted principles, the Soviet Government could not maintain a suit in our courts before its recognition by the political department of the government. For this reason, access to the federal and state courts was denied the Soviet Government before recognition."10 However, non-recognition does not in general abridge the rights of citizens or corporations of a nation, the government of which has not been recognized, to sue in our courts." Decrees of the non-recognized foreign government may be given effect to such extent as justice and public policy require.2 The problem of recognizing a foreign government and its effect on litigants was most recently presented in Bank of China v,W. ells Fargo Bank and Union Trust Company.' The Bank of China, a corporation with two-thirds of its stock owned by the Chinese Government and the remainder owned by Chinese nationals, brought action against the defendant bank to recover a depogit credit. Attorneys representing the new so-called "Peoples Government" of China claimed that they were the only attorneys empowered to represent the Bank of China. The attorneys for the imigri directors asserted'that the Nationalist Government now in Formosa is the only Government of China recognized by the United States and that the court should not recognize any change in the management of the Bank of China resulting from acts of a government not recognized by the United States. The court denied relief to both groups and continued the trial sine die. The court reasoned that to deny the imigrg directors was not to deprive a recognized government of funds, and these funds are corporate funds which should only be used for the purposes of the corporation. On the other hand, reasoned the court, the new government is not yet so established as to warrant placing the funds in their hands to aid and abet the Communist Government of China. The court said that there was time enough to reach a decision when solid ground was reached. Private rights and obligations of an individual or a corporation can be distinguished from those of a body or paramount force in control of the country or residence where that paramount force is not recognized by the United States. Even though such a government by paramount force is not recognized by our government, its existence cannot be completely ignored. For example, in naturalization proceedings we require applicants for citizenship to forswear allegiance to "the present government of that nation." The fact of the existence of such a government can be proved in other ways than by determination by the State Department.1 Limited recognition of acts of unrecognized, but de facto governments has been given as far back at Thorington v. Smith, 5 where the Confederate Government was never acknowledged by the United States as a de facto government, nor was it acknowledged by other powers. The Supreme Court denominated the Confederate Government as a government of paramount force. 6 Chief justice Chase opinioned that to the extent of actual supremacy, however unlawfully gained, in all matters of government within its boundaries, the powers of the insurgent government could not be questioned. Acts that would be valid if by a lawful government, should be regarded as valid when coming from an actual, though unlawful government." In 1899, The Russian Reinsurance Company was incorporated in Russia and received authority to transact business in New York. Money was deposited with a trust company for the protection of policyholders and creditors in the United States. The corporation brought an action "' to recover this deposit. The court denied recovery because to allow the corporation to recover would be contrary to common sense and justice. The court said that the facts of each case, the result of each possible decision, determines whether that decision accords with com- mon sense and justice. There can be no true precedent in the books when the facts are unprecedented. Decrees or acts of foreign unrecognized governments should be given effect or denied in accordance with our public policy. The courts were open or closed to foreign corporations of unrecognized nations according to our public policy and in determining this policy common sense and justice would be consideration of weight. Speaking of Russia in 1933, Chief Justice Pound of the New York Court of Appeals put it neatly when he said: "As a juristic conception, what is Soviet Russia? A band of robbers or a government? We all know that it is a government. The State Department knows it, the courts, the nations, and the man on the street. If it is a government in fact, its decrees have force within its borders and over its nationals. 'Recognition does not create the state."9 It simply gives to a de facto state international status. Must the courts say that Soviet Russia is an outlaw and that the Provisional Government of Russia as the successor of the Russia Imperial Government is still the lawful government of Russia, although it is long since dead?20 The courts may not recognize the Soviet Government as the de jure government until the State Department gives the word. They may, however, say that it is a government maintaining internal peace and order, providing for national defense and the general welfare, carrying on relations with our own government and others. To refuse to recognize that Soviet Russia is a government regulating the internal affairs of that country is to give to fictions an air of reality which they do not deserve." 21 Petrogradsky Meidunarodny Kommerchesky Bank v. Natioal City Bank of New York 2 is somewhat similar to the Bank of China case.23 Here, the plaintiff, a Russian bank, was chartered by the Imperial Government of Russia and deposited money with the defendant. The Soviet Revolution drove the bank directors into exile and the Soviet Government took the bank over. The old directors held meetings in Paris and all were alive when the action was begun to collect the balance on deposit with the defendant in New York. The bank refused to recognize the authority of the directors. The court speaking through Chief justice Cardozo held that the plaintiff was not dissolved and still was a juristic person with capacity to sue. The decrees of the Soviet Government were not law in the United States at that time, nor were they recognized as law. These decrees were exhibitions of power and not pro- nouncements of authority. To be ranked as governmental such acts or decrees must come from an authority recognized at least as the de facto government by our own government. The courts did not believe the decrees of Soviet Russia were competent to divest the bank directors of title to any assets that would otherwise have the protection of our law and gave judgment for the directors to recover their deposit. However, the Supreme Court has held that every sovereign state must recognize the independence of every. other sovereign state and that the courts of one nation will iot sit in judgment upon the acts of the government of another nation done within its own territory.24 Where the government of the United States recognizes a government as the de facto or de jure government of a nation, the propriety of what is done by that government shouldn't be subject to judicial inquiry in decision by courts of the United States. Who is sovereign of a nation is to be determined by the political department of the government and that determination conclusively binds the courts and recognition is retroactive and validates all action and conduct of the government recognized from the date of its existence. If the validity of acts of one nation were examined and perhaps condemned by courts of another nation relations between governments would be imperiled and peace of nations would be vexed more than it is at present if such were possible. In United States v. Belmont,26 a deposit by a Russian corporation was assigned to the United States by the recognized Soviet Government after expropriation by the Soviet Government. The District Court held that a judgment for the United States could not be had because in view of the result, it would be contrary to the controlling public policy of the State of New York. This judgment was affirmed by the United States Court of Appeals on the same ground.2 The Supreme Court reversed because state policy cannot prevail against an international compact as involved in this case. The recognition of the Soviet Government, the establishment of diplomatic relations with it, and the Litinov Assignment2 were all parts of one transaction resulting in an international compact between two governments. The external powers of the United States are to be exercised without regard to state laws and policies. Supremacy of a treaty has been recognized from the beginning.29 The decrees of the Soviet Government caused much litigation regarding funds and property of Russian companies doing business abroad. The difficulties are due to what Chief Justice Cardozo called, "the hazards and embarrassments growing out of the confiscatory decrees of the Russian Soviet Republic,"30 and to endeavor to adjust these hazards and embarrassments to "the largest considerations of public policy and justice."8 1 The decrees were recognized because to do otherwise would do violence to the course of negotiations between the United States and Russia. In dealings with the outside world the United States should have its voice in one and not be embarrassed by the courts of individual states.2 What will be the outcome of the Bank of China cases if at a later date the "Peoples Government" of China is recognized by the United States? Such a situation was present in Guaranty Trust Company of New York v. United States.3' In 1916, the Imperial Russian Government opened a bank account with the Guaranty Trust Company. In 1917, the Provisional Government of Russia overthrew the Imperial Government and was recognized by the United States. Five million dollars was deposited by that government in the Guaranty Company. The same year the Provisional Government was overthrown by the Soviet Government, but we did not recognize the Soviet Government until 1933, at which time the five million dollar deposit was assigned to the United States. The United States argued that recognition of the Soviet Government validated that government's previous acts. The Supreme Court said that was tantamount to saying that the judgments in suits maintained here by diplomatic representatives of the Provisional Government, valid when rendered, became invalid upon recognition of the Soviet Government. The Court would not sanction such a doctrine and concluded that the 'recognition of the Soviet Government could not affect the legal consequences of the previous recognition of the Provisional Government. The doctrine that recognition validates all acts of that government was limited to those acts that do not affect consequences of previous recognition of prior governments. When a government falls and another government comes into power by force, all under the new government are affected by the rule of the new government. The rule may be lawful or unlawful, but its existence is a fact that cannot be destroyed by courts of another nation. The State Department determines whether it will recognize the existence of the new government as lawful and until that recognition the courts should not be allowed to pass on the legitimacy of that nation. The State Department alone determines that question. It cannot, however, determine private rights and obligations of individuals affected by the acts of a body not sovereign, or with which our government will have no dealings. Such a question is not one of foreign relations and not a political question, but a judicial one. The courts should consider the result and not the cause. The courts should not pass upon what an unrecognized government may do or if what has been done is right or wrong, but should consider the effect on others of that which has been done from the factual viewpoint as distinguished from the theoretical point of view.

#### Requires an authoritative statement from foreign policy decision-makers

**Berlin 09** – JD, Law Clerk to the Honorable Patti B. Saris, United States District Court for the District of Massachusetts (Alexander, “RECOGNITION AS SANCTION: USING INTERNATIONAL RECOGNITION OF NEW STATES TO DETER, PUNISH, AND CONTAIN BAD ACTORS,” *U. Pa. J. Int’l L., 31.2*, Lexis)//BB

3.2. **Recognition**

Just as there is room for the sanction theory of recognition within the confines of international law and practice on statehood, there is room for the sanction theory of recognition within the legal framework and practice of recognition. As a general matter, Recognition is a procedure whereby the governments of existing states respond to certain changes in the world community. It may also be a means by which existing states seek to effect changes in that community . . . . Recognition is an **authoritative statement** issued by competent foreign policy decision-makers in a country. Through it, those decision-makers signal the willingness of their state to treat with a new state or government or to accept that consequences, either factual or legal, flow from a new situation.67 In the context of states, recognition of an entity as a state signifies that the recognizing state accepts that the recognized entity is a state and that the recognizing state will extend to the newly recognized state all of the benefits that come with statehood and formal relations. Recognition is, then, extremely important in the context of secessionist entities: “[h]istorically, international recognition of statehood has been the major foreign policy goal of any secessionist movement.”68

#### Verbal statements alone can constitute recognition

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Conduct by states in violation of customary international law implicates a number of interests and triggers a number of options for lawful response. A state generally has three possible avenues it can pursue in this regard: recognition, protest, or acquiescence. 32  Recognition is defined as "a public acknowledgement by a state of the existence of another state, 33  law, or situation." 34  It may be a unilateral act by the responding state, 35  perhaps through a diplomatic statement, 36  or a bilateral or even multilateral expression of acceptance of the conduct. 37  Such endorsements, **even when consisting exclusively of verbal statements**, may be considered sufficient evidence of state practice regarding the acceptance of emerging customary norms. 38

#### Recognition can mean statements alone

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Furthermore, the simple act of recognition is costless, requiring nothing more from the recognizing state than a statement. Of course, to achieve fully the removal of the secessionist entity from the parent state’s control, other sanctions and potentially armed intervention may be necessary. But recognizing the secessionist entity has power of its own: empirical evidence suggests that recognition fortifies “the security of a community,” and thus is independently helpful in removing the territory from the control of the parent state.12 For instance, the security of the former Yugoslav republics of Slovenia and Croatia were significantly increased through recognition.13 Recognition can give the secessionist entity numerous benefits that increase its chance of survival, and thus the effective loss of the territory for the parent state. These benefits include “greater ability to provide for the welfare of the population . . . ; a reduction of the risk of external intervention; the possibility of entering into treaty relationships with other states; more settled borders; expanded opportunities for trade; enhanced domestic legitimacy; . . . and other benefits.”14 The bare act of recognition seems to help the secessionist entity actually free itself from the parent state, and thus remove territory, people, and resources from the parent state.15

#### It really does hinge on the announcement --- actions aren’t recognition if they are accompanied by a statement making ‘non-recognition’ clear

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Both in theoretical terms as much as in practical terms, therefore, recognition is understood to have occurred only when a state openly signals that it has occurred. More to the point, if at any stage a state signals that it maintains a policy of not having recognised a contested state then it must be understood that recognition has not taken place. (Crucially, this does not apply to situations where a state has already recognised a territory as sovereign and independent. In such cases, a wholly different set of factors arises that are beyond the scope of this article.) As will be seen, this crucial element of intent has important consequences when it comes to the interaction of states with contested states, both at a bilateral and at a multilateral level.

**That announcement can come in various forms**

**Mehmeti 16** – PhD candidate @ Tirana State University (Ermima, “Recognition in International Law: Recognition of States and European Integration - Legal and Political Considerations,” http://journals.euser.org/files/articles/ejis\_jan\_apr\_16/Ermira.pdf)//BB

In modern state practice, however, it seems that neither of the two major doctrines satisfactorily explains State conduct. No decision to recognize a state has been explained or justified in terms of either one of the legal theories. No statesman has ever spoken of theoretical considerations in making the decision. The recognition of the Republic of Philippines by the United States on July 4, 1946, for instance, was done through a bilateral treaty, called the Treaty of General Relations, signed at Manila, which stipulates that, “The United States of America further agrees to recognize, and does hereby recognize, the independence of the Republic of the Philippines as a separate self-governing nation…”8 The United States President Henry Truman recognized Israel immediately after it had declared its independence on 14 May 1948. No reference to theoretical considerations was made, to the contrary. The decision was made based on political evaluations, following the findings of the committee appointed by President Truman to study the Palestinian issue and the unsuccessful attempts of the United Nations Special Commission on Palestine to achieve, throughout 1947, a settlement based on its recommendation for a partition of Palestine into a Jewish and Arab state. The recognition of Israel by President Truman was even in contradiction to the views of the United States Department of State, which had recommended the creation of a trusteeship under the auspices of the United Nations with limits on Jewish immigration and the creation of a Jewish and an Arab province, but not states.9 The statement of President Truman contains merely two typed sentences, with corrections in handwriting, but is a proof of a de facto granting of recognition by the United States to an independent entity.10 The United States extended recognition to Macedonia under its constitutional name in 2004, in efforts to prevent a plebiscitary vote that threatened to carve the country up along ethnic lines, while the recognition of Kosovo in 2008 followed immediately after the Kosovo Parliament adopted the declaration on independence. Again, no reference to legal doctrine or theoretical approaches was made. This leads to the conclusion that recognition today is a matter of political evaluation. The example of Macedonia shows that it can often be used by the great powers as a mechanism to induce newly emerging states to behave properly and commit themselves to stability and prosperity. In various historic periods, such mechanisms acquired different shapes, from religious tolerance in medieval times to protection of minorities in twentieth century: “All of the successor states of the Ottoman Empire, beginning with Greece in 1832 and ending with Albania in 1913, had to accept provisions for civic and political equality for religious minorities as a condition for international recognition. The peace settlements following First World War included extensive provisions for the protection of minorities.”1

### Recognition = Explicit Announcement

#### Distinct from relations

**Rich 09** – PhD, Professor of Political Science @ WKU (Tim, “Status for Sale,” *Issues and Studies*, 45.4)//BB

Recognition, however, should not be conflated with substantive relations. Diplomatic recognition itself is a low cost activity, consisting of little more than public announcements, while deeper connections are more costly, requiring at least the stationing of diplomats. Great Britain, for example, did not follow diplomatic recognition of Albania or China with exchanges of ambassadors for over twenty years. 19 A simple concrete measure of the depth of bilateral relations is the establishment of em- bassies. Extensive relations necessitate in-country embassies, whereas less important relations or limited resources can manage with accredited diplomats covering several countries in a region.20 Although recognition implies sovereign equality, the number of embassies per country belies this. Out of 194 countries, the average number of embassies per country is only 44, with only 17 countries having 100 or more embassies in country and 33 less than 10.

#### Engagement alone is not recognition

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In the first instance, it is often valuable for states to be able to interact with contested states for peacemaking processes. They need to be able to talk to their leaders, but in doing so not be perceived to have endorsed the act of secession. Fortunately, in real terms, this form of engagement actually presents few problems. There seems to be general acceptance that engagement with a contested state for these purposes is not equated with recognition; although, as has been seen, the locations of such meetings, such as government offices, and titles used in such meetings can be problematic. Secondly, there are frequently occasions where the wider international community, or certain parts of it, may want to avoid isolating a contested state and thus prevent it from becoming even more reliant on its patron or, alternatively, reward it for some reason; for example, for taking a constructive position on talks. This is far trickier territory. While not wishing to force a contested state into the arms of another country, there is always the danger that in becoming more self-sufficient they will have less incentive to negotiate reunification with the parent state, as the country from which a seceding entity breaks away is most usually called. Thirdly, there are times where a state may wish to interact with a contested state, but may be prevented from formally interacting with it for either external reasons – such as a wish not to alienate a certain international ally or partner by formally recognising the contested state – or for internal domestic reasons.

#### Even large levels of engagement can exist absent recognition

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The issue of engagement **without recognition** is an increasingly important area in international politics. However, despite the concerns that exist within states about the degree of bilateral engagement they can pursue with a contested state, there is in fact a high degree of latitude in terms of the scope of direct interaction, even to the point of recognising passports and holding meetings with senior officials on a range of issues. Ultimately, recognition is about intent. It is also shaped by the degree to which a state in question wants to interact with a contested state. If there is little desire to interact with the contested state, then the ‘danger’ of indicating recognition becomes a convenient reason (or perhaps excuse) to limit engagement. On the other hand, where there is a keen desire to build ties with the contested state, but full recognition is not politically possible, the reality is that a very high degree of contact, even to the point of what would usually be understood as recognition, can occur.

#### ‘Implied recognition’ is nebulous and probabilistic

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While the concept of bilateral recognition may appear to be straightforward, the picture is confused by the fact that bilateral recognition can fall into two categories: explicit and implied recognition. The more usual of the two is explicit recognition. This entails some sort of formal act, of the type identified above, that can be definitively understood as recognition. By way of contrast, in the case of implied recognition, no formal declaration of recognition is made. Rather, the way in which a state acts towards a territory suggests whether it recognises or not. In other words, does it treat the territory in question as a state? As might be expected, there is considerable room for confusion to arise. While the decision to open an embassy in the territory in question, for example, would leave little room for doubt about its policy, it may be **very difficult** to discern whether recognition has occurred if no such obvious step is taken. In cases of contested statehood, it is likely that any interaction, no matter how seemingly insignificant, is likely to give rise to **intense speculation**. Perhaps fortunately, as an official policy, implied recognition is extremely unusual.29 Few states have a policy of implied recognition. One of the few that does – or did – is New Zealand. Following Kosovo’s declaration of independence, the Prime Minister of New Zealand, Helen Clark, issued the following statement: ‘It’s never been the New Zealand Government’s position to recognise in such circumstances. We will neither recognise nor not recognise. Over time the way in which we deal with those who govern in the territory will I suppose imply whether there is recognition but we are not intending to make a formal statement.’30 However, in November 2009, New Zealand eventually announced that it had officially recognised Kosovo.31

#### Informal relation is not recognition.

**White 09** (Christine, Copy Editor and Reporter for International Judicial Monitor, “Recognition,” Summer 2009, <http://www.judicialmonitor.org/archive_summer2009/generalprinciples.html>, DOA: 4-17-2019) //Snowball

The existence of informal bilateral relations does not constitute an acknowledgement of recognition. In addition, state practice demonstrates that, with respect to the interaction between recognizing states and unrecognized entities, participation in negotiations, establishment of unofficial representation, accession to multilateral treaties, and membership in international organizations do not imply recognition.vi The fact that both Cyprus and Turkey are members of the UN cannot be taken to mean that Turkey recognizes the state of Cyprus. This would also be the case if and when Turkey becomes a member of the European Union.

### Recognition = Positive Act

#### It's a positive act --- that excludes just ‘stop opposing’ affirmatives

**Donovan 03** – JD @ NYU (Thomas, “SURINAME-GUYANA MARITIME AND TERRITORIAL DISPUTES: A LEGAL AND HISTORICAL ANALYSIS,” *13 J. Transnat'l L. & Pol'y 41*, Lexis)//BB

Recognition is defined as a **positive act** by a state which accepts a particular situation. 219  This was seen poignantly in the case of Eastern Greenland, where Norway accepted Danish control over an area of Greenland by agreeing to treaties with third parties that recognized and relied on the Danish control. 220  Although it does not expressly bind a state to the boundary that they have recognized, "it is nevertheless an **affirmation** of the existence of a specific factual state of affairs." 221

**Recognition = Requires Prez**

#### State recognition requires the president

**Malone 08** - Director, Human Security Law Program Marshall-Wythe Foundation Professor of Law William and Mary Law School (Linda, “International Law,” p. 42-43)//BB

B. Recognition under U.S. law: Under U.S. law, **only the President** has the authority to recognize or not recognize an entity as a state. This exclusive authority is implied from the powers granted under Article Il of the U.S. Constitution to appoint and to receive ambassadors. The President may also recognize a state by concluding an international agreement. The United States often uses recognition as a sign of approval. The current practice of the executive branch is to recognize any government in effective control of a state. See ch. 3, IV(A)(2), p. 35, supra.

### Recognition = Assemblage of Actions

#### State Recognition is an assemblage of practices beyond one off actions

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To achieve this, future research needs to move from perceiving recognition as a singular act associated with power, privileges and gatekeeping features of dominant states to an assemblage of discourses, performances and entanglements that capture the pluriverse nature of recognition and diplomatic agency of aspirant states. The article proposes the concept of ‘recognitionality’ to capture the reality-adequate nature of recognition practices in world politics. The concept of recognitionality can be useful as a heuristic to look at state recognition as a process not entirely shaped by power, legal norms, institutions and material condition, but also constituted through diplomatic discourses, performances and entanglements. As Ryan D Griffiths (2019: 112) argues, there is an international regime which ‘determines when an applicant has the right to withdraw from an existing state and join the club of sovereign states’. Yet, making sense of diplomatic recognition requires looking at the micro-moves and everyday practices, spaces, emotions and personal diplomacy. It is not sufficient to only look at the legal and institutional rules. It requires acknowledging the multidimensional nature of recognition and opening up to different scale, forms and varieties of recognition, as well as capturing the contextual and temporal nature of such practices. By unravelling the techniques and politics of recognitionality, the future research is able to generate new knowledge which should challenge existing orthodoxies on statehood and re-vision the politics of recognition that are fit for the contemporary world. Accordingly, this article is an invitation to rethink state recognition studies and generate critical research which seeks to both expand the knowledge frontiers as well as make an impact in the real world.

### Criteria - Montevideo

#### Criteria of recognition:

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438.

After a thorough analysis of the problems and the background of modern self-proclaimed States, this article will identify substantial shortcomings of the existing version of the Montevideo Convention and makes recommendations for its improvement. The article is divided into three parts. Part I critically evaluates different approaches to recognition in general. It discusses the constitutive and declaratory concepts of recognition and analyses the legal effects of recognition on international and national levels. Part I also highlights the basic criteria of recognition codified in article 1 of the Montevideo Convention, and it critically evaluates territory, population, effective government, and the capacity to enter into diplomatic relations as factors of Statehood.

#### Recognition

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438.

Recognition of States is the starting point of the analysis conducted in this article. According to James Crawford, a legal academic and judge on the International Court of Justice (ICJ), the term "recognition" generally means the recognition of another entity as a State. 9 Recognition indicates that the entity's government is lawful and is entitled to represent the State for all international purposes. 1° But the practical meaning of recognition is quite controversial. Under the constitutive theory, recognition is a criterion that is necessary for Statehood; under the declaratory theory, recognition just confirms the legal status of an entity.] Both theories will be examined in turn.

### Recognition = Full or Conditional

#### Definitions of recognition includes “full or conditional recognition”

Mehrabi 2018, Wais. M.A., International and Comparative Politics Graduate Program, School of Public and International Affairs, Wright State University, 2018. “Politics of International Recognition: The Case of Aspirant States” <https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=3345&context=etd_all>

Notwithstanding the controversial and complex nature of the concept, it is worth reviewing the major definitions that enjoy a degree of consensus among scholars. The institute of international law has defined recognition “as the free act by which one or more states acknowledge the existence on a definite territory of a human society which is politically organized, independent of any other existing state, and capable of observing the obligation of international law”, which has a wider acceptance among scholars of international law (Institut De Droit International, 185). Formal recognition results from either explicit declaration or from an implicit action based on political considerations, such as the establishment of diplomatic relations with the new state. This can be full or conditional recognition (Brown, 1936, p.689-694).

#### Recognition has different levels

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Somaliland and Taiwan, Unrecognized Sovereignty and Patron-Client State Relations

<https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/48171/Joy_washington_0250O_23640.pdf?sequence=1> (MF)

Despite its small size and marginalized political position, Taiwan has performed quite well in achieving economic prowess, military security, and most importantly, positive, existent relations with most countries. Although Somaliland and Taiwan are both unrecognized under international law, there are different levels of non-recognition, creative solutions to sidestep the issue, and a large gray zone to explore and utilize. One way to think about Taiwan’s success despite unrecognition - whether or not compared to Somaliland - is to think about the typical measures of a state’s development. These include measures on economic health, environmental conservation, educational attainment, public health, gender equality, human rights, and so on.

### Recognition = Political + Legal

#### ‘Recognition’ is a two-part process: 1-a clear declaration recognizing the state, 2-formulation of a relationship based on international rights and duties

**Mehmeti 16** – PhD candidate @ Tirana State University (Ermima, “Recognition in International Law: Recognition of States and European Integration - Legal and Political Considerations,” http://journals.euser.org/files/articles/ejis\_jan\_apr\_16/Ermira.pdf)//BB

According to Kelsen, recognition is comprised of two distinct acts: a political and a legal act: “[p]olitical recognition of a state or a government is an act which lies within the arbitrary decision of the recognizing state” and “can be brought about either by a unilateral declaration of the recognizing state, or by a bilateral transaction.6 This kind of expression of willingness does not constitute any legal obligation, Kelsen says, and concludes that, “[T]he political act of recognition, since it has no legal effect whatsoever, is not constitutive for the legal existence of the recognized state,”7 and thus the political act of recognition is declaratory. The legal act of recognition, Kelsen explains, is still a rather confusing matter in international law: “[It is the same] when the question arises whether or not in a concrete case the fact “state in the sense of international law” exists, whether or not a certain community fulfills the required conditions of being a subject of international law, i.e. of having in its relations with other states the rights and obligations stipulated by general international law; this implies equal rights and obligations stipulated by general international law; this implies equal rights and duties of these states towards the community in question.”8 This establishment, Kelsen concludes, according to which a state in the sense of international law exists, represents what he termed as “the legal act of recognition,”9 and would be analogue to the constitutive doctrine of State recognition.

#### ‘Recognition’ requires formal acknowledgment and a relationship grounded in international law

**Reut Institute 4** (“Act of Recognition of Statehood,” <http://reut-institute.org/en/Publication.aspx?PublicationId=373>)//BB

Act of Recognition of Statehood

This concept refers to an action by which an existing state formally acknowledges the political status of another entity.

Definition

The concept Act of Recognition of Statehood (hereafter Act of Recognition) refers to the action by which one existing state

formally acknowledges the political status of another entity as a state; **and**

takes upon itself the legal consequences of this recognition under international law in its relations with the new state.

Background – Recognition of Statehood under International Law

In order to accede to the status of a sovereign State, a political entity requires both (see Accession to Statehood):

the positive attitudes of existing states, i.e. de jure recognition1;

and “effectiveness” of the new state, i.e. de facto control over its territory and population.2

Formal Acknowledgement of Statehood

Formal recognition results from either explicit declaration or from an implicit action, such as the establishment of diplomatic relations with the new state:

Based on political considerations, a state may adopt one of several types of formal recognition3 vis-à-vis a new state:

Recognition 4 – complete acceptance of an entity’s factual status as a state.

Conditional Recognition 5 – Nascent State – recognition that the permanent political status of a political entity will be statehood but it will only be realized when certain conditions are met, as in the cases of East Timor or the PLO/PA.

Non-recognition – one state may choose not to recognize another state due to hostility. In cases where a state does not recognize another state, it may expressly declare that a particular act by no means implies formal recognition.6

Collective Recognition versus Act of Recognition (by one State)

Collective Recognition by the international community of a political entity as a state may be expressed by:

Acceptance to the United Nations 7 as a Member State (the ultimate and irrevocable act of Collective Recognition);

Recognition by a critical mass of the international community8 i.e. by a significant number of existing states or by leading relevant states. An act of Recognition (by one state) may come before or after collective recognition: when an act of recognition precedes collective recognition, the international community must follow with collective recognition or the act of recognition does not take effect.

When an act of recognition follows collective recognition, the act of recognition only impacts on bilateral relations and the conduct of the recognizing state.9 For example, Egypt’s act of recognition of Israel in 1978 transformed Egyptian-Israeli bilateral relations and Egypt’s own conduct towards Israel.10

Legal Consequences of Act of Recognition

The act of recognition signifies that the existing state takes upon itself to treat the recognized entity as a sovereign state and thus: Their bilateral relations will be subject to norms of international law governing relations between states whether in conflict or peace. It accepts that the recognized state has inherent rights possessed by every independent state from the moment it accedes to statehood. Infringement upon the inherent rights of the recognized state must be based on international law. It expects that the recognized state will undertake its inherent duties which are obligations of every independent state.

### Recognition = Implicit

#### ‘Recognition’ includes both explicit and implicit acts

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After noting that, the recognition of states in international law is a matter of political decision, lets consider the methods by which it is awarded 11. Seemingly with the classification of the de jure- states and de facto-states, **both models exist as methods of recognition**. De jure recognition means having a formal legal act—a diplomatic note, law or declaration, often in the legislature or by the government or head of state, which through an official document is published on a recognition by one state over another12. This method is ambiguous and is not free for interpretation. The second method, de facto implies the establishment of political, economic and other types of relations. The differences between the first and second lies in the formal legal document which results with rights and obligations, which in the first case is present, and but not in the second one.

#### Best defined as dealing w/ another state as a member of the international community --- there’s flexibility within explicit and implicit acts

**Malone 8** - Director, Human Security Law Program Marshall-Wythe Foundation Professor of Law William and Mary Law School (Linda, “International Law,” p. 42)//BB

111. RECOGNITION OF STATES AND GOVERNMENTS

Recognition is a confusing mixture of international law, domestic law, and politics. It is important to distinguish political considerations from legal considerations, and to separate the legal issues that arise under international law from those arising under the domestic law of the recognizing state. Recognition is **best defined** as the willingness to deal with another state or government representing the state as a member of the international community. Public acts of recognition include formal notes, letters, and telegrams sent through diplomatic envoys; formal oral public announcements; and the conclusion of bilateral agreements. Maintaining or severing diplomatic relations is not synonymous with recognition or non-recognition respectively.

A. **Express and implied recognition**: Recognition of a state or government is often done expressly, but certain conduct may also imply recognition: Entry into diplomatic relations implies recognition, but an exchange of trade missions does not imply recognition. Conversely, the lack of diplomatic relations does not imply a lack of recognition. Signing a bilateral treaty subject to ratification implies recognition. Common membership in international organizations does not imply recognition of one another. For example, several Arab states that do not recognize the state of Israel are members of the United Nations along with Israel.

#### Recognition includes conducting treaties.

[**AFR**](https://www.americanforeignrelations.com/O-W/Recognition-Definitions-of-recognition.html) **no date** (American Foreign Relations, “Recognition - Definitions of ‘recognition,’” <https://www.americanforeignrelations.com/O-W/Recognition-Definitions-of-recognition.html>, DOA: 4-17-2019) //Snowball

Express recognition may be extended unilaterally in an explicit executive statement by one state or collectively following the agreement of several states. Recognition is implied if a state undertakes some sort of intercourse with another, as in concluding treaties with it or sending diplomatic representatives to it, without, however, having recognized it, thereby revealing at least intent to recognize it explicitly at a later time. A state's imposition of demands upon a community seeking recognition is a conditional type of recognition. Contingent recognition is generally reserved for acknowledgment by a parent state that a revolution against it has succeeded—indeed, it endorses the rupture. Recognition is granted by some states if a state is admitted to an international conference (for example, China, Persia, and Siam at the Hague Conference of 1907), or to an international organization (Ethiopia admitted to membership of the League of Nations in 1923, Syria and Lebanon admitted to the United Nations in 1945), or if a mother country grants independence to a former colony, mandate, or trusteeship.

### State Recognition: “Conferring recognition on newcomers”

#### State recognition is not universally defined – it is “the practice of states conferring recognition upon newcomers.”

Visoka 2021, Gëzim, School of Law and Government, Dublin City University, Ireland. “Statehood and recognition in world politics: Towards a critical research agenda” Cooperation and Conflict ﻿1– 19 © The Author(s) 2021 DOI: 10.1177/00108367211007876

The creation of states and their subsequent recognition remain among the most problematic, yet important, aspects of international politics. Despite the fact that many ethnic groups, movements and regions have sought to create their own sovereign state, only a very small fraction of ethnic groups seeking independence have managed to become internationally recognized states (Griffiths, 2016: 5). In addition to 193 UN Member States, we have over 10 de facto and partially recognized states, and over 40 partially independent and non-self-governing territories (Caspersen, 2014). While there is no exact definition of state recognition, in a broad sense recognition entails ‘the practice of states conferring recognition upon newcomers, which is considered to be an important element of independent statehood and a crucial blessing for admission to the international community of sovereign states’ (Visoka et al., 2020: 2). International recognition plays a vital role in the political, security, legal, economic and socio-cultural development of states (Rezvani, 2015: 1). It enables states protection under international law, access to multilateral bodies and the possibility to develop diplomatic and trade relations with other states. While international recognition might not guarantee successful statehood, its absence certainly poses many challenges for surviving an inhospitable international environment (Craven and Parfitt, 2018). States which lack full international recognition are more likely to become subject to foreign military occupation and hybrid wars (Fabry, 2010). Limited diplomatic relations – an inherent condition of unrecognized states – undermines the capacity of these entities to enhance their political, security and trade relations with other recognized states, leading to economic stagnation, poverty and social isolation (Geldenhuys, 2009). More broadly, the recognition of states plays a central role in shaping world politics. It can be a cause of state death, birth, or resurrection. It can be a source of conflict and peace, a source of justice but also of discrimination and subordination. It can be a safeguard to state expansion and international order, but also can be a source of collective self-determination and liberation. It can reproduce the existing state system but also open up space for normative change and emancipation.

### Formal/Informal Actions

#### Recognition can be formal or informal, can include state government or belligerency recognition.

Mehrabi 2018, Wais. M.A., International and Comparative Politics Graduate Program, School of Public and International Affairs, Wright State University, 2018. “Politics of International Recognition: The Case of Aspirant States” <https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=3345&context=etd_all>

However, the general practical conceptualization of recognition, notwithstanding its controversial nature among different academic disciplines, as exhibited in the foreign policy decisions of states, is as follows. It refers to “a discretionary unilateral act exercised by the government of a state officially acknowledging the existence of another state, government, or belligerency” (Bledsoe and Boczek, 1987, p. 44-45), which can take place through an explicit declaration or implicit action as well as in a formal or informal manner. This conceptualization of the practice of international recognition best captures different understanding and components of the concept. It will be employed as the definitional framework throughout this study.

### Types of Recognition (De Facto, De Jure etc.)

#### De facto = conditional and can be removed. De jure recognition = Montevideo Convention statehood

Mehrabi 2018, Wais. M.A., International and Comparative Politics Graduate Program, School of Public and International Affairs, Wright State University, 2018. “Politics of International Recognition: The Case of Aspirant States” <https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=3345&context=etd_all>

The practice of states draws a distinction between de jure and de facto recognition which usually takes place on the basis of political realities and consideration of national interests. Recognition de jure means that according to the recognizing state, the state or government recognized formally fulfils the requirement laid down by international law, for instance the Montevideo Convention’s criteria of statehood, for effective participation in the international community. Additional aspects of the de jure recognition include a formal and explicit acceptance of the existence of a state by the international legal and political community, usually embodied by the exchange of ambassadors. De facto recognition on the other hand, means that in the opinion of the recognizing state, provisionally and temporarily and with all due reservation for the future, the state or government recognized fulfils the above requirement in fact. De facto recognition is provisional and temporary and could be withdrawn in the future. However, it is usually, not always, followed by de jure recognition (Brownlie, 2010, p.91-92; Boas, 2013; Delaney, 2008; Shaw, 2017).

The strict distinctions about various kind of recognition and their subsequent legal consequences is primarily a debated topic for legal scholars; for example, Brownlie (2010), Boas (2013), Shaw (2017), Lauterpach (1947), Rich (1993), Chen (1951, and Ben Bot (1968). The literature is weak or limited on categorization of political recognition. From a political point of view, recognition of a state or government “means that the recognizing state is willing to enter into political and other relations with the recognized state or government, relations of the kind which normally exist between members of the family of nations”, through “a unilateral declaration of the recognizing state, or by a bilateral transaction, namely, by an exchange of notes between the government of the recognizing state, on the one hand, and the government of the recognized state or the recognized government on the other” (Kelsen, 1941, p. 605).

#### De Jure v. De Facto

Murphy, Anthony, & Stăncescu ’17. Murphy, Anthony & Stăncescu, Vlad. (2017). State formation and recognition in international law. Juridical Tribune. 7. 6-14. (AF)

Throughout history, there have been cases where a great number of states refused to de jure recognise a particular country on ideological grounds.6 Nonetheless, such a state gained de facto recognition and thus established relations with other states. An example would be the Soviet Union, which was established in 1917, de facto recognised by the UK Government in 1921, but not formally (de jure) recognised until 1927.7 Another example is the Republic of China (Taiwan) and its dispute with the People’s Republic of China. In this case, Taiwan enjoyed worldwide recognition and held a seat as a permanent member of the UN Security Council until 1971, when UN member states ceased to de jure recognise the Republic of China and recognised the People’s Republic of China (only de facto recognised until then) instead.8

#### Express v. Tacit

Murphy, Anthony, & Stăncescu ’17. Murphy, Anthony & Stăncescu, Vlad. (2017). State formation and recognition in international law. Juridical Tribune. 7. 6-14. (AF)

Existing states can choose to recognise a new state either explicitly, through an official declaration, or tacitly, by any means from which it can be implied that the new state would be treated as any other international legal person. For instance, a tacit type of recognition could be in the form of sending a diplomatic mission (with the acceptance of credentials) or even signing a bilateral treaty.9 However, not all bilateral treaties imply recognition and neither do multilateral treaties. In fact, the United Nations Charter is a prime example, in that many of its signatories do not recognise all other members, so the process of implied recognition should be studied on a case by case basis.10

#### Gov’t recognition is different

Murphy, Anthony, & Stăncescu ’17. Murphy, Anthony & Stăncescu, Vlad. (2017). State formation and recognition in international law. Juridical Tribune. 7. 6-14. (AF)

In cases of internal conflict or disturbances (civil war, revolution or a coup d’état), the international community can find itself in the position to recognize the authority of a faction or entity over a previously-recognised state. This type of recognition concerns not the state itself, as it was already recognised as an international legal subject, but the government and its power within the given state’s territory. A particular problem arises in the case of governments-in-exile, which are only de jure recognised as such, while in fact the territory and population of the state are under the authority of another entity.11 When a state recognises a certain government, in doing so it expresses its will to treat that particular entity as the sole political authority of the respective state.12 Once a certain state is governed by an entity that is realistically considered to be capable of maintaining stability in terms of being supported by a clear majority of the population and also exerting control over most of the state’s territory, it should be granted recognition. However, such a practice was discontinued in recent times, with the governments of the United Kingdom, Australia, Canada and several civil law countries across Europe cited as examples.13

### Recognition of “New States, Belligerence, Insurgency, or New Governments”

#### Recognition of can be followed by: new states, belligerency or insurgency, and the recognition of new governments.

Mehrabi 2018, Wais. M.A., International and Comparative Politics Graduate Program, School of Public and International Affairs, Wright State University, 2018. “Politics of International Recognition: The Case of Aspirant States” <https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=3345&context=etd_all>

There is inconsistency over precise definition of recognition due to interlacing of different disciplines. Ryan Griffith captures all major elements of the various disciplines in his definition of international recognition as “a body of evolving norms, rules, and practices that determines which claimants can become independent states” (2018, p.80). Dozer (1966) synchronizes the various aspects of recognition in his definition. In the broadest technical and historical sense, “recognition in international relations refers to the acknowledgment by a nation of any change in a situation in a foreign country.” He further explains that recognition is “an attribute of sovereignty by which a nation, government, or people fixes its relations with other nations, governments, and peoples, thus establishing or reestablishing a legal continuity which has, for one reason or another, been broken.” Such a practice he suggests is “to the recognition of new states, the recognition of belligerency or insurgency, and the recognition of new governments” (Dozer, 1966, p.1).

### Recognition = Flexible

#### Despite the simplicity of the term, the mechanism is actually pretty flexible

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In general, the most usual form of recognition is for a state to signal its decision directly through a bilateral process. This can be done in a number of ways.27 For instance, and commonly, this may take the form of an official statement, or even just a press release, issued by the foreign ministry of the recognising state announcing its decision.28 Another option is to send a letter to the state being recognised announcing the decision. Related to this, but somewhat more indirectly, an official from the recognising state may write to an official of the territory being recognised using language that clearly indicates that it is now recognised as a state. For example, a letter addressed to the President of the Republic of Kosovo would signal recognition, even if the contents of the letter were on a matter unrelated to the decision to recognise the state. In addition, there are several other methods of bilateral recognition. For instance, the participation of an official delegation at an independence ceremony may be construed as recognition; although, as will be seen, this need not necessarily be the case. Yet another form of bilateral recognition can come in the form of the establishment of formal diplomatic relations. This may either involve the appointment of a resident or non-resident ambassador or a decision to a decision to upgrade a diplomatic official or mission. For example, what may have been a regional consulate is re-designated as an embassy.

#### Recognition is formally acknowledging sovereign statehood, how recognition occurs is flexible

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The recognition power is much broader than the authority merely to place a symbolic stamp of legitimacy on a foreign state or government. It determines the territorial sovereignty of that state or government 3 and has significant effects on both international relations and domestic law. As summarized by the Court of Appeals:

Recognition is the act by which "a state commits itself to treat an entity as a state or to treat a regime as the government of a state." "The rights and attributes of sovereignty belong to [a state] independently of all recognition, but it is only after it has been recognized that it is assured of exercising them." Recognition is therefore a critical step in establishing diplomatic relations with the United States; if the United States does not recognize a state, it means the United States is "unwilling[] to acknowledge that the government in question speaks as the sovereign authority for the territory it purports to control." Recognition also confers other substantial benefits. For example, a recognized sovereign generally may (1) maintain a suit in a United States court; (2) assert the sovereign immunity defense in a United States court; and (3) benefit from the "act of state" doctrine, which provides that "every sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgment on the acts of the government of another done within its own territory." 4 Moreover, the recognition power also includes the authority to determine how the recognition decision is carried out - that is, "the policy to govern the question of [\*4] recognition." 5 The Zivotofsky decision is the first to hold that the recognition of foreign states and governments - and the determination of the scope of that recognition - is an exclusive executive power. This decision has significant implications for the separation of powers that go well beyond the question of recognition. If affirmed, this decision will mark only the second time that the Supreme Court will have held that a non-enumerated power of the President supersedes the legislative authority of Congress (the other being the power to remove executive officials) and the first in the field of foreign affairs. The Supreme Court has decided a number of recognition cases stretching back to the Marshall Court, but none involved a conflict between an act of Congress and an executive decision. Each of the previous cases on recognition involved the allocation of power between the judicial and executive branches - that is, whether the courts could review the legality of executive recognition decisions. The Supreme Court's consistent answer has been that the courts must defer to the political branches on recognition. Sometimes, the Court described the political branches in dicta as both Congress and the Executive. 6 More frequently, the dicta stated that the recognition power was exclusively an executive function. 7 For the D.C. Circuit, the latter dicta has now [\*5] become a holding. The facts of Zivotofsky are simple. Almost immediately following Israel's declaration of independence in 1948, President Truman recognized it as a sovereign state. 8 However, Truman refused to recognize Israel's (or any other country's) sovereignty over Jerusalem, stating that this question must be resolved through future negotiations. 9 To date, that executive policy has not changed. To enforce this position of neutrality, the State Department requires that, for persons born within the municipal limits of Jerusalem, the applicant's place of birth on passports must be listed as "Jerusalem," and not, for example, "Jerusalem, Israel," "Israel," or "Jordan." 10

#### Includes a wide variety of practices

**Mehmeti 16** – PhD candidate @ Tirana State University (Ermima, “Recogntion in International Law: Recognition of States and European Integration - Legal and Political Considerations,” http://journals.euser.org/files/articles/ejis\_jan\_apr\_16/Ermira.pdf)//BB

What is recognition? How is it defined? Is it a principle, a right, or perhaps just a discretionary decision made individually by States? Is recognition a matter of law or a mere political consideration? Scholars often times refer to the ‘Doctrine of Recognition’. How has it developed? Who makes the decision? When is it legitimate? Can it be rejected or withdrawn? The examples, the nature, and the circumstances under which recognition is extended, seem to imply that recognition implies various meanings and various actions: “The problem of recognition in international law has been the subject of a far-flung practice of states, of many decisions of national and international courts, of many treaties and of an enormous literature.”1 To those aspiring it, recognition represents a right; to those granting it, recognition is a matter of political evaluation and decision. Recognition is based on normal principles. It is rather rightly termed ‘a controversial principle’, for the contextual bases when it is granted and particularly how it is granted often contradict, are not uniformed, and create further contentions. Somewhere in between comes the law. Recognition is a subject of international law and the fundamental principles of international law must apply in extending or withholding it. According to Brown, “[I]n spite of the comments and theories of the writers on the subject of recognition the simple truth is that it is governed by no rules whatever. In the absence of a supranational state exercising supreme authority the act of recognition is political in nature and the prerogative of an independent sovereign state.

#### Diversity, lack of clarity, maybe supporting reasonability

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This is a mere proof that when it comes to recognition, it is mere political arguments that prevail over legal arguments and there is no single formula or a set of universal principles that apply in the process, regardless of the clearly listed Montevideo criteria. The decision to recognize is often arbitrary and ultimately political. Scholars and statesmen agree on the premise that in the vast majority of cases, recognition is subject to discretionary policies and relations between states and not a result of an exclusively objective legal examination of whether or not an entity meets the criteria for Statehood. One of the reasons for such an approach may well be the fact that secessionist movements could potentially challenge the existing international order and claims to the right to self-determination by seceding groups could easily acquire features that would question the very principles on preserving peace and security in the world, as laid down in the United Nations Charter. According to Dugard, “Any writer who attempts to examine the mysteries of State practice on recognition with the intention of providing a coherent explanation of the behavior and expectations of States within a framework of legal principle and theory exposes [themselves] himself to certain ridicule and vituperation.” 1 Nevertheless, both scholars and policy makers share the view that, while the very act of recognition might be a matter of political assessment and interests on the side of the recognizing state, at the same time, there are legal norms that apply and perhaps more importantly, legal effects that recognition produces. In a similar manner, Oppenheim argued that, “[W]hile the grant of recognition is within the discretion of states, it is not a matter of arbitrary will or political concession, but is given or refused in accordance with legal principle.2 ” In other words, while recognition is a legal principle, its materialization is a political act. “The matter is of legal importance because it is when an entity becomes a member of the international community that it thereupon becomes bound by the obligations, and a beneficiary of the rights, prescribed by international law for states and their governments,” Oppenheim submits.3

### Nonrecognition

#### Nonrecognition is a strategic policy of isolation

Caspersen 2013, Nina. Professor, Department of Politics University of York Heslington, her research focuses on the dynamics of intra-state conflicts, peace processes and peace settlements, unrecognised/de facto states, rebel governance, and state recognition *Unrecognized States* (pp. 57-58). Wiley. Kindle Edition.

The legality of a state’s creation became more important post-1945 and the nature of a state’s regime and/or the use of force became reasons to deny recognition. For example, Ian Smith’s Rhodesia was not recognized by any other state, despite the effectiveness of its governance, and was deemed an ‘illegal racist minority regime’ by the UN Security Council.168 Collective nonrecognition was also used when South Africa refused to surrender its control over Namibia, which it had administered as a League of Nations Mandate Territory, and following the Iraqi invasion of Kuwait. In these cases the UN invoked a duty of nonrecognition, intended to prevent the consolidation of an unlawful situation.169 In other cases, nonrecognition was not invoked but a number of states nevertheless withheld their recognition due to the way in which a state had been created or a border had been changed. Several states, for example, refused to recognize the Soviet annexation of the Baltic States and consequently still recognized Baltic diplomats as representatives of their former governments. This situation persisted until the restoration of Baltic independence in 1991.170 Similarly, after the Korean War the claim of the Republic of Korea to be the government of Korea as a whole (both North and South) continued to be accepted by the Western bloc and North Korea was consequently denied recognition until 1991, when it was finally admitted to the UN.171 Recognition or nonrecognition therefore depended on ideology and on strategic interests. External aggression, or more generally the use of force, was not necessarily a hindrance to the international recognition of border changes. For example, when Indonesia occupied East Timor in 1975, Australia supported the pro-Western Indonesian government, even though the UN did not recognize its claim to the territory and continued viewing East Timor as being a ‘Non-Self-Governing Territory’, and therefore insisted on its right to self-determination. Australia’s recognition was an Indonesian condition for an agreement on the exploitation of continental shelf resources in the ‘Timor gap’, located between Australia and East Timor.172 In these cases, we are dealing with clearly functioning states; insufficient empirical capabilities are no longer the reason for lack of recognition. Denial of recognition was based on ideology or international norms; it was not the state as such that was opposed, rather the specific regime implemented or the extent of territory covered. When the point of contention is the nature of the regime rather than the existence of the state, other states have frequently withheld recognition from the government by not establishing diplomatic relations. The U.S., for example, refused to recognize the Soviet regime until 1934.173 The (non) recognition of governments is no longer widely practised,174 but has not disappeared completely from the international scene. The U.S. has, for example, still not established diplomatic relations with Pyongyang, but in 2005 the Secretary of State, Condoleezza Rice, stated that the U.S. does recognize North Korea as a sovereign state.175

**Collective recognition**

**Admission to the UN is clearly an act of recognition**

**Mehmeti 16** – PhD candidate @ Tirana State University (Ermima, “Recognition in International Law: Recognition of States and European Integration - Legal and Political Considerations,” <http://journals.euser.org/files/articles/ejis_jan_apr_16/Ermira.pdf>)//BB

UNITED NATIONS AND RECOGNITION

The act of admission in the Organization of United Nations is rightly considered to be the practical mechanism of extending international recognition to [new] states. The United Nations is where the doctrine remains silent and the procedure takes over, while the political institutions of the United Nations1 are those that have the authority to decide upon the admission of new members in the world organization. The United Nations were established in the aftermath of the Second World War in an effort by the countries to prevent the recurrence of such tragedies and massive loss of human lives. It was founded with the objective of securing international peace and security and with the aim to “reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,”2 and in order to achieve these goals, “to practice tolerance and live together in peace with one another as good neighbors, and to unite [our] strength to maintain international peace and security…”3 Membership in the United Nations is regulated in Article 3 of the Charter. This article draws a clear distinction between “the original Members” and states admitted to the Organization. According to Article 3 paragraph 1, “The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with article 110.”4 Furthermore, Article 4 describes the procedure for the admission of new Members: Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendations of the Security Council.5 Membership in the United Nations is further classified as an “an important question” for which the General Assembly shall decide by a two-thirds majority of the members present and voting.6

**Collective recognition is common acceptance in international organizations --- UN in particular**

**Stojanovska-Stefanova 15** – PhD Candidate @ Goce Delcev (Aneta Stojanovska-Stefanova∗ & Drasko Atanasoski∗∗, STATE AS A SUBJECT OF INTERNATIONAL LAW, US-China Law Review, http://www.davidpublisher.org/Public/uploads/Contribute/569c3ed4e0cfc.pdf)//BB

As a special form of recognition could be considered also the so-called “Collective recognition of states” that can occur through common acceptance of membership of a country in the regional and universal international organizations, through common acceptance of the declaration at the international conference or through a formal procedure in the bodies of the international organization. The recognition of a state internationally is depicted through its membership in the United Nations (UN)14. With the membership at this world organization, every dilema about the independence and sovereignty of any country is being eliminated. That is so because becoming a member of this international institution is necessary to achieve the recognition of the five member states of the Security Council, such as the US, Russia, China, Britain and France, and without their decision (resolution), it is not possible to achieve membership.

### Collective recognition – can UN be the agent?

#### The aff would have to be fiating states w/in the UN

**Ker-Lindsay 15** - Senior Research Fellow in the Politics of South East Europe at the London School of Economics. His books include Kosovo: The Path to Contested Statehood in the Balkans (I.B.Tauris, 2009), The Cyprus Problem: What Everyone Needs to Know (Oxford University Press, 2011) and The Foreign Policy of Counter Secession: Preventing the Recognition of Contested States (Oxford University Press, 2012). (James, “Engagement without recognition: the limits of diplomatic interaction with contested states,” *International Affairs*, 91.2)//BB

Aside from bilateral recognition, the other major form of recognition is collective recognition. There are two types of this. Again, one is relatively straightforward. The other is not. In the first instance there is what might be called ‘direct collective recognition’. Most usually, this occurs when a group of states, perhaps acting within the bounds of an existing international body, take a joint decision to recognise a state. Importantly, it must be stressed that it is not the organisation that recognises the state. According to international law, **only states can recognise states**. An international organisation, such as the United Nations, cannot recognise a state;34 even if membership of an international organisation can greatly enhance the wider acceptance of a territory’s claim to statehood. In such cases, a group of states may issue a joint announcement indicating that they have all recognised the territory as an independent state. The most recent example of this was the European Union’s statement concerning South Sudan, in May 2011. In such cases, there is little room for ambiguity. A state agrees to the process of collective recognition, and then makes it clear that it has done so, or it does not agree and this is made known. This can clearly be seen by contrasting the EU statement on South Sudan, which made individual statements of recognition by the 27 members unnecessary (although, as noted already, some states did take extra steps that could be read as recognition), with Kosovo where a joint statement was released that signalled that there was no uniform opinion and that each state would have to make up its own mind, thereby necessitating individual statements or acts of recognition from members. However, such processes of direct collective recognition still tend to be quite unusual and can be considered to be relatively underdeveloped in international law.35

#### A ‘USFG only’ topic would be fiating dyadic recognition, but could claim solvency arguments based on collective recognition by arguing that the US is blocking collective recognition.

## “State” Entity Terms

### Aspiring State

#### Aspiring states is a broad/all-inclusive term for sovereign seeking groups

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I proceed as follows. First, I lay out the case for a new conceptualization of international recognition (or alternatively, international sovereignty), outlining the theoretical advantages of thinking about it as a continuous process, rather than a discrete foreign policy decision. Then, I describe the data and walk through the process used to estimate the latent variable model for implicit support for recognition. I choose a few separatist and a few third-party cases to demonstrate the performance of the model through the period in question. Finally, I revisit some key questions that have thus far been explored only through examining diplomatic recognition. With this model, I find support for several hypotheses and empirical findings derived from prior literature.

The Continuum of International Sovereignty. The triadic nature of the context is confusing, so it is useful to clearly define the three kinds of actors in question. I define them as: (1) the holding state—that is, the state that controls the territory in question; (2) the aspiring state—the separatist, secessionist, or self-determination movement that seeks to wrest control of the territory and establish a new, independent state; and (3) the third-party state—every other state that is capable of holding a position vis-à-vis either or both of these states. To name one example, in the China-Tibet dispute, China is the holding state, Tibet is the aspiring state, and every other country is a third party.

### Aspirant State/De Facto/Quasi-State/Unrecognized State/Para-State/proto-state/non-state

#### Literature review that includes a host of citations for terms describing a phenom of an entity that seeks recognition

#### De Facto = 8 States now and 34 from 1945-2011

\*Aspirant state is operationally defined at the bottom of the document.\*

Mehrabi 2018, Wais. M.A., International and Comparative Politics Graduate Program, School of Public and International Affairs, Wright State University, 2018. “Politics of International Recognition: The Case of Aspirant States” <https://corescholar.libraries.wright.edu/cgi/viewcontent.cgi?article=3345&context=etd_all>

Sovereign and recognized states remain the primary and central actors in international politics. There are 193 states with often disputed but fairly stable borders. However, they are not the sole units in the international system. Political authority, in practice, has been divided among12 both state and non-state actors. One type of non-state actor is the de facto state – a separatist polity, such as Somaliland, which displays accoutrements of statehood except for international legal status, membership in the United Nations, and full or widespread international recognition (Florea, 2014). The precise definition and appropriate terminology used to describe non-state separatist entities is ambiguous in the literature. There is a lack of consensus among scholars over precise definition of these “secessionist entities that control territory, provide governance, receive popular support, persist over time, and seek widespread recognition of their proclaimed sovereignty and yet fail to receive it” (Pegg; 2017, p.1). Pegg (1998, p. 26) defined these non-state actors as “de facto states” that is an “organized political leadership which has risen to power through some degree of indigenous capability”. Pegg (1998) further elaborates that these entities are capable of exercising legislative, executive, and judicial powers over their territories and populations, but lack international recognition, or are recognized by a limited number of states. Based on Pegg’s criteria, there are currently eight entities considered de facto states: Abkhazia, South Ossetia, Nagorno-Karabakh, Transnistria, Northern Cyprus, Taiwan, Western Sahara, and Somaliland (Kolsto, 2006; Caspersen, 2008b; Berg and Toomla, 2009). Florea (2014) reports the existence of 34 of such entities between 1945 and 2011. Florea (2014) considers an entity a de facto state if: It belongs to (or administrated by) a recognized country, but is not a colonial possession. Seeks some degree of separation from that country and has declared independence (or has demonstrated aspirations for independence, for example, through a referendum or a ‘sovereignty declaration’). Exerts military control over a territory or portions of territory inhabited by a permanent population. It is not sanction by the government. Performs at least basic governance functions (provision of social and political order). Lacks international legal sovereignty. And exists for at least 24 months. (p. 791-792) Kolossov and O’Loughlin (1999) and Kolossov (2001) use the term “pseudo-state” to describe separatist entities capable of exercising monopoly over the use of violence in a defined territory that lack universal recognition. Pseudo states, they prescribe, despite having declared independence and fulfilling empirical criteria of statehood, are “islands of transitional” or “incomplete statehood” with low levels or absence of international recognition (Kolossov and O’Loughlin; 1999, p. 151, Kolossov; 2001, p. 87). A number of scholars use the term “quasi-states” (Kolstø; 2006, Jackson; 1990) to define state-like actors. Jackson (1990) argues that entities continue to exist because of marginal support of a patron state and occasional protection of international law, for instance control over a specific territory based on the self-determination principle, which are at risk of consumption by stronger sovereign units. Kolstø’s (2006) definition includes entities that meet domestic requirements of statehood, but lack external sovereignty. Kolstø (2006) acknowledges that other terms such as “de facto states”, “unrecognized states”, “para-states” and “pseudo-states” have also been used to describe his conceptualization of the non-state phenomenon – the “quasi-state” (Kolstø; 2006, p. 725).Kolossov and O’Loughlin (1999) also use the term to refer to state-like entities that perform some state functions, but are marred by criminal activities and are, at times, run by barons or drug mafias. Rywkin (2006) uses quasi-state as an umbrella term for states that emerged after the collapse of the Soviet Union that failed to achieve full statehood. Camyar (2005) defines “‘quasi-states’ as strong in internal territoriality and empirical statehood, but weak in external territoriality and juridical statehood (Camyar; 2005, p.1-3).

Stanislawski (2008) provides a wider definition of the quasi-state with an emphasis on both juridical–international recognition–and factual statehood–control over territory and effective government. Stanislawski’s (2008) quasi-state is variegated. Some quasi-states are “as-if-states” because they “enjoy international recognition and the rights and duties of states, but in effect, their internal power and control is limited or fragmented, non-existent”. On the other hand, “‘almost-states’ are ‘quasi-states’ that do not enjoy international recognition, but contrary to ‘as-if states’ they are characterized by efficient internal control of their territories and populations” (Stanislawski; 2008, p.366-368). Stanislawski (2008) introduces another category called “black spots” that lack both juridical and factual statehood requirements. “Black spots” are places that are neither under control of an existing government nor a secessionist entity that aspires to gain international recognition. Black spots “represent territories in which and from which both transnational organized crime (TOC) and terrorism operate, often becoming criminal-terrorist entities” (Stanislawski, 2008; p. 360-367).Charles King (2001) while analyzing state-building processes in the post-Soviet republics defines non-state separatist entities as “state-like”, “de facto countries”, “unrecognized states”, and “quasi-states”. He concludes that these entities, notwithstanding the variegated terms used to describe them, have a functioning government, a specific territory but “without the imprimatur of international recognition” (King; 2001, p.525-528).

Kingston and Spears (2004) expand the de facto state definition prescribed in the literature, like that of Pegg (1998) and Florea (2014), and use the term “states-within-states”—non-state entities that have the “capacity to control defined pieces of territory, collect taxes, and conduct business with international and transitional actors” (Kingston and Spears; 2004, p.2)—as an umbrella term to define both de facto states and a wider range of entities. Their definition includes entities that have declared independence and aspire to reach full statehood and militia groups that operate within borders of weak states.

Geldenhuys (2009, p.1), while admitting the validity of the term “de facto state”, uses “contested states” to describe secessionist movements that disengaged from their parent states, formed violable autonomous governments on their specific territory, and lack international recognition and membership of the United Nations. The defining features of “contested states” are their “internationally disputed nature of the purported statehood, manifested in their lack of de jure recognition” and that “their very right of statehood is challenged by the international community, resulting in no formal recognition at all or recognition by only a small number of established states” (p.7). These “aspirant states”, another term Geldenhuys uses, “experience collective non-recognition in the sense of being deliberately excluded from UN membership” (Geldenhuys; 2009, p. 7). The “contested state” definition is complemented by a temporal condition. The entity must have “a purportedly independent state for at least three years, desiring to be treated as a peer by confirmed states” (Geldenhuys; 2009, p. 4). Geldenhuys (2009) argues that his conceptualization renders these entities as sovereign and confirmed states excluding widespread recognition which leads to the “formal birth certificate of confirmed statehood, namely full UN membership” (Geldenhuys, 2009, p. 25). Entities that qualify for designation of contested states are “Abkhazia, Transnistria, Nagorno-Karabakh, Kosovo, Somaliland, Palestine, Northern Cyprus, Western Sahara and Taiwan”, and “South Ossetia” (Geldenhuys; 2009, p. 2). Mirilovic and Siroky (2015;2016), like Geldenhuys, uses the label “aspirant states” to define secessionist entities that satisfy empirical and juridical requirements of statehood whose external sovereignty is contested due to a lack of or limited international recognition. Their conceptualization includes cases like entities such as “Palestine, Israel” and “Abkhazia, Crimea, Kosovo, Taiwan, and Western Sahara” among others (Mirilovic and Siroky, 2015, p.264-265). Berg and Pegg (2016) also use the term “aspirant” to define states that meet the basic requirement of statehood and are seeking external sovereignty through recognition.

Another prevalent term used to describe de facto entities is “unrecognized states” (Caspersen; 2012, Cooley and Mitchell; 2010). Affirming and building on Pegg’s (1998) definition of the de facto states, Caspersen (2012) adds some additional aspects to the conceptualization of de facto states. The criteria for unrecognized states are: A) an unrecognized state has achieved de facto independence, covering at last two-thirds of the territory to which it lays claim and includes its main city and key regions; B) its leadership is seeking to build further state institutions and demonstrates its own legitimacy; C) the entity has declared formal independence or demonstrated clear aspirations for independence, for example through an independence referendum, adoption of a currency, or similar act that clearly signals separate statehood; D) the entity has not gained international recognition or has, at the most, been recognized by its patron state and a few other states of no great importance; E) it has existed for at least two years (Caspersen; 2012, Caspersen; 2009, Pegg;1998).

DeLiosle (2002) uses “near-state” to describe a polity that “fail[s] to satisfy one of the elements of the statehood reflected in the 1933 Montevideo Convention” (DeLiosle; 2002, p. 741). The 1933 Montevideo Convention on the Rights and Duties of States in Article 1 defines states in the following way: “The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states” (Stanislawski; 2008, p.366-367). Though international recognition is not among the elements included in the Montevideo Convention, DeLiosle (2002) implies lack of recognition curtails the materialization of the last requirement – capacity to enter into relations with other states.

Toomla (2014) analyzes the different definitions and labels for de facto states such as de facto states” (Pegg, 1998; Lynch, 2004; Bartmann, 2004), contested states (Geldenhuys; 2009), unrecognized states (Caspersen (2012), quasi-states (Kolstø; 2006), pseudo-states (Kolossov and O’Loughlin; 1999), states-within-states (Spears; 2004), and state-like entities (King; 2001) (Toomla; 2014, p.47). His comparison of these definitions and labels reveals the common themes used by the authors which are also prevalent in the literature. These include “territory, population government, and capabilities for international relations, and absence of recognition, legitimacy or some indigenous capacity for existing – popular support, temporal criterion – some threshold in years that must be exceeded in de facto states’ existence, declaration of independence or some other statement of intent” (Toomla; 2014, p.48). Toomla (2014) ends his analysis of the various definitions and terms with a working definition. The definition involves both “sovereignty – internal and external; empirical and judicial” elements of statehood (Toomla; 2014, p.57), and the consensus in the literature. Thus, he defines a de facto state as “state that fulfils all the criteria set in the Montevideo Convention but lacks sufficient recognition from fellow states” (Toomla; 2014, p.58). This definition consists of “two dimensions of statehood, juridical and empirical. The former is formal recognition by other countries, with the threshold being enough recognition to pass a vote for UN membership” (Toomla; 2014, p.58). Toomla (2014) uses Abkhazia, Kosovo, Nagorno-Karabakh, Northern Cyprus, Palestine, Taiwan, Transnistria, South Ossetia, Somaliland, and Western Sahara as cases that qualify and appropriately meet his definitional criteria. Some scholars question whether using the term “state” is appropriate while referring to these entities regardless of what suffixes or prefixes are added. Yemelianova, for example, argues that international law, under the constitutive theory of recognition, “requires a state’s recognition by other states as the essential condition of its sovereignty. Therefore, it delegitimizes the term ‘de facto state’ on the grounds that an entity lacking international recognition could not be regarded as a state and a subject of international law” (2015, p.221). Similarly, Crawford (2007) citing constitutive theory of recognition and international law argues that “there is no such thing as a de facto State” (2007, p. 464) irrespective of what adjective or modifier is added. Coggins (2014) also sides with Crawford in objecting to use of the term ‘state’, arguing that “without recognition, those actors may be many things: secessionists, liberation movements, insurgents, anti-colonialists, terrorists, ethnic rebels, or indigenous peoples, but they may not be states” (2014, p. 27). However, a wide majority of scholars studying de facto states justify using the term “state” because these entities “satisfy the basic, formal requirements of statehood in international law save for recognition, they aspire to confirmed statehood, and they in many ways act like typical states” (Geldenhuys; 2009, p. 26). Despite various forms of progress in the study of de facto states, the field still remains persistently mired in controversy over precise definition and terminology. In addition to the definitions and terms reviewed so far, there is a number of other alternative terms used for de facto states’ conceptualization by Pegg (2017) – “secessionist entities that control territory, provide governance, secure popular support, and aspire to widely recognized sovereign statehood and yet fail to attain it” (2017, p.19). Isachenk (2012) uses “informal states”, Wood (2010) introduced “limbo states”, and others’ preferred terms include “phantom state” (Byman and King, 2012), and “proto-state” (Coggin, 2014). Despite her past reservations, Caspersen’s (2016) adoption of the term “de facto state” was considered an effort to end the controversy and promote it as “the most appropriate and most neutral” (O’Loughlin et al., 2011, p. 2) as well as the “least inaccurate and least offensive” (Broers, 2013, p. 69), the controversy remains unresolved. The division over the precise definition and terminology continues. However, there is a “coalescing around three main terms: contested states (e.g., Geldenhuys, 2009; Ker Lindsay, 2012; Kyris, 2015), unrecognized states (e.g., Caspersen, 2012; Richards, 2014; Richards & Smith, 2015), and de facto states” (e.g., Bahcheli, Bartmann, & Srebnik, 2004; Berg, 2013; Broers, 2013; Florea, 2014; Johnson & Smaker, 2014; Kolstø & Blakkisrud, 2012; Lynch, 2004; MacQueen, 2015; O’Loughlin et al., 2011; Pegg, 1998; Popescu, 2007; Voller, 2013; Yemelianova, 2015) (Pegg, 2017,19). The division among scholars over definition and terminology has not helped the understanding of these entities. The controversy does not seem to end in the near future. Though there is a proliferation in the use of diverse terminology and definition, Pegg argues that most authors studying the phenomenon refer “to essentially the same things” (2017, p.20) and broadly accept Toomla’s (2016) conceptualization of de facto states as “entities that fulfil the Montevideo criteria for statehood but lack international recognition” (Toomla, 2016, p.331). The conceptualization of these entities is disputed. There are examples of secessionist entities that fall under two or three definitions. For example, table: 1.1 summarizes the different entities related to the various conceptual definitions. Table

Description automatically generated

Two conclusions can be drawn from the literature review about definitions and terminologies. First, despite improvements in the overall understanding and dynamics of these non-state polities, the controversy over the use of the appropriate terms has not been resolved. The myriad of different labels amalgamates into three broad terms: ‘contested states’, ‘unrecognized states’, and ‘de facto states’. With few exceptions, almost all scholars combine the term state with a prefix of their choice. This unsettled area allows researchers and scholars to pick the term of their choosing with due justification while studying these phenomena. Second, the definitions are narrowing, and the concept stretching is contained. As Pegg (2017) points out most scholars of the subfield are broadly talking about the same thing and accept Toomla’s (2014, 2016) definition. With this view in mind and to avoid confusion, the term “aspirant” (Berg and Pegg, 2016; Geldenhuys, 2009; Mirilovic and Siroky, 2015, 2016) can be combined with the term state, thus creating ‘aspirant state’. The term ‘aspirant state’ encompasses polities that meet the conceptualizations by Toomla (2014; 2016), Berg and Pegg (2016), Geldenhuys

21

(2009), and Mirilovic and Siroky (2015; 2016). Therefore, from the analysis of different definitions and terms, a working definition can be formed for aspirant states. An aspirant state is a recognition-seeking separatist polity that has managed to break away from its parent state and meets the Montevideo Convention criteria for statehood – (1) a permanent population; (2) a defined territory; (3) a government; and (4) capacity to enter into relations with the other states – that is unrecognized or partially recognized. This definition of aspirant state denotes two things. First, the entities meet the four criteria for statehood as enumerated in the Montevideo Convention, and are partially recognized or unrecognized. Second, all these entities aspire to become externally sovereign, internationally confirmed, and eventually admitted to the UN as full members. Thus, the term aspirant state captures all these aspects.

Based on this working definition, an aspirant state is operationally defined as a secessionist entity that has a number of characteristics, which include: 1) Meet the four criteria of Montevideo Convention; A) a permanent population, B) a defined territory, C) government, and D) capacity to enter into relations with other states. 2) The entity has declared independence and intent to separate from home state. 3) The movement must last at least two years. 4) It is a recognition-seeking entity that has gained none or partial recognition. This operationalization is not original. It is a combination of the operationalization employed by Coggins (2014) and Toomla (2014) except the two characteristics – recognition-seeking entity and existence for two years – which have been included for this study. The two elements are added to complement the already existing operationalization for two reasons. First, in order to limit the number of cases. The spatial and temporal parameters of Toomla (2014) and Coggins (2014) are vast covering a large number of cases over several decades. For example, Coggins’ (2014) study includes small secessionist cases and former colonies. Some of which have existed for twenty-four hours to a few weeks in the twentieth century. Not all her cases are recognition-seeking entities. Second, the literature proposes a minimum of two years of existence for a secessionist entity in order to establish juridical and empirical basis of statehood that serve as the main components for satisfying the Montevideo requirement for statehood (Caspersen, 2012, 2016; Pegg, 1998).

This research will study cases that meet the working definition of an aspirant state as operationalized above. The entities meeting the working definition are Abkhazia, Kosovo, Nagorno-Karabakh, Northern Cyprus, Palestine, Taiwan, Transnistria, South Ossetia, Somaliland, and Western Sahara. This research will cross examine the recognition decisions of UN member states against these ten cases. The research design chapter will cover the methodological discussion of case selection and provide detailed justification for why and how the ten entities meet the working definition of aspirant states. The same section will also provide background information about each of the ten cases. The following subsection covers the different approaches and practices to international recognition and proposes a working definition for international recognition used in this research.

### State = Montevideo Convention

#### Montevideo = authoritative legal definition

Coggins 2011, “Friends in High Places: International Politics and the Emergence of States from, Secessionism,” Author(s): Bridget Coggins, Source: International Organization , Summer 2011, Vol. 65, No. 3 (Summer 2011), pp. 433-467 https://www.jstor.org/stable/23016161

Given IR scholars' disparate views of international politics, their conceptions of the state are strikingly similar. Like domestic-level theories, though significantly less developed, IR suggests conflicts over domestic sovereignty are settled prior to state birth. Weber's classic definition of the state, focused on a monopoly of the legitimate use of physical force within a given territory, is ubiquitous 55 Accord ing to Morgenthau, "[the territorial state] referred in legal terms to the elemental fact of [the sixteenth century]—the appearance of a centralized power that exer cised its lawmaking and law-enforcing authority within a certain territory."56 Other theoretical traditions only make slight adjustments to this characterization. Systemic constructivism describes states as a fuzzy set whose qualities typically (1) an institutional-legal order, (2) an organization claiming a monopoly on the legitimate use of organized violence, (3) an organization with sovereignty, (4) a society, and (5) territory.57 The authoritative legal definition, found within the Mon tevideo Convention on the Rights and Duties of States requires that, "[states] pos sess the following qualifications: a) a permanent population; b) a defined territory; c) a government; and d) the capacity to enter into relations with other states."58 Granting external legitimacy prematurely is unlawful. Liberalism and Neo-Liberal Institutionalism are closest theoretically to international law.59 Both assert that states embody the fundamental qualities prescribed by Montevideo. Because laws reflect shared sets of norms and practices, governments generally obey them. Consequently, the Montevideo criteria should accurately characterize new states.

#### Customary definitions and rights of states were codified by the Montevideo Convention in Articles 1-3. The implications and mechanism of recognition are discussed in Articles 4-7.

Montevideo Convention on the Rights and Duties of States, Done at: Montevideo, Date enacted: 1933-12-26, In force: 1934-12-26. <https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml> (AF)

The Governments represented in the Seventh International Conference of American States: Wishing to conclude a Convention on Rights and Duties of States, have appointed the following Plenipotentiaries: [List of plenipotentiaries omitted] Who, after having exhibited their Full Powers, which were found to be in good and due order, have agreed upon the following: Article 1 The state as a person of international law should possess the following qualifications: a. a permanent population; b. a defined territory; c. government; and d. capacity to enter into relations with the other states. Article 2 The federal state shall constitute a sole person in the eyes of international law. Article 3 The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts. The exercise of these rights has no other limitation than the exercise of the rights of other states according to international law. Article 4 States are juridically equal, enjoy the same rights, and have equal capacity in their exercise. The rights of each one do not depend upon the power which it possesses to assure its exercise, but upon the simple fact of its existence as a person under international law.Article 5 The fundamental rights of states are not susceptible of being affected in any manner whatsoever.Article 6 The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable. Article 7 The recognition of a state may be express or tacit. The latter results from any act which implies the intention of recognizing the new state.

[Articles 8 through 16 omitted]

#### A State requires permanent population

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A permanent population is the first qualification necessary for the existence of a State. Lassa Oppenheim defines population as "an aggregate of individuals of both sexes who live together as a community in spite of the fact that they may belong to different races or creeds, or be different colour."59 Professor David Rai6 has outlined four main features of the population.60 First, the term "population" should be distinguished from the term "peoples."61 Indeed, the population of a country may consist of different ethnic groups following their own traditions, religions, and languages; for example, eighteen generalized ethnic groups in the U.K. form the country's population.62 The history of self-proclaimed entities shows that different ethnic groups may provoke separatist actions,63 and, for this reason, I find Raic's division of these terms more than appropriate. Second, there are no requirements on the minimal threshold of the population.64 For example, both the Vatican (with a population of 1,000 people) and China (with nearly 1.4 billion people) are equally recognized States and full-fledged members of the world community.65 Third, the permanent population must have the intention to inhabit the territory on a permanent basis.66 Rai6 refers to the self-proclaimed Principality of Sealand, which was founded by Paddy Roy Bates in 1967 on an abandoned anti-radar platform, HM Fort Roughs in the North Sea outside British territorial waters.67 Sealand claimed to have 160,000 citizens, but all the citizens had second citizenships and consisted of business professionals who lived permanently in their home countries.68 Under international law, this entity had no population, because its "citizens" did not intend to live in that "State."69 The example of Sealand, however, is not relevant. According to U.N. rules, artificial installations cannot possess the status of islands; therefore, Sealand had no territory and could not in any manner be recognized as an independent State. 70 Moreover, in 1987, the United Kingdom extended the limit of its territorial waters from three to twelve nautical miles, bringing Fort Roughs-and the hapless Prince Roy-into British territorial waters and into the jurisdiction of the U.K.71 As the result, the U.S. Federal Communications Commission decided in 1990 that the Principality of Sealand is neither a State nor an entity capable of registering ships.72 Nevertheless, the irrelevance of Sealand for illustrative purposes does not mean the irrelevance of Rai's claim that the intention to inhabit is a factor of population. Raid's point of view is supported by Dr. Gideon Boas, who reached the same conclusion by analyzing Oppenheim's definition of population.73 Boas says that as a population must be settled, there is a basic need for some form of stable human community capable to support the superstructure of the State, even if the inhabitants are traditionally nomadic.74 Professor Boas then refers to the Western Sahara region, which for centuries has been inhabited by peoples keeping nomadic lifestyle and therefore constantly migrating (though within the territory's limits, which is important).75 Fourth, the territory must be habitable. In support of his claim, Rai6 refers to the so-called Republic of Minerva, a micronation established by Michael Oliver, a millionaire from the United States.76 Oliver asked several governments for recognition, but Rai6 says Minerva could never become a State because of the uninhabitable character of its territory.77 Instead, ICJ Judge Crawford disputes that Minerva could not be legitimate under the U.N. Convention on the Law of the Seas (UNCLOS), which states that artificial islands cannot form the basis for territorial States. 78 The convention defines an island as a "naturally formed area of land, surrounded by water, which is above water at high tide." 79 The Minerva Reefs, however, did not meet that requirements and therefore could not be regarded as a habitable territory. This fact alone made its recognition impossible. In summary, the factors proposed by David Rai6 give a good explanation of the term "population" used in the Montevideo Convention and can, therefore, be used as a guidance for establishing whether the State meets the "population" requirement under the Montevideo Convention.

#### A State requires territory

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Territory is the second Montevideo criterion that needs to be discussed. Oppenheim has noted that "a State without territory is impossible," and some piece of land is essential before one can accept the establishment of a State.80 Hence, this subparagraph will analyze the legal meaning of the term "territory" in more detail. According to international lawyer Jorri C. Duursma, a territory in the international law context consists of a land territory, internal waters, territorial sea, and air space above this territory.8 ' As confirmed by the ICJ in 2001, islands meeting these criteria can, therefore, be considered as territories sufficient for Statehood.82 Nevertheless, as was seen with the example of Sealand, it must be remembered that the term "island" must comply with article 60 of the UNCLOS; otherwise, it will not be considered as a territory for legal purposes.8 3 Regarding the applicability of the term "territory" to islands, Professor Alberta Costi responds to a controversial issue: can a territory be formed by islands that have become uninhabitable? Referring to the ICJ decision indicated above, Costi says that islands, including coral atolls (which are uninhabitable) are part of a State's land territory.84 This contradicts Rair's fourth criteria, which says that a territory meets the Montevideo Convention's requirements only if it is habitable.85 Nevertheless, Costi agrees that, in accordance with the UNCLOS, the atoll will no longer constitute an "island" if it is inundated or flooded at high tide. He also states that having become uninhabitable, the atoll is unlikely to be considered as a territory under the UNCLOS. 86 This complies with Rai6's theory. In terms of case law regarding the legal status of islands, the most illustrative is Island of Palmas,87 which outlined three key elements of territory (applicable not only to islands): sovereignty, population, and delimitation.88 In this case, Arbiter Huber stressed the "continuous and peaceful display of the functions of State [... as] a constituent element of territorial sovereignty,"99 which he considered as a decisive factor in resolving disputes respecting title to territory.9- Huber's formula of "display of sovereignty" has later been adopted as the standard of deciding territorial disputes because it was undeniable that territorial control is an essential element of the law of the territory.91 But what does the sovereignty mean? Referencing Island of Palmas, Vaughan Lowe says that sovereignty signifies the principles of non-intervention in the affairs of other States, prohibitions on the use of force and coercion, and the principles of sovereign equality and sovereign immunity.92 In other words, under international law, States "have sovereignty" over their territories rather than "ownership" over them.93 Population as a criterion of Statehood has already been examined above, but delimitation needs more careful analysis. Delimitation means the control over a certain area and a requirement that the State should have reasonably determinate borders.94 Regarding the latter requirement, "reasonably" does not mean "strictly": there are a plenty of examples when a State was fully recognized despite having unclear borders. For instance, David Rai6 points to Israel as an example of a State, which, despite having territorial disputes, was fully-recognized, even by confronting Arab States,9 5 and was granted membership in the United Nations.96 The rule of reasonable flexibility of the State's frontiers was enshrined in North Sea Continental Shelf, where the ICJ affirmed that "the appurtenance of a given area, considered as an entity, in no way governs the precise delimitation of its boundaries .... [t]here is, for instance, no rule that the land frontiers of a State must be fully delimited and defined, and often in various places and for long periods they are not."9 7 Another example is Andorra which despite a lack of settled frontiers was recognized by a number of States.99 The other important feature of a territory is that there is no specific condition concerning possession of sufficient land. Matthew Craven comments on this phenomenon saying that it is not the size of a State that is important but "rather the ability to rightfully claim the territory as a domain of exclusive authority."99 In summary, it can be said that sovereignty, population and delimitation are the three key features of the territory and there is no requirement on strictly delimited borders or a minimum size of the land. However, to maintain the existence of these three features, the territory must be controlled by the government-the third criterion of Statehood that will be analyzed further.

#### A State requires a Government

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This paragraph discusses the third Montevideo criterion: government. If an entity wishes to be recognized as a State, its territory and population must be legally controlled by the government. Matthew Craven defines governmental effectiveness as "the government's power to assert monopoly over the exercise of legitimate physical violence within a territory."'00 The principle of governmental effectiveness (known as the effective control test) was embodied in the Aaland Islands case and implies that the State can only come into existence when its public authorities are "strong enough to assert themselves throughout the territories of the State without the assistance of foreign militaries."101 This interpretation complies with the traditional international legal theory and reflects the idea that a high degree of control is achieved by a high degree of consent by the people presumably making the government legitimate.102 The importance of effective government and the necessity of the effective control test can be clearly illustrated by the Belgian Kongo crisis. In 1960, the Belgian Congo was granted independence, subsequently becoming Democratic Republic of Congo, but was overthrown in 1965.103 Some authors, like Professor Guy Vanthemsche,104 suggest that one cause of the overthrow was the persistence of Katangan leaders and their foreign supporters. 05 But Crawford believes that the real reason was that the government of the new republic was too dependent on the former sovereign and subsequently did not have sufficient power to control the situation.1° Therefore, Crawford concludes that, in case of secession, "the effective and stable exercise of governmental powers" is necessary for obtaining Statehood.10 7 But the traditional theory does not question whether the effective government correlates with democratic principles. This means that authoritarian and dictator regimes, being effective though cruel, would under traditional theory also be recognized as governments as long as they can control the territory. I 0s On the other hand, it must be said that the legislation of many recognized and legitimate States in Western Asia is based on sharia law, which is traditionally different from the approach of Western countries.109 For this reason, requiring compliance with democratic principles as a criterion of Statehood would not be appropriate. In practice, the international community considers not only the question of whether the government possesses sufficient power over the territory and its inhabitants but its compliance with other criteria, such as popular support, legitimacy, and the ability and will to fulfill international obligations. 110 This point of view was supported by Matthew Craven, who suggests that efficiency alone does not suffice for recognition and "is conditioned by other relevant principles such as the self-determination or the prohibition on the use of force.""' But are these principles universally approved? Obviously not, as different States apply different criteria. For instance, considering the case of Republic of Somalia,]12 John Hobhouse has developed the following set of criteria which the United Kingdom applies for considering whether an entity can claim governmental status. According to Hobhouse, the following must be considered: a. "whether it is the constitutional government of the State; b. the degree, nature and stability of administrative control, if any, that it of itself exercises over the territory of the State; c. whether Her Majesty's Government has any dealings with it and if so what is the nature of those dealings; d. in marginal cases, the extent of international recognition that it has as the government of the State."' 113

Among these four, criteria (a) and (b) form the basic test of whether the entity is a government (which recalls the 'effective control test' and the requirement of legitimacy), while the other two-(c) and (d)-are rather matters of evidence.114 This approach was criticized by Talmon, who disagreed with the idea that the court should treat any evidence of "dealings" as an indicator of recognition.115 Nevertheless, this approach-in simple words, based on the effective control test and legitimacy-was widely adopted by courts in the United Kingdom.116 But what does legitimacy mean in the context of recognition? Vaughan Lowe outlines two aspects of legitimacy. Firstly, legitimacy means that the entity must have emerged in a manner that is "consistent with the principle of self-determination.",17 Secondly, Lowe agrees that however effective the control over a territory is, the government will not be recognized if it is "hopelessly undemocratic.", 8 In this sense, the principle of democracy mentioned earlier, plays an important role in recognition. According to Allen Buchanan,119 the general conception of political legitimacy is based on the idea that the protection of basic human rights is the core of justice, and the very reason of existence of political power and minimal legitimacy (which is necessary for recognition of government) means that the political power must "satisfy minimal standards for protecting individuals' rights by processes and policies that are themselves at least minimally just."120 To summarize, it can be said that government under the Montevideo Convention is an entity that has a control over a territory and its population and, in performing that control, guarantees the protection of basic human rights by legal methods and policies. In a broader meaning, popular support, willingness to fulfill international obligations, and respect of the principles of democracy are also considered for recognition purposes. But, in practice, the recognition of a government means the willingness by other States to enter into legal relations with the same. This forms the fourth Montevideo criteria, which will be discussed further.

#### A State requires relations capacity

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Vaughan Lowe believes that the capacity to enter into relations with other States, being the fourth Montevideo criteria, is rather the consequence of Statehood than its condition and is, for this reason, quite paradoxical.121 Therefore, it will be the subject of analysis in this subparagraph. The ambiguity of this criterion is that it is set out as a requirement of Statehood, but it is clearly impossible to have any diplomatic relations without being already considered as a State. Commenting on the situation with Palestine, Mahmoud Masud from Coventry University also points out the paradoxy of this criterion that the 'would be' State must demonstrate its capacity to enter into agreements with other States without relying on them and be able to enter into internationally recognized agreements, which may not be possible prior to recognition.22But Barrie Strain explains this principle in another way. He suggests that such capacity reflects the degree of independence possessed by an entity,123 and his idea complies with the principles of sovereignty and effective control outlined above: Strain believes that if all States are equal in terms of international legal personality, then a sovereign State is accountable to no other entity outside the institution of international law. 1 24 Indeed, Texas, Ontario, and California have population, territory, and local government, subsequently fulfilling the first three Montevideo criteria. But they have no independence from the United States or Canada (respectively) and are unable to enter into diplomatic relations on their own. These entities, therefore, cannot be considered as independent States in the international context. This is also confirmed by article 2 of the Montevideo Convention that says that the "federal State shall constitute a sole person in the eyes of international law."125 Nevertheless, the capacity to enter into legal relations as a criterion of Statehood was highly criticized by Martin Dixon, who claims that "independence," as it is understood under the Montevideo Convention, is quite unrealistic.126 Dixon says that all States to some extent depend on each other (financially, or in terms of political support, etc.), and for this reason factual autonomy cannot be regarded as "independence" for legal purposes. 127 But Dixon introduces the concept of "legal independence," which exists "if the territory is not under the lawful sovereignty of another State."128 As an example, Dixon mentions Slovakia and the Czech Republic, which are no longer legally united 29 and are regarded as sovereign States despite being highly dependent on each other. There is, however, one more problem concerning this issue: the legitimacy of independence. A State may fulfill all four Montevideo criteria, but do the methods of achieving independence affect recognition? Dixon gives an answer by referring to self-determination: if the territory declaring factual independence is able to claim the right of self-determination, then it seems to be sufficient for attaining legal independence and, if other criteria are met, Statehood.130 This principle was widely adopted for recognizing the independence of former colonies-for example, the State of Micronesia.131 It means that on a theoretical level, self-determination is regarded as a right of ethnical groups, and any ethnical group qualified as "people" can claim self-determination, independence, and Statehood.32 The acceptance of self-determination leads to the acceptance of a right of secession. The former Soviet republics were also heavily reliant on this principle during the formation of new States after the dissolution of the USSR. 133 Despite limited support, the international community agreed that the Baltic Republics (Lithuania, Latvia, and Estonia) had a right to selfdetermination.134 Even the Soviet Union-at that time ruled by Gorbachev's government-agreed that the three Baltic States had a constitutional right of self-determination.135 But Dixon believes that the European Commission has adopted a relatively narrow view of selfdetermination, secession, and Statehood; he says that "the Commission rejected the idea that ethnic groups and minorities enjoyed a right of selfdetermination and stated that such peoples can have their identity as a separate ethnic group recognized by the 'mother' State, but not in a way that guaranteed them independent Statehood."136 Nevertheless, lawful selfdetermination remains to be the most appropriate way by which a territory may achieve independence and Statehood. In summary, it can be said that all four Montevideo criteria are closely linked, and on a theoretical level they form the minimal requirements that the entity must meet to be considered a State. But in practice, these principles are sometimes neglected. This can be illustrated by the example of Bangladesh, especially by the way this State was created. During the Bangladesh Liberation War in December 1971, the Mukti Bahini (also known as Bangladesh Forces) were granted massive military support by India.37 It was a determining factor of a later formation of Bangladesh.138 Martin Dixon says that the creation of Bangladesh is a classic example of the use of force, and yet, within three months, Bangladesh was recognized by the majority of other States and in the following year was granted membership in the United Nations. 1 39 Dixon says that Bangladesh had population, territory, and an effective government (though highly supported by India), but he believes that the militaristic way of creation of this State was illegal, and the international community ignored the use of force.140 At the same time, in the case of the TRNC, it is always said the Republic is not recognized because its creation violated the principle of non-intervention.141 This indicates either some selectivity of compliance with principles of international law or the need to consider other factors of recognition.

#### UN compliance is not necessarily required, but nonetheless important

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The Montevideo criteria are vital but not comprehensive. As was already said, different States have different approaches towards recognition, and in many cases the political situation and certain political goals greatly influence their decisions. This subparagraph will briefly analyze other factors that are considered for recognition purposes. Shaw says that important (though not legally binding) evidence of Statehood is membership in the United Nations.142 Indeed, article 4(1) ofthe U.N. Charter states that an entity can be granted membership in the U.N. only if it: (1) is a State, (2) is peace-loving, (3) accepts the obligations of the Charter, (4) is able to carry out the obligations stated in the Charter, and (5) is willing to do so. 143 Therefore, according to the former President of the ICJ, Rosalyn Higgins, if a State meets these criteria, then it automatically complies with the traditional legal criteria of Statehood codified in the Montevideo Convention.44 But this statement was criticized by professor John Dugard, who explained that on several occasions these requirements (and especially the requirement of independence and effective government) have been overlooked in the interests of self-determination.145 Nevertheless, in practice the admission of an entity as a Member State of the United Nation can be regarded as the approved seal of Statehood on the new State. 146 The importance of compliance with the rules of the U.N. was also highlighted by the Statement No. 91/469 relating to the recognition of Russia and the entities that emerged in the post-Soviet area. 147 According to the statement, those entities had to comply with the provisions of the U.N. Charter and commitments of The Helsinki Final Act and the Charter of Paris (especially those regarding human rights and democracy), guarantee the rights of ethnic and national groups and minorities, respect the inviolability of all borders, and adopt all relevant commitments regarding disarmament and non-proliferation of nuclear weapons. 148 Despite the fact that this statement was designed specifically for post-Soviet Russia and the former Soviet republics, it reflects relevant principles that are applicable for recognition purposes in general.49

### \*\*Unrecognized States

#### ~17 states (published 2013)

#### This is an authoritative definition of unrecognized states at the top, and then there’s a more extensive definition towards bottom, comparative with quasi-states, failed states, insurgent states, etc.

Caspersen 2013, Nina. Professor, Department of Politics University of York Heslington, her research focuses on the dynamics of intra-state conflicts, peace processes and peace settlements, unrecognised/de facto states, rebel governance, and state recognition *Unrecognized States* (pp. 16-25). Wiley. Kindle Edition.

Unrecognized states have their origins in self-determination conflicts and are denied recognition because they are seen to violate the principle of territorial integrity. This sets them apart from the other anomalies, which are accommodated by the international system of sovereign states as they are not seen to violate it.28 Additionally, an unrecognized state is defined as follows:29

* The entity has achieved de facto independence.
* Its leadership is seeking to build further state institutions and demonstrate its own legitimacy.
* The entity has sought, but not achieved, international recognition.
* It has existed for at least two years.

These criteria emphasize nonrecognition while also implying that a level of institution-building has taken place. This may be of a limited nature but it indicates that these entities are at least attempting to look like, and function as, states. The leadership is making a claim to independent statehood, and they have achieved the first level of state-building: territorial control.30 The criteria, including the requirement that it has maintained de facto independence for at least two years, also exclude more ephemeral entities, such as various minuscule islands that have at different points declared themselves to be independent states. One of the more imaginative examples of this is the Republic of Boon Island, a tiny island off the coast of Maine, which declared independence in 2003. Boon Island citizenship can be acquired for $25 and government offices are for sale from the American Lighthouse Foundation.31 Distinguishing between unrecognized states and these more curious entities may be relatively straightforward, but the difference between unrecognized states and other entities is often more subtle.

**Failed States and Contested Territories**

Unrecognized states are often seen through the same prism as another popular post–Cold War concept: failed or failing states. The two types of entities are not unrelated in that they often result from similar conflicts and wars, but although they have certain similarities, it is important to distinguish between the two concepts, which in some ways are polar opposites. Ever since Somalia’s collapse in the early 1990s, failed states have been high on the international security agenda. These states are unable to govern effectively and this lack of internal sovereignty is deemed to produce a dangerous hole in the international system of sovereign states which then fills with variations of disorder: conflict, war profiteering, terrorism, and piracy.32 Unrecognized states are often born out of state collapse or extreme state weakness and represent areas of state failure in the sense that the central state has lost control over the territory. It is therefore not surprising that unrecognized states are often grouped with failed states, especially since some of the more well-known cases, such as Chechnya, actually came fairly close to the image of an anarchical entity. Most unrecognized states do not conform to this image, however; most manage to achieve a degree of statehood and even the largely unsuccessful cases are rarely completely anarchical. The same can, however, be said about ‘failed states’. As I. W. Zartman points out, a failed state is not necessarily characterized by a situation of anarchy,33 and in many cases it would be more accurate to speak about areas of limited statehood34 or about ‘black spots’.35 New forms of authority are likely to emerge as alternatives to or replacements for the central control that has failed: in Somalia pockets of authority were established at an early stage and the ‘ungoverned’ tribal areas in Pakistan have also seen the emergence of various shadow states.36

Even though neither failed states nor unrecognized states therefore represent the complete absence of control, there is still an important difference between them: unrecognized states lack the international recognition that serves to bolster failed and failing states and helps protect them from complete collapse and external invasions. Although their origins are similar and they both demonstrate that sovereignty is divisible, unrecognized states and failed states represent different sides of the coin.37 Failing states, or quasi-states, enjoy external sovereignty without internal sovereignty,38 or with only a limited degree of internal sovereignty, while unrecognized states manage to survive without external sovereignty and are at least making claims to having achieved internal sovereignty. Quasi-states enjoy independence without self-reliance, but are propped up by external sovereignty.39 Unrecognized states, on the other hand, enjoy no such protection; norms of nonintervention do not apply to them and self-reliance, especially in a military sense, is therefore crucial for their survival.40 Insurgent States, Black Spots, States-Within-States It is relatively easy to distinguish between failed states and unrecognized states, conceptually,

Insurgent States, Black Spots, States-Within-States

It is relatively easy to distinguish between failed states and unrecognized states, conceptually, but the line between unrecognized states and other forms of ‘para-states’ can be harder to draw.41 Defining unrecognized states in terms of their de facto independence, their attempt at institution-building, their aspiration for de jure independence, and their lack of international recognition leaves us with a number of borderline cases.

First, the requirement for de facto independence and territorial control excludes cases such as Western Sahara (Sahrawi Arab Democratic Republic, SADR),42 which otherwise has a number of similarities with the unrecognized states analysed in this book. The SADR only controls around 15 per cent of the territory it claims, with the rest being under Moroccan control.43 Despite being recognized by seventy states and a member of the African Union, Western Sahara cannot therefore make a claim to de facto independence. Unrecognized states frequently make claims to more territory than they actually control. The Nagorno Karabakh Republic, for example, continues to claim the district of Shahumyan, which is under Azerbaijani control,44 while Somaliland claims all the territory of the former British Somaliland, even though the northeastern region of Maakhir in 2007 declared itself a separate, unrecognized autonomous state within Somalia and the Sool region remains disputed.45 However, cases do control at least two-thirds of the territory they claim, including the territory’s main city and key regions. This criterion also excludes a number of separatist movements, such as in Aceh (Indonesia), that have not (yet) managed to exert sufficient political control over the desired territory to qualify as de facto independent. These are, however, likely candidates for future unrecognized states.

Other areas are even further from being unrecognized states, such as the territories that Bartosz Stanislawski describes as ‘black spots’. The central government is no longer able to impose effective control over these territories and regional warlords or anarchy reign.46 Even where a regional warlord dominates, these ‘black spots’ lack the kind of territorial control that characterizes unrecognized states. The ‘insurgent states’ described by Robert McColl are of a similar nature: these parallel states may be able to provide basic public services, but they only control limited territory, which they use as a base for trying to overthrow the government.47 Rather than seeking internationally recognized independence, which is a central driving force for unrecognized states, insurgent states seek to change the system in the existing state, while ‘black spots’ seek invisibility; they prefer to be ‘forgotten islands of international disorder’.48

This does not mean that the formal declaration of independence is necessarily decisive. There are a few cases that have not formally declared independence yet function as independent entities and display aspirations for independence.49 These are cases of ‘incremental secession’.50 Prominent examples include Taiwan, the Kurdish Autonomous Region in Iraq until the Transitional Administration Law was signed in 2004,51 and Montenegro prior to its independence from Serbia-Montenegro in 2006. Simply excluding such entities from the definition would overlook the possibility that the absence of a formal declaration of independence can be a strategic attempt to increase room for manoeuvre and the prospect for international support. Such considerations were seen in Abkhazia, which only formally declared independence in 1999, even though it had been de facto independent since 1993. Eritrea likewise only declared independence in 1993 following an independence referendum, but it had been de facto independent since 1991 and its aspirations were clear. Entities that have not formally declared independence may function similarly to those who have; the same issues tend to be salient in their internal politics and they face similar challenges. The main difference is a greater chance of international engagement and greater flexibility when it comes to their maximalist goals. These differences are not insubstantial and do affect the kind of statehood that the entities are able to develop; these cases therefore provide an interesting contrast. The cases analysed in this book will, however, not include what could be termed ‘states-within-states’; that is, regions that maintain a very high level of independence, but still recognize the central government and do not make separatist claims. These include cases such as the Ajara in Georgia (until 2004), Nakhichevan in Azerbaijan, and Puntland in Somalia.52 What distinguishes these entities, apart from their lack of aspiration for independence, is that their de facto statehood often exists with the tacit approval of the central government, due to the need for political support or to economic interests in the region. This is crucial since it means that there is no external threat to their de facto independence.

Finally, there is the criterion of nonrecognition. Where does this leave cases that are recognized by some states? For example, Taiwan is recognized by twenty-three states while many other states have unofficial relations with the entity. In comparison, unrecognized states such as Nagorno Karabakh and Somaliland are not recognized by any states; the Republic of Northern Cyprus is only recognized by its kin-state, Turkey; while Abkhazia and South Ossetia are recognized by their patron state, Russia, and three other states. Another significant borderline case is Kosovo, whose ‘supervised independence’ has been recognized by seventy-four states.53 Its status as a fully recognized state is, however, far from complete: Kosovo is unlikely to become a member of the United Nations in the near future due to Russian obstruction of this goal, and the entity’s international administration retains the final say. This international presence minimizes Kosovo’s internal sovereignty but it also makes the entity’s existence less precarious. Russia’s recognition of Abkhazia and South Ossetia raises the possibility that this form of partial recognition by one or more major powers could emerge as a more stable form of statehood. Depending on the number and calibre of recognizing states, these entities will function more like fully recognized states or more like completely unrecognized unrecognized ones. Since this study is interested in the effect of nonrecognition, its main focus will be on entities that are completely unrecognized or only recognized by their patron state, and at the most a few other states of no great significance.54 Borderline cases will, however, be included as contrasting examples of entities that have a somewhat different position in the international system, yet have important similarities.

**Definition and Universe of Cases**

A more precise definition therefore looks as follows:

* An unrecognized state has achieved de facto independence, covering at least two-thirds of the territory to which it lays claim and including its main city and key regions.
* Its leadership is seeking to build further state institutions and demonstrate its own legitimacy.
* The entity has declared formal independence or demonstrated clear aspirations for independence, for example through an independence referendum, adoption of a separate currency or similar act that clearly signals separate statehood.
* The entity has not gained international recognition or has, at the most, been recognized by its patron state and a few other states of no great importance.
* It has existed for at least two years.

This leaves us with the following list of unrecognized states after 1991. The start date indicates when these entities achieved de facto independence. In some cases this coincides with the signing of a ceasefire agreement, but in other cases the achievement of de facto independence was more gradual and the date is therefore only approximate. Unrecognized states also existed during the Cold War: for example, Katanga (DR Congo), and Biafra (Nigeria), and a number of the contemporary cases came into existence before the end of the Cold War. The post-Cold War era, however, appears to present unrecognized states with different constraints and different possibilities. This will be further explored in the following chapter.

The relatively small universe of cases does not mean that other forms of entities, including other forms of ‘para-states’, are of no importance. These entities illustrate possible alternatives for the unrecognized states if full, de jure, statehood is not achieved. Reintegration through force may be the most likely outcome—as recently seen in cases such as Tamil Eelam, Chechnya and Republika Srpska Krajina—but the leaders of unrecognized states may, under the right circumstances, be willing to consider very loose links with their parent states, similar to Andorra or Monaco, or solutions along the lines of a ‘state-within-a-state’. These different entities, which all question the direct link between internal and external sovereignty, therefore serve as an inspiration, and perhaps also as a warning.

[Chart]

Table

Description automatically generated

The statehood of unrecognized states is, moreover, highly unstable and they tend to move in and out of the above-mentioned categories; therefore what was once an unrecognized state can become a state-within-a-state, or perhaps a ‘black spot’, and vice versa. For example, Chechnya was an unrecognized state in the periods 1991–94 and 1996–99, a ‘black spot’ during the Chechen wars, and now, with the Russian authorities again in control, it comes closer to a ‘state-within-a-state’.68 The universe of cases is therefore by no means set and new cases are likely to emerge—if the leaders of contested territories manage to create basic institutions and establish territorial control, for example. The case of Chechnya also illustrates that at the margins it can be hard to differentiate between the categories; for example, when does a ‘failed unrecognized state’ become a ‘black spot’?69 This fluidity is important, and inescapable in definitions of unrecognized states, and it points to a lack of long-term sustainability.70

#### Unrecognized States definition:

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. /// Anekah

Giving a precise definition to unrecognized and partly recognized entities is the starting point of the analysis. This subpart discusses the different terms and definitions of self-proclaimed entities suggested by different legal scholars in order to find out the most appropriate ones. At the moment, unrecognized States do not have a clear legal definition, or even a definite term. James Ker-Lindsay from the London School of Economics distinguishes three different terms describing an unrecognized or a partly-recognized entity: a "para-State," a "quasi-State," and a "pseudoState."50 Ker-Lindsay says these terms are interchangeable; however, Sergius L. Kuzmin from the Institute of Oriental Studies (Russia) says that the meanings of these words are not identical, and the best term to describe unrecognized or partly recognized entities is as "de facto State[s]."'51 Indeed, it correlates with the concept of "de facto recognition" which arises when there is some doubt as to the long-term viability of the State's government. 15 2 But this term was criticized by Professor Ernst Dijxhoom from Leiden University for its narrowness: Professor Dijxhoorn says that the term "de facto State" does not cover all the entities that aspire to Statehood, and for this reason he believes that the term "quasi-State" is more precise.153 To support his point of view, Dijxhoorn refers to Professor Pil Kolsto, who describes a quasi-State as "a State that failed to develop the necessary State structures or regions that secede from another State, obtain control over the territory, but fail to achieve international recognition."]54 For these reasons, we believe that the term "quasi-State" is the most precise term to describe such entities.

Kolsto's definition not only gives a universal term for unrecognized entities but reflects the way of their establishment as well. Professor Deon Geldenhuys believes that unilateral secession is the most common origin of quasi-States.l5' His claim is supported by Shaw, who states that the principle terrae nullius is no longer apparent, as decolonization is at its end.156 This means that the further creation of new States is possible only on the territories of the existing ones-in other words, by secession157 In contrast to self-determination, secession is not codified in international law and is hardly described in domestic laws.158 Moreover, courts in the United States and Canada state that unilateral secession is constitutionally illegal unless the secession is agreed through some official, constitutionally-agreed process.159 But it can be clearly seen in the example of the events in Chechnya in 1991 - 1994160 that States are usually not inclined to recognize the independence of their seceding regions, and escalating argument may result in armed conflict between the official government and the secessionist forces-in other words, the constitutionally-agreed process under such circumstances may not exist. Nevertheless, the response of other States may vary: as the case of Kosovo shows, an entity may not be recognized by the State that it secedes from, but it can be recognized by one or more other States and even by international organizations.16, At the same time, no State or organization has recognized the Moldavian Republic of Transdniestria, the Nagorno-Karabakh Republic, or the Republic of Somaliland.162 Reflecting this, Ker-Lindsay divides quasiStates into two groups: the "contested States"163 (or partly recognized) and the three States mentioned above, which "are regarded as meeting the criteria for Statehood but as yet have not been recognized by any UN member"164 (in other words, unrecognized States).

Having analyzed the terms above, we would choose the term "quasi-State" to describe both recognized and unrecognized States and would use PMI Kolsto's definition as the most appropriate explanation. But Ker-Lindsay's division of all self-proclaimed entities into two groups is relevant for analytical purposes and will be used in the next subpart.

## US Historic Recognition Documents

#### This section includes four documents where the US officially recognized entities. These documents may serve as examples on what affirmatives can do and may also provide some help with constructive specific topic wording.

### US-Viet-Nam, Laos, and Cambodia

https://avalon.law.yale.edu/20th\_century/inch008.asp#1

Indochina - United States Recognition of Viet-Nam, Laos, and Cambodia: Statement by the Department of State, February 7, 1950 (1)

The Government of the United States has accorded diplomatic recognition to the Governments of the State of Viet Nam, the Kingdom of Laos, and the Kingdom of Cambodia.

The President, therefore, has instructed the American consul general at Saigon to inform the heads of Government of the State of Viet Nam, the Kingdom of Laos, and the Kingdom of Cambodia that we extend diplomatic recognition to their Governments and look forward to an exchange of diplomatic representatives between the United States and these countries.

Our diplomatic recognition of these Governments is based on the formal establishment of the State of Viet Nam, the Kingdom of Laos, and the Kingdom of Cambodia as independent states within the French Union; this recognition is consistent with our fundamental policy of giving support to the peaceful and democratic evolution of dependent peoples toward self-government and independence.

In June of last year, this Government expressed its gratification (2) at the signing of the France-Viet Namese agreements of March 8,(3) which provided the basis for the evolution of Viet Namese independence within the French Union. These agreements, together with similar accords between France and the Kingdoms of Laos and Cambodia, have now been ratified by the French National Assembly and signed by the President of the French Republic. This ratification has established the independence of Viet Nam, Laos, and Cambodia as associated states within the French Union.

It is anticipated that the full implementation of these basic agreements and of supplementary accords which have been negotiated and are awaiting ratification will promote political stability and the growth of effective democratic institutions in Indochina. This Government is considering what steps it may take at this time to further these objectives and to assure, in collaboration with other like-minded nations, that this development shall not be hindered by internal dissension fostered from abroad.

The status of the American consulate general in Saigon will raised to that of a legation, and the Minister who will be accredited to all three states will be appointed by the President.

(1) Department of State Bulletin, Feb. 20, 1950, pp. 291-292. Back

(2) Department of State Bulletin, July 18, 1949, p. 75. Back

(3) See Franco-Vietnamese agreement of Mar. 8, 1949; Documents on International Affairs, 1949-60 (London, 1953), pp. 596-608. Back

### US-Kosovo

https://georgewbush-whitehouse.archives.gov/news/releases/2008/02/20080218-3.html

Text of a Letter from the President to the President of Kosovo

February 18, 2008

His Excellency

Fatmir Sejdiu

President of Kosovo

Pristina

Dear Mr. President:

On behalf of the American people, I hereby recognize Kosovo as an independent and sovereign state. I congratulate you and Kosovo's citizens for having taken this important step in your democratic and national development.

On this historic occasion, I note the deep and sincere bonds of friendship that unite our people. This friendship, cemented during Kosovo's darkest hours of tragedy, has grown stronger in the 9 years since war in Kosovo ended. Kosovo has since worked to rebuild its war-shattered society, establish democratic institutions, hold successful elections for a new government, and foster prosperity. As an independent state, Kosovo now assumes responsibility for its destiny. As in the past, the United States will be your partner and your friend.

In your request to establish diplomatic relations with the United States, you expressed Kosovo's desire to attain the highest standards of democracy and freedom. I fully welcome this sentiment. In particular, I support your embrace of multi-ethnicity as a principle of good governance and your commitment to developing accountable institutions in which all citizens are equal under the law.

I also note that, in its declaration of independence, Kosovo has willingly assumed the responsibilities assigned to it under the Ahtisaari Plan. The United States welcomes this unconditional commitment to carry out these responsibilities and Kosovo's willingness to cooperate fully with the international community during the period of international supervision to which you have agreed. The United States relies upon Kosovo's assurances that it considers itself legally bound to comply with the provisions in Kosovo's Declaration of Independence. I am convinced that full and prompt adoption of the measures proposed by U.N. Special Envoy Ahtisaari will bring Kosovo closer to fulfilling its Euro-Atlantic aspirations.

On the basis of these assurances from the Government of Kosovo, I am pleased to accept your request that our two countries establish diplomatic relations. The United States would welcome the establishment by Kosovo of diplomatic representation in the United States and plans to do likewise in Kosovo.

As Kosovo opens a new chapter in its history as an independent state, I look forward to the deepening and strengthening of our special friendship.

Sincerely,

George W. Bush

### US-China

<https://www.ait.org.tw/our-relationship/policy-history/key-u-s-foreign-policy-documents-region/u-s-prc-joint-communique-1979/>

Joint Communique of the United States of America and the People’s Republic of China (Normalization Communique)

January 1, 1979

(The communique was released on December 15, 1978, in Washington and Beijing.)

1. The United States of America and the People’s Republic of China have agreed to recognize each other and to establish diplomatic relations as of January 1, 1979.
2. The United States of America recognizes the Government of the People’s Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.
3. The United States of America and the People’s Republic of China reaffirm the principles agreed on by the two sides in the Shanghai Communique and emphasize once again that:
4. Both wish to reduce the danger of international military conflict.
5. Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.
6. Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.
7. The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.
8. Both believe that normalization of Sino-American relations is not only in the interest of the Chinese and American peoples but also contributes to the cause of peace in Asia and the world.

The United States of America and the People’s Republic of China will exchange Ambassadors and establish Embassies on March 1, 1979.

### US-South Sudan

https://obamawhitehouse.archives.gov/the-press-office/2011/07/09/statement-president-barack-obama-recognition-republic-south-sudan

The White House

Office of the Press Secretary

For Immediate Release July 09, 2011

Statement of President Barack Obama Recognition of the Republic of South Sudan

I am proud to declare that the United States formally recognizes the Republic of South Sudan as a sovereign and independent state upon this day, July 9, 2011. After so much struggle by the people of South Sudan, the United States of America welcomes the birth of a new nation.

Today is a reminder that after the darkness of war, the light of a new dawn is possible. A proud flag flies over Juba and the map of the world has been redrawn. These symbols speak to the blood that has been spilled, the tears that have been shed, the ballots that have been cast, and the hopes that have been realized by so many millions of people. The eyes of the world are on the Republic of South Sudan. And we know that southern Sudanese have claimed their sovereignty, and shown that neither their dignity nor their dream of self-determination can be denied.

This historic achievement is a tribute, above all, to the generations of southern Sudanese who struggled for this day. It is also a tribute to the support that has been shown for Sudan and South Sudan by so many friends and partners around the world. Sudan’s African neighbors and the African Union played an essential part in making this day a reality. And along with our many international and civil society partners, the United States has been proud to play a leadership role across two Administrations. Many Americans have been deeply moved by the aspirations of the Sudanese people, and support for South Sudan extends across different races, regions, and political persuasions in the United States. I am confident that the bonds of friendship between South Sudan and the United States will only deepen in the years to come. As Southern Sudanese undertake the hard work of building their new country, the United States pledges our partnership as they seek the security, development and responsive governance that can fulfill their aspirations and respect their human rights.

As today also marks the creation of two new neighbors, South Sudan and Sudan, both peoples must recognize that they will be more secure and prosperous if they move beyond a bitter past and resolve differences peacefully. Lasting peace will only be realized if all sides fulfill their responsibilities. The Comprehensive Peace Agreement must be fully implemented, the status of Abyei must be resolved through negotiations, and violence and intimidation in Southern Kordofan, especially by the Government of Sudan, must end. The safety of all Sudanese, especially minorities, must be protected. Through courage and hard choices, this can be the beginning of a new chapter of greater peace and justice for all of the Sudanese people.

Decades ago, Martin Luther King reflected on the first moment of independence on the African continent in Ghana, saying, “I knew about all of the struggles, and all of the pain, and all of the agony that these people had gone through for this moment.” Today, we are moved by the story of struggle that led to this time of hope in South Sudan, and we think of those who didn’t live to see their dream realized. Now, the leaders and people of South Sudan have an opportunity to turn this moment of promise into lasting progress. The United States will continue to support the aspirations of all Sudanese. Together, we can ensure that today marks another step forward in Africa’s long journey toward opportunity, democracy and justice.

# \*\*Areas to Recognize\*\*

## \*\*FYI

#### This section includes some quick reference guides on the history and general background of the area. The paper authors also attempted to locate recent solvency advocate material from the past three to four years. We included negative articles as well even though these tend to be easier to locate.

## \*\*Abkhazia and South Ossetia

### Aff

#### South Ossetia is widely independent know, calling for recognition

**Foltz 2019**, Richard, Professor of Religions and Cultures, Concordia University2019, June 9, “South Ossetia: The case for international recognition” <https://theconversation.com/south-ossetia-the-case-for-international-recognition-118299>

Since the end of the 2008 war, the border between South Ossetia and Georgia has been definitively sealed, with the only access in and out of the country through the Ruki tunnel linking it to the Russian Republic of North Ossetia-Alania to the north. There is no airport within the country. With a population reduced to little more than 53,000 due to war and emigration, South Ossetia is entirely dependent on Russia both economically and diplomatically. Besides Russia, only four other United Nations members have recognized its independence: Nicaragua, Venezuela, Syria and Nauru. Russian President Vladimir Putin, right, and Anatoly Bibilov, the leader of Georgia’s breakaway region of South Ossetia, shake hands during a meeting in the Kremlin in Moscow in March 2019. (AP Photo/Pavel Golovkin, Pool) South Ossetia has virtually no industry, and it can scarcely even benefit from its agricultural economy because of the bureaucracy involved in exporting produce to Russia. And yet, thanks to Russian economic assistance, the country is surprisingly well-developed, with an impressive new university building, rebuilt government offices, a hospital and even a luxury hotel nearing completion. The Ossetians are speakers of an ancient east Iranian dialect descended from the language of the Scythians. Their unique culture is most visibly preserved in the heroic epic known as the Nart sagas, which are comparable to the works of Homer or the Indian Mahabharata in their style, scope and content. In contrast to North Ossetia, where Russian is dominant, in South Ossetia, the language and cultural traditions are alive and well. So why has the international community, for the most part, withheld recognition of the South Ossetian state? The main reason would seem to be an unquestioning support for Georgia and fear of Russian expansionism. But because South Ossetians will never agree to re-integration with Georgia, any policy based on such an outcome is destined to fail. In fact, international recognition of South Ossetia, which would allow for increased economic, political and cultural contacts with the outside world, would be the most effective way to prevent the country eventually integrating into Russia — as well as the best guarantee for the preservation of its unique language and culture.

#### Lack of recognition undermines trade and trust with EU, increases patronage with Russia

**Blakkisrud et al. 2020**, Helge Blakkisrud, Nino Kemoklidze, Tamta Gelashvili & Pål Kolstø, 2020 “Navigating de facto statehood: trade, trust, and agency in Abkhazia’s external economic relations” Pages 347-371 | Received 04 Mar 2020, Accepted 07 Dec 2020, Published online: 31 Dec 2020

Finally, as regards the EU, the picture is basically as we expected: trust and trade remain low. Trade is expected to evolve, but the need to work through middlemen is not conducive to developing trust: producers and their markets do not interact directly.Our findings indicate that, with de facto states, the correlation between trade and trust, and thereby between trade and conflict transformation, may be more complex than often assumed. In the absence of formal recognition, trade does not necessarily promote trust. In the case of Abkhazia, we have observed how not only rational economic and political facts, but also emotional aspects related to memory and self-understanding factor in. The unresolved status issue combined with an acute sense of uncertainty about the nation’s future have led Abkhazia’s trade relations along all three vectors to be characterized by deep distrust. Trade is not followed by trust. There is a recognized need to diversify, but little appetite for the compromises needed to achieve this.

## \*\*Afghanistan – Taliban

### Notes/Background

#### Article debates derecognition, conditional recognition, withholding recognition and more: <https://www.justsecurity.org/77794/expert-backgrounder-recognition-and-the-taliban/>

### Aff

#### Taliban seek government recognition

Kate **Bateman 2021, T**uesday, September 28, 2021/ BY: Kate Bateman; Asfandyar Mir, Ph.D.; Ambassador Richard Olson; Andrew Watkins, “Taliban Seek Recognition, But Offer Few Concessions to International Concerns”

<https://www.usip.org/publications/2021/09/taliban-seek-recognition-offer-few-concessions-international-concerns>

Since taking power in August, the Taliban have repeatedly expressed the expectation that the international community will recognize their authority as the new government of Afghanistan and have taken several procedural steps to pursue recognition. But the group has done very little to demonstrate a willingness to meet the conditions put forward by Western powers and some regional states. USIP’s Andrew Watkins, Richard Olson, Asfandyar Mir and Kate Bateman assess the latest Taliban efforts to win international recognition, the position of Pakistan and other key regional players and options for U.S. policy to shape Taliban behavior and the engagement decisions of other international partners. What steps has the new Taliban government in Kabul taken to secure international recognition? To what degree is achieving recognition a priority for the Taliban? Watkins: Much of the Taliban’s overtures to seek or establish international recognition seem to be driven by the group’s pressing economic needs, their desire to see funds unfrozen and various forms of assistance delivered. As part of their announcement of senior figures to formal government posts, the Taliban nominated Suhail Shaheen, a longtime member of and former spokesperson for the group’s political office in Qatar, to serve as ambassador to the United Nations. In press statements, they have repeatedly encouraged foreign embassies to return to Kabul, including the United States and European states. And the group has maintained a steady tempo of high-level diplomacy with neighboring and regional states, including Russia, China and even India. However, the Taliban have repeatedly revealed a clear prioritization of maintaining their own internal cohesion and demonstrating their authority domestically. The current caretaker government is made up entirely of their own leadership, excluding women and other political stakeholders while including a number of internationally sanctioned figures. The group has renamed the Afghan government the Islamic Emirate, in spite of a joint diplomatic statement by the United States, Russia, China and Pakistan lobbying against a revival of the title. The group’s rank and file have suppressed demonstrations across the country; protestors and journalists are being detained and beaten. Taliban leadership have effectively banned girls’ education, discouraged women from returning to work in a number of sectors and disbanded the Ministry of Women’s Affairs (replacing it with its historically notorious Ministry for the Propagation of Virtue and Prevention of Vice). At least some elements of the group have begun enforcing brutal law enforcement policies, including public execution. How have Afghanistan’s regional neighbors approached engagement with the new Taliban government? What criteria are they likely to apply in considering whether or not to extend recognition?

Olson: Reminiscent of the 1990s, Pakistan has taken the lead on the question of international recognition for the Taliban regime. Foreign Minister Shah Mahmoud Qureshi has called for engagement with (and eschewed isolation of) the new government. On September 21, Prime Minister Imran Khan told the BBC that Pakistan would only recognize the new government in coordination with Afghanistan’s neighbors, referring to an agreement reached at the September 17 Shanghai Cooperation Organization (SCO) summit in Dushanbe in which Pakistan, Iran, Uzbekistan and Tajikistan agreed on three criteria for recognition: 1) establishment of an inclusive government, 2) assurance of human rights and 3) adherence to the principle that Afghan territory not be used for terrorism against others.

On the first point, it seems that the region will be satisfied with some element of ethnic inclusion as the Taliban accomplished with their recent appointment of deputy ministers. Khan made clear the criterion does not encompass gender inclusivity, saying women’s rights could not be imposed from outside Afghanistan. On the second and third points, it is likely that hortatory commitments will be sufficient. If so, regional recognition could happen quickly. A big question is whether SCO heavyweights China and Russia will follow these guidelines. Both have publicly engaged with the Taliban since August 15, and have kept open their embassies in Kabul, but recently Moscow signaled that recognition is not on the international agenda immediately.

How do concerns over counterterrorism threats from Afghanistan impact those calculations? What confidence do Afghanistan’s neighbors have in the Taliban’s pledges not to allow militant groups to carry out attacks from their territory?Mir: Since the Taliban’s takeover, anti-Pakistan militants in the Tehreek-e-Taliban Pakistan (TTP) have continued their campaign of violence inside Pakistan, mostly against Pakistani state targets. The TTP is certainly emboldened by the Taliban’s return to power in its violence against Pakistan. It has also materially benefited from the Taliban gaining control through the release of TTP leaders and a large number of TTP fighters who had been imprisoned by the former Afghan government. The TTP chief Mufti Noor Wali Mehsud, who remains based in Afghanistan, has reiterated his group’s allegiance to the Afghan Taliban.Yet the growing threat and violence has not altered Pakistan’s overall approach in support of the Afghan Taliban. While some countries — and this includes China — are conditioning further meaningful engagement on the Taliban making a clean break from terrorist groups, the Pakistani government is putting no such condition on the table. Instead, senior Pakistani leaders are hoping that the Afghan Taliban will help them restrain the TTP. For their part, the Afghan Taliban are providing generic guarantees of not letting Afghan territory be used as a base of terrorism against other countries, but on the question of the TTP they offer no clear response. There are no signs that they will crack down against the TTP leadership and cadres based in Afghanistan. Behind the scenes, it is plausible they are calling on Pakistan to negotiate with the TTP — and might even be assisting with that. Before the collapse of the former Afghan government, there were reports of some meetings between the Pakistani government and the TTP facilitated by the Afghan Taliban.

What implications will the recognition decisions of Afghanistan’s neighbors have on the United States’ own interactions with the Taliban government and the region, and how should the United States engage on this issue?

Bateman: International recognition is one of the few remaining levers by which the United States and other countries can exert pressure on the Taliban government. The more that countries remain united on how they employ that lever, the stronger it is. Recognition of the Taliban government by Afghanistan’s neighbors would confer a degree of legitimacy on the Taliban and provide them access to needed financial resources — and would significantly diminish U.S. leverage and ability to press the Taliban on the most immediate objectives of access for humanitarian aid and freedom of movement for Afghan refugees, not to mention the broader priorities of inclusive government, respect for human rights and counterterrorism assurances.

There is an emerging consensus — evident in the U.S. Treasury’s recent issuance of more licenses to allow greater aid flows and increased humanitarian aid from the European Union — that humanitarian assistance should not be conditioned on certain actions by the Taliban. Yet the dilemma is how to channel resources to the Afghan state to ameliorate the suffering of the population without legitimizing the Taliban government. In its regional engagement, the United States should urge the neighbors to remain united in nonrecognition and cooperate with donors on the delivery of humanitarian aid. If the neighbors do formally recognize the Taliban, this could damage efforts to hold the Taliban accountable on the critical governance, rights and terrorism fronts. But to the degree that the region has constructive engagement with the Taliban in a way that aligns with U.S. interests, this could serve as a testing ground for incentivizing the Taliban to change its behavior.

## \*\*Catalonia (Spain)

### Notes/Background

<https://www.nytimes.com/2021/02/19/world/europe/spain-catalonia-independence.html>

Catalunya was unified with the crown of Spain in 1469. The modern separatist movement began in the mid to late 1800s with the modern romanticist and nationalist movements. Catalunya briefly secured its independence during the Spanish Civil War, but when the fascists won the civil war, Caudillo Francisco Franco abolished Catalan autonomy and suppressed the Catalan language. After the fall of the Spanish Dictatorship and the establishment of the Kingdom of Spain in the 1970s, Catalan independence parties began to gain traction in Parliament. The financial crisis of 2008 led to a chain of events that resulted in an independence referendum being called in 2017. Independence won overwhelmingly, but the authorities in Madrid abolished the Catalan assembly and sent in Federal Police to seize ballots and arrest leaders.

#### There are two broad theories of statehood in international law: Declarative Statehood and Constitutive Statehood

Catalunya meets part of the Declarative Theory of Statehood under the Montevideo Convention, it has…

A Permanent Population

A Defined Territory

A Government

#### But it doesn’t have The Capacity to enter into relations with other states. US Recognition would allow relations to occur and theoretically confer statehood onto the new country.

https://www.nyujilp.org/catalonia-potential-sovereignty-in-the-era-of-controversial-self-determination/

#### The Constitutive theory posits that the act of international recognition is what confers statehood status on a region (others create a new state when they recognize it).

#### US Recognition would thus cause Catalunya to meet both theories of state recognition and “become” a state.

### Aff

#### General arguments to explore:

Balkanization of Spain – Basque Country, Galicia, Andalucía

Cascades into Balkanization of Europe – Scotland, Bavaria, Flanders, Wallonia…

Reinforces Globalization/European Project by making the EU Stronger and large member states weaker

https://www.cairn-int.info/article-E\_EUFOR\_379\_0040--minority-nationalism-and-the-european.htm

An integrated Europe stops French Adventurism into Africa and cools Intereuropean tensions – deters Russia

Stops suppression of native language and reinforces self-determination, deters Spain from continuing policy of repression of non-Castilian groups.

Democracy Advantage

#### The US has used diplomatic pressure on Spain before to get it to withdraw from Western Sahara and participate in decolonization.

https://thehill.com/opinion/international/355120-american-influence-will-help-catalonia-win-independence/

### Neg

#### General arguments to explore:

Independence movements disrupt global shipping – Barcelona is a major world port

Tanks relations with Spain

Balkanization of Spain bad

European Balkanization bad

EU Power bad

## \*\*Cyprus (Northern)

### Notes/Background

#### Most of the US-specific lit focuses on unification rather than on recognition, there are a few arguments for why general recognition good, but you would need to make the argument that US recognition would lead to more general recognition which there is a bit of evidence for, but not a whole lot. There is a lot of neg ground for this so that side is covered, there are a lot of turns and fun arguments that could be done on the neg side, as well as some k arguments since the TRNC is known to allow violence against women, as well as violate the human rights of LGBTQIA+ people

* Greek Cypriots began rioting in the 1920s, to gain enosis, or the union of Cyprus with Greece, and the abandonment of British colonization.
* EOKA, a terrorist organization, was developed in 1955 who began an armed resistance, and push for the annexation of Cyprus to Greece.
* The Turkish Cypriots rejected this movement, turning the Greek Cypriots against them, “By 1959, the situation on the Island became intolerable to both Turkish Cypriots and the British administration. In 1959, a compromise was reached by Turkey, Greece and Britain through the London and Zurich agreements, and the Republic of Cyprus was established in 1960 as a bi-communal state based on partnership between Turkish Cypriots and Greek Cypriots. Through this compromise, Cyprus gained its independence, while Britain retained two military bases on the Island.” https://mfa.gov.ct.tr/cyprus-negotiation-process/historical-background/
* The republic of Cyprus joined the UN in 1960
* Greek Cypriots then proposed changes the constitution, the “Thirteen points” which undermined the rights of Turkish Cypriots,
* The divisions between these two communities led to the conflicts of 1963 that lead to civilian loss of life, and the ejection of Turkish Cypriots form the political process, and the amendment of the constitution by the Greek Cypriots.
* The Turkish Cypriots were forced into a small area, demarked by the “green line” an area that made up about 3% of the territory.
* This led to the development of a new admin in 21 December 1971, renamed Cyprus Turkish Administration, but this did little to ease the lives of Turkish Cypriots
* In 1974 the Greek military and EOKA tried again to achieve enosis
* Turkey intervened militarily to avoid further violence on the island
* At the inter-communal talks held on 2 August 1975 in Vienna, the Voluntary Exchange of Populations was agreed, and Turkish Cypriots and Greek Cypriots were respectively transferred to the north and the south of the Island with the assistance of the UN.
* “On 15 November 1983, Turkish Republic of Northern Cyprus (TRNC) was proclaimed” with the aim to create new relationships between Greek and Turkish Cypriots

### Aff

#### Officially dividing Cyprus will help reduce conflict on the island

MÜMTAZ SOYSAL 99, Mümtaz Soysal is a Professor of Constitutional Law and Constitutional Adviser to the Turkish Cypriot side at the Inter-communal Talks. He is a former Member of the Turkish Parliament and a columnist of the Turkish national daily Hürriyet., “A SOLUTION FOR CYPRUS THROUGH STATEHOOD\*”, PERCEPTIONS JOURNAL OF INTERNATIONAL AFFAIRS Volume IV - Number 3 <http://sam.gov.tr/pdf/perceptions/Volume-IV/september-november-1999/MumtazSoysal.pdf>

A federation can only be based on the creation of a mutually agreed level of shared authority that results from the transfer of some parts of the sovereignty already possessed by the component political entities. For this new authority to be equally binding and to bear no trace of supremacy of one entity over the other(s), it is absolutely necessary that the partial transfer of power be made by entities that are equally sovereign, equally capable of transmitting part of their sovereignty to the federal authority. This is not the situation at present in Cyprus where there is an inequality of status between the two entities, the South still being considered by the community of nations as the legitimate Republic of Cyprus, supposedly ruling over the whole island, speaking in the name of the entire population of Cyprus, and the North continuing to be an outcast, recognised only by Turkey. No solution is possible under such circumstances or, even if a solution is imposed by the coincidence of some conjectural factors, it will not be a lasting and viable one. Therefore, there is a need for an effort by the South and by the international community for a drastic change of mind concerning the status of the ‘entity’ in the North. To continue to consider it a ‘so-called state’ means to deprive it of the legitimate state authority for proceeding, with self-confidence, to any transfer of power to the federal authority. A SOLUTION ON THE BASIS OF TWO EQUAL PARTNERS The merit of internationally recognising the statehood of the Turkish Republic of Northern Cyprus resides in providing a solid point of departure towards a workable and lasting solution based on the existence in Cyprus of two equal and sovereign peoples, each with its own respective territory and state. To take into consideration the basic reality of the island by accepting the existence of equally sovereign peoples with different ethnic and religious identities entails a political structure that will ensure a new relationship between the two entities based on mutual respect and political equality. A new start should be made with a view to achieving co-ordination and co-operation on a specified range of functions between the two constituent peoples. No effort should be spared in making clear the basic fact that the main obstacle preventing resolution of the Cyprus question is the world’s unequal treatment of the two sides—in particular, its disregard for the right of self-determination, political and sovereign equality and the right to statehood of the Turkish Cypriot people. This main impediment blocking the way to a solution in Cyprus must be removed in order to create a more meaningful negotiating process. The international empowerment of the Turkish Cypriot side is the only way to motivate the Greek Cypriots to share power. It should be noted that both sides would bring their separate sovereign rights to self-determination and statehood on their respective territories to the process of settlement. The necessity of finding a political structure based on the indisputable reality of the island should be independent of the political position of the third parties. The two peoples and their respective states would be engaged in negotiations for a partnership on an equal footing. As sovereign peoples, they have the inherent right to determine their destiny separately and to arrive together at an agreement for the future of Cyprus as a whole. As such, their relationship is not one of majority and minority. The settlement of any international dispute becomes viable only when the parties’ perceived interests dictate a compromise solution. A commitment to certain basic principles, such as the mutual acknowledgement of the other's right to statehood, would help the parties bridge the gap between the uncertainties of the present and their hopes for the future. This acknowledgement must be reciprocal, as well as deliberate and explicit. The success of future negotiations depends on the international community's willingness and indeed its ability to meet the challenge of having the future phase of the negotiations reflect the equality of the two sides, not only at the level of the two communities, but at the level of the two states.

#### Officially dividing Cyprus will help reduce conflict on the island

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THE TURKISH REPUBLIC OF NORTHERN CYPRUS: A LEGITIMATE STATE Social psychology is an important element of international relations, especially in an era when means of mass communication increase the impact of citizens’ moral reactions and inhibitions on the conduct of foreign policy and the behaviour of the decision-makers. The fact that the Turkish Republic of Northern Cyprus remained so long unrecognised by the international community and labelled a ‘so-called state’ by its southern neighbour certainly played an important part in the perpetuation of what looked like an intransigent position in negotiations for a solution. No other course of action was left to the leaders of a community whose members were continuously accused of usurpation of territory and property under the domination of an ‘occupation’ army. Had they obtained the international status of a legitimate state they would certainly have been more conciliatory in a mutual search for a peaceful coexistence in some form of federative governmental structure. Communal pride allowed no such conciliation as long as the denial of a legitimate status continued. This is probably what Evan Luard meant when he wrote in a study of the principle of international order: “That status is significant suggested by the importance attached to sovereign equality by smaller powers.”2 The reasons for this deep feeling of frustration lie in the Turkish Cypriots’ sincere and generally shared belief in the righteousness of their struggle for existence in their homeland. The denial of legitimacy of a state that is the outcome of that struggle increases the frustration.

#### The best option for Cyprus is recognition

BERTIL DUNÉR 99, Bertil Dunér is senior research fellow at the Swedish Institute of International Affairs, “Cyprus: North Is North, and South Is South”, Security Dialogue Vol. 30, No. 4 (DECEMBER 1999), pp. 485-496, Sage Publications, Ltd. https://www-jstor-org.proxyiub.uits.iu.edu/stable/pdf/44472470.pdf?refreqid=excelsior%3Afc453df183f7fce61feefc5955c974b1&ab\_segments=&origin=

It would seem that time is ripe for non-parties to this ing about the 'population of Northern Cyprus' and to community has built up a state. The present interna this entity seems clearly inadequate, and indeed is lia ian foreign minister, Lamberto Dini, pointed out in A recognized that there are two republics in Cyprus, merits. If the EU does not recognize this basic fact in conducting the tions for membership, then you run into problems/30 This immediately provoked vehement protests from Greece and the lic of Cyprus, and the foreign minister's utterance (which was mad was smoothed over. Italy issued a statement that the only governmen ognized was the Greek Cypriot administration of the Republic of Cyprus point here is that the official EU line is conceived as too inflexible and at becomes a straitjacket.

#### The US can solve by recognizing TRNC

VOA 04, VOA is the largest international multimedia news organization in the USA, broadcasting in more than 45 languages ​​to regions with partial or no freedom of the press. Announcing global developments with accurate and impartial journalism, VOA sheds light on many issues with its news and magazine programs. Established in 1942, VOA acts on the principles of comprehensive and impartial publication and the transmission of facts. A subsidiary of the US Global Media Agency, VOA is funded entirely by American taxes. American law assures the mission and impartiality of the VOA, and protects VOA reporters from influence, pressure and threats from states and politicians, <https://www.amerikaninsesi.com/a/a-17-a-2004-05-05-10-1-87947742/825144.html>

Emphasizing that the United States can take some steps to end the isolation of the Turkish Cypriot side from the world, thanks to its ability to make quick decisions, Talat said that his expectations are based on the launch of international flights to the Turkish side, the possibility of exporting from ports and airports, and the international travel difficulties faced by the Turkish Cypriots. listed as ending. Talat stated that with the Green Line Regulation of the European Union dated April 28, it is foreseen that Turkish Cypriot goods will be exported through the green line to the Greek side, but this is not enough and they want to use Turkish ports and airports so that other sub-sectors can benefit from export activities. Mehmet Ali Talat said, “Greek Cypriots have always been afraid of the indirect recognition of the Turkish side. If some steps are taken by the international community towards our integration with the world, the Greek Cypriots will also feel the need to reconsider their attitudes.” Prime Minister Talat, upon a question about the domestic political situation in the Turkish Cypriot side, stated that since the coalition government he headed is currently a minority government, it may be necessary to hold early elections, but that although early elections would be good for his party, it would not be a good development for the Turkish Cypriots. Talat said that every effort should be directed towards ending the situation of isolation in the international arena during this period. Prime Minister Talat stated that there were some difficulties between him and President Rauf Denktaş, but Denktaş seems to have changed his stance recently. Talat said that according to the Turkish Cypriot Constitution, the office of the Presidency is of a ceremonial nature and has no executive authority. Meanwhile, American officials state that the Turkish Cypriot side is right in its demand for integration with the world, in the light of the latest referendum results, and that the United States is working to quickly change its attitude towards Cyprus. Authorities say that they expect the Greek Cypriot side to oppose these efforts and that necessary action will be taken in this regard.

#### UN two state solution could be used to break protracted conflict

**Silverburg 2020**, Sanford R. Silverburg, Ph.D Professor Emeritus Department of History and Politics Catawba College Salisbury, NC, “Protracted Occupation That Leads To De Facto State Creation: The Turkish Republic Of Northern Cyprus, An International Legal Evaluation” Global Journal of Politics and Law Research Vol.8, No.2, pp.30-64, March 2020

CONCLUSIONS

There have been innumerable and noble positions put forth to solve, mediate, but not necessarily manage the ongoing conflict on Cyprus.261 Perhaps the best recognized approach was taken by the United Nations and the Annan Plan that proposed a two-state federal republic. Referenda were held April 24, 2004 in the respective communities with the Greek community agreeing to the proposal while the Turks turned it down.262

The Turkish occupation, if the stated reason for it is to be believed, i.e., protection of the ethnic community on the island, cannot be reasonably resolved given the lengthy historic enmity displayed, the condemnatory conclusion is fair to assume. And to know the real reason behind Ankara’s decision would require access to the most sensitive areas of that government’s foreign policy forum which obviously cannot be obtained, leaving speculation the only option. The continued status of the lack of widespread diplomatic recognition of the TRNC has undoubtedly retarded the progress to achieve de jure legal status as a state.263 While the United Nations has requested members not to recognize the TRNC which has created a collective obligation, the resulting effect has been to place a damper on any possible bi-lateral relationship that could develop. This condition also limits the ability of the TRNC even to cooperate in any number of ways with non-recognized states.264 Conversely, the treaty that in the course of a negotiation process, compromise is a rich possibility that may lead to a reasonable outcome of a difficult situation. In the case of Cyprus, however, the intercommunal conflict is made resolute by each community’s clearly identified and intractable interests. Mediation efforts historically have proven barren of any positive result.265 None of this precariousness necessarily reduces the important contribution that international law offers all parties to the Cyprus confrontation. What remains is not magic or a miracle, but a rational plan that is sufficiently reasonable to provide minimal satisfaction to all participating powers and thereby disrupt and replace the equilibrium that has seen its place established. It is when parties to the conflict, noted above, maintain a maximalist position266 and from which a compromise is unacceptable because of the cost is undervalued when compared to the benefit, that negotiations reach a level requiring courage and ingenious ability. Nevertheless, these conditions do not preclude an acceptable outcome with international law as a guide.

#### The unrecognized areas of Cyprus are a national financial security risk

FINCEN, 08, Mar 20, The mission of the Financial Crimes Enforcement Network is to safeguard the financial system from illicit use, combat money laundering and its related crimes including terrorism, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence, “Guidance to Financial Institutions on the Money Laundering Threat Involving the Turkish Cypriot Administered Area of Cyprus” <https://www.fincen.gov/resources/advisories/fincen-advisory-fin-2008-a003>

The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to inform banks and other financial institutions operating in the United States of serious deficiencies in the anti-money laundering regime of the Turkish Cypriot administered area of Cyprus. On February 28, 2008, the Financial Action Task Force (FATF) issued a statement on the need for financial institutions to pay special attention to money laundering and financing of terrorism risks in transactions with financial institutions operating in the Turkish Cypriot administered area of Cyprus. Cyprus has been de facto divided since 1974. The southern two thirds of the country is under the control of the Government of the Republic of Cyprus. The northern one third of the country is under the control of a Turkish Cypriot administration that in 1983 proclaimed itself the ''Turkish Republic of Northern Cyprus" ("TRNC"). The United States does not recognize the "TRNC," nor does any country other than Turkey. This advisory refers only to financial institutions in the area administered by Turkish Cypriots, which are not controlled or supervised by authorities of the Government of the Republic of Cyprus. A two-tiered banking system exists within the Turkish Cypriot administered area of Cyprus, including a group of offshore banks that can effectively opt out of many rules and regulations governing their operating conditions, including anti-money laundering and combating the financing of terrorism (AML/CFT) requirements. While the Turkish Cypriot "Central Bank" is not an internationally recognized banking supervisor, it does impose some level of regulatory scrutiny on its onshore banks. The offshore banks, however, are almost entirely exempt from supervision. As of the time of publication of this advisory, 24 onshore banks and 14 offshore banks are believed to operate in the Turkish Cypriot administered area.1 Collectively, banks in the Turkish Cypriot administered area do not have the ability to initiate or receive SWIFT wire transfers without the assistance of third-country based financial institutions. For this reason, transactions involving banks in the Turkish Cypriot administered area may not be readily apparent to financial institutions. In addition to AML/CFT deficiencies present in the banking sector, casinos operating in the Turkish Cypriot administered area have been noted as being conduits for money laundering. Turkish Cypriot authorities have begun to take steps to address some of the major deficiencies in the area's AML/CFT regime, including the passage of an anti-money laundering law and the establishment of an "Anti-Money Laundering Committee." However, the Turkish Cypriot administered area continues to lack an operational financial intelligence unit and new legislation intended to fix many of these deficiencies has not been fully implemented. While the FATF and United States government welcome ongoing efforts by the Turkish Cypriot authorities to address these shortcomings, the existing deficiencies present an ongoing money laundering and financing of terrorism vulnerability to the international financial system. Thus, banks and other financial institutions operating in the United States should give enhanced scrutiny to any transaction with a financial institution operating in the Turkish Cypriot administered area of Cyprus. Banks and other financial institutions should further note that transactions involving wire transfers from banks in the Turkish Cypriot administered area may not be readily apparent and consider the additional risks this may pose. 31 C.F.R. § 103.176 requires covered financial institutions to apply due diligence to correspondent accounts maintained for foreign financial institutions. Under this regulation, covered financial institutions must establish due diligence programs that include appropriate, specific, risk-based, and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to detect and report known or suspected money laundering activity conducted through or involving any correspondent account established, maintained, administered, or managed in the United States. In addition, consistent with the standard for reporting suspicious activity as provided for in 31 C.F.R. part 103, if a financial institution knows, suspects, or has reason to suspect that a transaction involves funds derived from illegal activity or that a customer has otherwise engaged in activities indicative of money laundering, terrorist financing, or other violation of federal law or regulation, the financial institution shall then file a Suspicious Activity Report.

#### Giving the TRNC an international voice would be good for agriculture, as well as incresed prosperity through tourism

BERTIL DUNÉR 99, Bertil Dunér is senior research fellow at the Swedish Institute of International Affairs, “Cyprus: North Is North, and South Is South”, Security Dialogue Vol. 30, No. 4 (DECEMBER 1999), pp. 485-496, Sage Publications, Ltd. https://www-jstor-org.proxyiub.uits.iu.edu/stable/pdf/44472470.pdf?refreqid=excelsior%3Afc453df183f7fce61feefc5955c974b1&ab\_segments=&origin=

The drawbacks of this situation have been considerable: the TRNC has no voice in international fora; the EU has barred Northern Cypriot agricultura exports; air connections have to go by way of Turkey; tourism, previously a important business activity in the North, has been severely hampered; loans cannot be taken up in international banks. Unification has remained the goal of the international community, particu- larly within the UN, which has had Cyprus on its agenda ever since the de ployment of UNFICYP in 1964. The Security Council (UNSC) has repeatedly reaffirmed its position that 'a Cyprus settlement must be based on a State o Cyprus with a single sovereignty ... comprising two politically equal commu nities ... in a bi-communal and bi-zonal federation/5 The settlement of the Cyprus problem has long been discussed in terms of bi-communal and (since 1992) bi-zonal solutions. A settlement along suc lines would open the door to the EU for a unified Cyprus - an advantage ac- knowledged by the TRNC's foreign policymakers.6 These proposals may still be receiving some consideration, although primarily within opposition partie with relatively limited political influence.7 Otherwise, however, TRNC interest in these alternatives has dwindled after the start of membership negotiations between the Republic of Cyprus and th EU. To Turkish Cypriots, the main problem is that the southern part of the is- land is authorized by the EU to negotiate in the name of the whole island. According to a Turkey-TRNC declaration of July 1997, the negotiations 'would render useless the process of negotiations recommenced between th Turkish Cypriot and Greek Cypriot leaders ... from now on it would be very difficult to reach a positive outcome through this process/8 For the same rea son (and because of the growing importance of South Cyprus for the security of Turkey) TRNC relations with Turkey would 'ste Integration is expected to take place at all levels, inc TRNC representatives will be included in delegation key when appropriate. However, the declaration stat tion is not the goal. The TRNC will continue to exis but until it is officially recognized by the internati its place in the family of nations as an independen special relationship will be established between the t The aim of these undertakings is said to be an agreem would provide for the continuation of peace, but al ance in Cyprus' relations with Turkey and Greece. T incompatible with EU membership for Cyprus - an demned by the EU Commission.9

Northern Cyprus has also reshaped its views on un government (which collapsed in March 1998), Pr pleaded for two separate, non-unified states. Then Denktash aired a proposal for a confederation, whi sovereign states rather than two communities on th tion government (which was formed in December 1 glu) approved the president's proposal, which has be Obviously, it does not square with the UN idea of a federation and seems to imply the weak

#### Focus on unification is bad for national growth

BERTIL DUNÉR 99, Bertil Dunér is senior research fellow at the Swedish Institute of International Affairs, “Cyprus: North Is North, and South Is South”, Security Dialogue Vol. 30, No. 4 (DECEMBER 1999), pp. 485-496, Sage Publications, Ltd. https://www-jstor-org.proxyiub.uits.iu.edu/stable/pdf/44472470.pdf?refreqid=excelsior%3Afc453df183f7fce61feefc5955c974b1&ab\_segments=&origin=

International recognition of statehood is a primary concern for Northern Cy- prus: all alternatives hinge upon this desire. Why then has the international community not been more forthcoming? Irrespective of the amount of under- standing Northern Cypriots may have abroad, recognizing their part of the island as a separate state would amount to abandoning the established point of reference. The leading international actors in this question, including the UN and the EU, insist that the island should be kept intact with at least a minimum of consonance with the construction of 1960, when United Kingdom let the island go. The international community also has reason to suspect that the Northern Cypriots are not deeply committed to negotiations aimed at eventual reunification, and that, once recognition for their self-proclaimed state is conceded, they will have no incentives for reaching any compromises. Withholding recognition, in other words, is a curb. So, the next question is: if their will is lacking, why try to push unification upon them?

### Neg

#### Functionally the area is already functioning as an independent state, recognition is not necessary

Republic of Turkey Ministry of Foreign Affairs 22, “The Turkish Republic of Northern Cyprus-The Status of the two Communities in Cyprus” <https://www.mfa.gov.tr/chapter2.en.mfa>

PART I. THE STATUS OF THE CYPRIOT COMMUNITIES IN THE CONTEXT OF THE SETTLEMENT OF THE CYPRUS QUESTION

3. The position of the Greek and Turkish parties in Cyprus in relation to the settlement of the Cyprus question is really quite straightforward. The two parties are separate communities of equal standing in the negotiations, each exercising its right to determine its own future and neither being subordinate to the other in any material respect. The disparity in numbers between them does not affect their equality of status in relation to the settlement of the Cyprus problem.4. The positions of the communities thus described derives from a number of basic texts and is uniformly reflected in statements of the guarantor Powers, Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland, and in acts of the United Nations, whether in the form of resolutions of the Security Council and the General Assembly or in statements of the Secretary-General.

#### Fairness is one reason to be concerned for the Greeks

BERTIL DUNÉR 99, Bertil Dunér is senior research fellow at the Swedish Institute of International Affairs, “Cyprus: North Is North, and South Is South”, Security Dialogue Vol. 30, No. 4 (DECEMBER 1999), pp. 485-496, Sage Publications, Ltd. https://www-jstor-org.proxyiub.uits.iu.edu/stable/pdf/44472470.pdf?refreqid=excelsior%3Afc453df183f7fce61feefc5955c974b1&ab\_segments=&origin=

Fairness One possible reason would be concern for the Greeks, who would presumably be wronged if the TRNC were granted international recognition. This argu- ment boils down to the tricky question of the distribution of responsibility for the historical course of events. Would an impartial allocation necessarily be to the advantage of the Greek side? Here are strong indications that the converse is true: • Greeks lit the beacon of nationalism with their Enosis drive; that provoked a reaction from the Turks, who had generally felt secure under British rule. • Greeks were not satisfied with the 1960 state formation and sought to un- dermine it. • Greeks organized a coup d'etat for the sake of Enosis; this was brought to naught, apparently, only by the military intervention of Turkey. The Turks could maintain that the intervention of Turkey and the de facto partition of the island is due to the Greek side's sowing dragon's teeth, and that the price they have to pay is not unreasonable. Such a view is hardly controversial among independent observers. When the historical develop- ments are succinctly portrayed, for instance in standard reference works, they may come down to this: 'Between 1960 and 1974 Cyprus suffered from a long series of disputes between the Greek and Turkish communities and between factions within the Greek community, stemming from the Greek desire for Enosis.,u

## \*\*Ukraine (Donetsk/Luhansk)

### Notes/Background

#### Donetsk and Luhansk fall under a UN call for nonrecognition based on several I-Law precedents, including a recent general assembly resolution.

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The rush to judgment can be deceptive. A recent contribution to these pages cautions us against making instant assumptions of fact and law when considering Russia’s recognition as states of parts of Luhansk and Donetsk Oblasts within Ukraine as manifestly unlawful. Two questions arise: Do the Oblasts meet the criteria of statehood and, if so, was this status achieved through a sufficiently serious violation of international law to warrant the application of the obligation of non-recognition? As the Badinter Commission noted, in the first place ‘the existence or disappearance of the state is a question of fact.’ (Badinter Opinion No. 1, 20 November 1991, para 1 (a), 31 ILM 1488, 1494). The two Oblasts declared independence in 2014, in the context (and most would say, in consequence of) the Russian armed intervention of that year. Their purported statehood did not attract any significant international acceptance, including up to this point even by the Russian Federation. It is doubtful that either entity satisfied the requirement of ‘independence,’ as they have remained entirely dependent on the Russian Federation in relation to security, economy and decisions concerning foreign relations (See Customs Regime between Germany and Austria, PCIJ, Ser. A/B, No. 41, at 45). There is also doubt about the question of territorial definition. The two entities claim their Ukrainian provincial, uti possidetis-type boundaries. Russia expressly extended its recognition to the full extent of those territories. There is ‘no rule that the land frontiers of a State must be fully delimited and defined.’ (North Sea Continental Shelf, ICJ Reports 1960, p, 32, citing (Monastery of Saint Naoum, PCIJ, Ser. B, No. 9, at 10)). Even if parts of the entity are under illegal occupation by another state at the time of its declaration of independence, this does not exclude statehood. This was demonstrated by the widespread recognition and admission of Croatia and Bosnia and Herzegovina to the United Nations in 1992. However, in this case, each of the two entities controlled only roughly one third of their supposed state territory when the Russian Federation recognized them. The remainder was held by the state from which they sought to secede, casting doubt on whether they can lay claim to a defined territory, or at least to have established effective control over their purported state territory. This is reflected in the careful language adopted in the General Assembly Resolution overwhelmingly condemning the aggression against Ukraine and the purported change in status only ‘of certain areas of the Donetsk and Luhansk regions of Ukraine.’ (General Assembly Resolution ES-11/1., para 5). This fact distinguishes this instance from the Yugoslav experience. The former Yugoslavia was deemed to be in a process of dissolution at the point of wide-spread recognition of its former constituent republics. [Badinter Opinion No. 1, above.] It was no longer a legal person able to oppose the claim to effectiveness and statehood of Croatia and Bosnia and Herzegovina respectively. Moreover, both entities seeking recognition were of course the victims of an armed intervention by the then Federal Republic of Yugoslavia. Here, the Oblasts are the co-authors of the intervention, having requested it from the Russian Federation. Indeed, most aptly for the present discussion, the UN Security Council confirmed the positive obligation not to recognize Republika Srpska, the fruit of the armed intervention against Bosnia and Herzegovina, as a state. (S/RES/787 (1992)). In this instance, the control exercised over the minor part of the claimed territories was obtained through the armed intervention of the Russian Federation: ‘Up to 6,500 Russian troops, organized into battalion tactical groups, invaded Donetsk oblast’ (Chathamhouse, p.8). The Russian Federation has now recognized the two entities as states, apparently based on the contested doctrine of remedial secession. Rather inconsistently with its position on Kosovo, it had previously invoked this doctrine in the cases of Abkhasia and South Ossetia, along with Crimea. This justification was broadly rejected (e.g., General Assembly Resolutions 68/262, and A/ES-11/L.1).

In the Security Council, the Russian Federation defended its ‘special military operation’ in Ukraine as follows:The leadership of the Luhansk and Donetsk People’s Republics have asked us to provide military support in accordance with the bilateral cooperation agreements concluded at the time as their recognition. … That decision [to launch the special military operation] was made in accordance with Article 51 of the Charter of the United Nations, the approval of the Federation Council of the Russian Federation and pursuant to the Treaty of Friendship and Mutual Assistance signed with the Donetsk and Luhansk People’s Republics (S/PV.8974, at 12. The recognition of the two entities, and the literally instant conclusion of a collective defence treaty, along with the supposed receipt and simultaneous granting of a request for the exercise of collective self-defence, all occurred at the same moment. They are all part of the same artifice: to provide some form of legal cover for the invasion of Ukraine and the forcible change in status of parts of its territory. This ploy is as transparent as it is legally unpersuasive. In the Kosovo Advisory Opinion, the ICJ confirmed that ‘the scope of the principle of territorial integrity is confined to the sphere of relations between States.’ [Kosovo AO, para 80]. It protects Ukraine, not its Oblasts. Similarly, ‘Article 51 of the Charter thus recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State’ (Wall Advisory Opinion, ICJ Reports 2006, p. 136, para 139).

Russia therefore manufactured the statehood necessary to invoke self-defence based on its previous invasion of parts of the two territories.

In addition, self-defence under Article 51 of the Charter requires the ‘State concerned having been the victim of an armed attack’ [(Nicaragua Case, ICJ Reports 1986, para. 195)]. There is no evidence of any kind that Ukraine, surrounded at the material time by a Russian armoured force approaching 200,000, had mounted a suicidal armed attack against the two entities and their Russian protectors.The Russian Federation has alleged that there were at least acts of sabotage or other incidents. The US government had previously warned that ‘false flag’ incidents of this kind might be invoked by Russia to justify aggression. In any event, even if such limited incidents did occur, they would not amount to “the most grave forms of the use of force’ justifying self-defence (Nicaragua, ICJ Reports 1986, p. 101, para. 191). Moreover, the wholesale invasion of the territory with a force of 200,000 would hardly meet the criteria of necessity and proportionality inherent in the doctrine of self-defence (Id., para 176, Platforms, ICJ Reports 2003, p. 161, para 76). It has however been suggested that Russian support for the armed insurgents in the two Oblasts would not necessarily have amounted to the ‘most grave forms of the use of force’—an armed attack as required by Article 51—necessary to trigger self-defence.

Similarly, it is argued that the Nicaragua test for the attribution of an armed attack to the Russian Federation may not have been fulfilled in this instance. In cases of foreign support for an insurgent group, the Nicaragua test suggests that self-defence only applies against a supporting state that actually directs and controls the insurgents operating in another territory.

This is a confusion. The trigger of ‘armed attack’ and the Nicaragua test for attribution would determine whether Ukraine might have used force in self-defence against Russia’s support for the insurgent authorities in Luhansk and Donetsk. But that is not the issue here. Instead, the question is whether the two entities were created in consequence of the use of force by another state. As the ICJ confirmed:

… the illegality attached to the declarations of independence thus stemmed … from the fact that they were, or would have been, connected with the unlawful use of force (Kosovo AO, 2010 ICJ 403, para 81).

In other words, the appropriate question is whether a use of force, rather than an ‘armed attack’ has occurred. While it is clear that the present invasion is also an armed attack, it is also clear that the armed intervention perpetrated by Russia since 2014 at least amounts to the use of force:

The element of coercion, which defines, and indeed forms the very essence of, prohibited intervention, is particularly obvious in the case of an intervention which uses force, either in the direct form of military action, or in the indirect form of support for subversive or terrorist armed activities within another State, … These forms of action are therefore wrongful in the light of both the principle of non-use of force, and that of non-intervention (Nicaragua, ICJ Rep. 1986, p. 101, para 205, also Armed Activities, ICJ Reports 2005, p. 168, paras 161f).

Article 40 (2) of the ILC Articles on State Responsibility very clearly notes that ‘no state shall recognize as lawful a situation created by a serious breach’ of a peremptory norm of international law. There is no doubt that the prohibition of the use of force is a peremptory norm of international law. Even a ‘mere’ armed intervention can amount to a grave or serious violation of the prohibition of the use of force, as noted by the ICJ:

The unlawful military intervention by Uganda was of such a magnitude and duration that the Court considers it to be a grave violation of the prohibition on the use of force expressed in Article 2, paragraph 4, of the Charter (Armed Activities, ICJ Rep 2005, p. 168, paras 161-165).

This grave violation was committed and maintained in place since 2014. Hence, recognition of parts of both Oblasts as states would have been manifestly illegal at any point since then. However, recognition after the passage of 8 years, as a stratagem to justify the direct invasion of yet more territory, and indeed Ukraine as a whole, removes any doubt that the infraction at issue here is a very serious breach of the prohibition of the use of force triggering the obligation of non-recognition.

The obligation not to recognize fruits of a serious violation of peremptory norms is a firm part of the international constitutional order and not merely an innovation proposed by the ILC.

This principle has been long established, already featuring in the Draft Articles adopted by the Commission at first reading a quarter of a century ago. It included the ‘obligation not to recognize as lawful the situation created by the crime.’ [Draft Article 53, the term ‘crime’ of state was replaced by the notion of serious violations of peremptory norms.] This is codification, not progressive development, following the original Simson doctrine propounded in 1932, in the wake of the Japanese invasion of Manchuria a year earlier.

This obligation has been consistently restated in international standards, ever since the Nuremberg Trials. Resolution 2625 (XXV), which is an authentic interpretation of the UN Charter, states:

No territorial acquisition resulting from the threat or use of force shall be recognized as legal.

Resolution 3314 (XXIX) on the Definition of Aggression also confirms in Article 4 (3) that ‘no territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful’ (GA Res 3314 (XXIX)). Similarly, the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, confirms:

Neither acquisition of territory resulting from the threat or use of force nor any occupation of territory resulting from the threat or use of force in contravention of international law will be recognized as legal acquisition or occupation (General Assembly Resolution 42/22, Article 10).

The UN Security Council has consistently administered this principle in practice, as was noted by the International Court of Justice in the Kosovo Advisory Opinion (Para 81).

… in all of those instances the Security Council was making a determination as regards the concrete situation existing at the time that those declarations of independence were made; the illegality attached to the declarations of independence thus stemmed not from the unilateral character of these declarations as such, but from the fact that they were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law, in particular those of a peremptory character (jus cogens) (Kosovo Advisory Opinion, ICJ Reports 2010 ICJ 403, para 81).

Similarly, in the context of Israel and Palestine, the Court confirmed the positive obligation to the effect that ‘all States are under an obligation not to recognize the illegal situation’ resulting from a serious violation of a peremptory norm (Wall, ICJ Rep 2004, p. 136, para 159). Again, this is not a policy proposition but, as the Court noted, it is a requirement of law:

… the principles as to the use of force incorporated in the Charter reflect customary international law … ; the same is true of its corollary entailing the illegality of territorial acquisition resulting from the threat or use of force (Wall Advisory Opinion, ICJ Reports 2004, p 136, para 87).

International action in relation to Russia and Ukraine confirms this overwhelming accumulation of international standards, ICJ jurisprudence and state practice in relation to the present situation. General Assembly Resolution 68/262 addressing Russia’s use of force of 2014, and Crimea’s short-lived purported independence that ensued: Calls upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the above-mentioned referendum and to refrain from any action or dealing that might be interpreted as recognizing any such altered status (Para 6). Similarly, in relation to the present conflict, the Russian Federation was constrained to veto a draft Security Council resolution that formally deplored its decision relating to the status of certain areas of Ukraine’s Donetsk and Luhansk regions and decided that Moscow must immediately and unconditionally reverse that decision as it violates Ukraine’s sovereignty and territorial integrity (SC 14808, 25 February 2022). This was followed by the adoption in the UN General Assembly of a resolution sponsored by no less than 93 states and receiving 141 affirmative votes, entitled Aggression against Ukraine. The Resolution reaffirmed ‘that no territorial acquisition resulting from the threat or use of force shall be recognized as legal,’ and: Reaffirms its commitment to the sovereignty, independence, unity and territorial integrity of Ukraine within its internationally recognized borders, extending to its territorial waters; Deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter; … Deplores the 21 February 2022 decision by the Russian Federation related to the status of certain areas of the Donetsk and Luhansk regions of Ukraine as a violation of the territorial integrity and sovereignty of Ukraine and inconsistent with the principles of the Charter;

Demands that the Russian Federation immediately and unconditionally reverse the decision related to the status of certain areas of the Donetsk and Luhansk regions of Ukraine; … (A/ES-11/L.1).

This determination by the UN General Assembly is not wrong or suspect, just because it was made by a large majority and in due time. To the contrary, the illegality of the recognition of Luhansk and Donetsk Oblasts of Ukraine as states is manifest both in terms of fact and law. This clear finding is amplified by Russia’s reliance on its manifestly unlawful recognition of both entities as a key element of the attempt to justify the wholesale invasion of Ukraine.

## \*\*French Guiana

### Aff/Neg

#### French Guiana is where the European Space Program is based. French Guianese independence would kick the territory out of the European Union, leaving critical infrastructure out of the hands of the European Space Agency.

#### French Guianese recognition deters France from continuing military intervention and coups in Africa.

## \*\*Guam

### Aff

#### Decolonization advantage/movement

**Fifield 2016**, Anna, June 17, 2016 “Some in Guam push for independence from U.S. as Marines prepare for buildup,” The Washington Post, https://www.washingtonpost.com/world/asia\_pacific/some-in-guam-push-for-independence-from-us-as-marines-prepare-for-buildup/2016/06/16/e6152bd2-324b-11e6-ab9d-1da2b0f24f93\_story.html

HAGATNA, Guam — This tiny Pacific island has several nicknames. There is “the tip of the spear” because it is the closest U.S. territory to potential hot spots in Asia, such as North Korea and the South China Sea.There is “America’s unsinkable aircraft carrier,” because the island is home to a huge air force base. And then there is “Fortress Pacific,” because of the huge military buildup that is planned to take place over the next decade. But Guam’s population calls it by another name: Ours. And a sizable portion wants a real say in how it is run. “This American territory is not enjoying democracy, where citizens can determine who their leader will be and what laws will be put upon them,” said Gov. Eddie Baza Calvo, who has called a vote for November on Guam’s political status. “It’s up to our people to decide which way to go: whether to be fully in union with the United States or to chart a separate course.” A “decolonization commission” is set to report to Calvo (R) next month on whether to proceed with the plebiscite, which would give Guamanians three alternatives to their current status as a U.S. territory. That status — shared by Puerto Rico and the U.S. Virgin Islands — confers U.S. citizenship on people born here but does not give them the right to vote in presidential elections or a voting representative in Congress. Maj. Tim Patrick of the Marine Corps unit on Guam shows plans for the expansion of Andersen Air Force Base, part of a military buildup taking place in the territory over the next decade. (Anna Fifield/The Washington Post) “Guamanian soldiers have gone to fight in countries so they can have democracy and vote, yet we have never voted for the person who sends us to war,” the governor said. [ Why Ted Cruz wanted the endorsement of the governor of Guam The three alternatives under consideration are:

● Statehood, which would give Guam all the rights (and burdens) of being a state, albeit a very small one, with a population less than one-third that of Wyoming.

●Free association with administrative power, like Palau and the Marshall Islands.

● Independence, which would make Guam a (minuscule) sovereign state.

The vote would not be binding — only Congress can change Guam’s political status — but would be symbolic of the territory’s sentiment. The issue has been simmering for years but returned to the political front burner with the Pentagon’s preparations to relocate thousands of troops stationed on the southern Japanese island of Okinawa to here. The U.S. military presence on Okinawa has long been a source of contention in a prefecture that complains of being treated as a second-class citizen by Tokyo. But there are similar complaints on Guam, a 30-mile-long tropical island of only 160,000 people, which is already home to large air force and naval bases. Pockets of fierce opposition to the initial plan formulated a decade ago to move 10,000 Marines from Okinawa to Guam led the Defense Department to halve the number coming here. “The prospect of the military buildup caused a crack in the facade of American-ness on this island,” said Michael Lujan Bevacqua, who teaches the indigenous Chamorro language at the University of Guam. Bevacqua is a strong advocate of breaking free from the United States. “Being independent and having the ability to determine our own policies is much better for us,” he said. LisaLinda Natividad, another proponent of change, says the decision to move the Marines onto this island is the latest sign of Washington’s highhanded ways. “The whole Guam buildup was set in motion because we’re a U.S. colony, and they think they can do whatever they want with our land,” said Natividad, who sits on the decolonization commission. “Just drive around for 10 minutes and it’s obvious." The issue of Guam’s political status is complicated. Some resent the U.S. military presence but do not want to give up their American passports. Some want greater independence but want their taxes to stay here on the island, as they do now, rather than going into the federal coffers. Some fear the lack of opportunity if they could no longer travel freely to the mainland. [ For some candidates, the path to the White House runs through paradise ] It is also controversial. People who have lived here for half a century take issue with the way the vote is being structured, saying it unfairly favors the Chamorro people. Only people who can trace their roots on the island back to 1950, when the island became an unincorporated territory, will be allowed to vote. Efforts to populate a voter registry have been slow-going — only 10,500 have registered so far, Calvo said — and the education campaign is barely existent. “I believe that before we have a vote, we need to have a strong education effort where people can really see what each status would mean,” said Shannon Murphy, a local journalist who runs the Guampedia website. “I haven’t seen it laid out in a way where people can compare each option.”Even advocates of political change, including Bevacqua, say the governor is rushing the plebiscite because he has his mind on his legacy. A vote can only be held in an election year, and term limits mean Calvo will be on his way out of office at the 2018 poll. Calvo, who prefers the statehood option, said he called the vote because the time was right.For the vote to go ahead, the governor, the decolonization commission and the Election Commission all have to agree. The decolonization commission is due to decide whether to press ahead at its meeting next month. Local business representatives think that moving to lessen or get rid of the military presence on Guam would be economic suicide. “As a business person, I wonder if they have thought through the economic aspects of the decisions they want to make,” said Joe Arnett, an accountant who has lived on Guam for 32 years and runs the armed forces committee for the local chamber of commerce. “The U.S. federal government puts $600 million a year into Guam through Social Security and taxes paid by military personnel stationed here. That’s not including food stamps and school lunches and things like that,” he said. Almost $9 billion has been earmarked for the base expansion and support facilities, one-third of which will be moved from Japan. In the north of Guam, preparations are underway. The Pentagon has unlocked $309 million for the first phase of construction of the new Marine base, which will be built on existing military land lined with palm trees. Next door at the Andersen Air Force Base, where B-52 bombers were lined up on the runway this week, construction workers were building a new hangar that will be part of the expanded footprint. [ Guam: A high concentration of veterans, but rock-bottom VA funding ] But the buildup will be long and slow. The first wave of 2,500 Marines is expected here by 2022, with the remainder due by 2027. The Marines are making sure to stay out of the local debate. “Guam needs to figure out what’s best for Guam,” said Col. Philip Zimmerman, the officer in charge of the 20-strong Marine contingent on Guam. But, he said, from a military perspective, Guam is a crucial forward base, noting tensions with North Korea and with China around the Spratly Islands and the South China Sea in recent months. It is 2,500 miles to Beijing from here, but more than double that to Los Angeles. The base itself would be good for the island’s economy, Zimmerman said. “We will be creating jobs during the buildup, then we’ll be creating civilian jobs to run the ranges and to run the base itself,” he said. A military socioeconomic impact assessment study found that the new base would create more than 3,000 full-time civilian jobs in 2021, and tax revenues to the Guam government would increase by about $40 million a year from 2028. For his part, the governor said he would “gladly” pay federal taxes so that Guam could be a full-fledged state. “But anything is better than being an unincorporated territory,” Calvo said. “That’s just another word for colony.”

**Guam is seeking independence now**Gutierrez 2003 “Guam’s Future Political Status: An Argument for Free Association with U.S. Citizenship” ASIAN-PACIFIC LAW & POLICY JOURNAL; Vol. 4, Issue 1 (Winter 2003), <http://blog.hawaii.edu/aplpj/files/2011/11/APLPJ_04.1_gutierrez.pdf>

After decades of actively seeking a voice in how their island is governed,18 the people of Guam are still pursuing their internationally recognized right to self-determination.19 Currently, the people of Guam continue their efforts to alter their colonial status; a plebiscite for selfdetermination is expected to take place in Guam in the very near future.20 One of Guam’s options for self-governance is the political status of free association—a status “recognized by the United Nations as having the elements of decolonization and full measure of self-government.”21 The primary aspect of a freely associated state is that it is internally fully self-governing, while giving some degree of control over certain external matters (such as defense) to another state.22 Unlike Guam’s current relationship with the United States, free association status would be a voluntary relationship between two sovereign nations, the terms of which would be negotiated and agreed to by both parties.23 Because it is a consensual relationship, either party could withdraw from the arrangement upon proper notice.24 One of the more significant terms to be negotiated is the question of what would happen to the U.S. citizenship extended by the United States to Guam's “native inhabitants” and their descendants.25 The significance of retaining U.S. citizenship lies in the security and privileges that such citizenship provides. Without U.S. citizenship, the people of Guam have much to lose: their U.S. passports and ensuing privileges, freedom from U.S. immigration laws, as well as access to certain federal services and opportunities.26

### Neg

#### US won’t let Guam be independent due to the strategic location

**Underwood 21** [Kimberly, reporter writer and analyst for SIGNAL. “The Growing Importance of Guam” AFCEA, Febuary 1st, <https://www.afcea.org/content/growing-importance-guam>] //Aryan

Always strategic, the island of Guam in the western Pacific Ocean in Micronesia is playing a growing role in the contested, troublesome, near-peer competition environment. The Defense Department is investing more into the military facilities of this U.S. territory, including **adding networking and bandwidth solutions; joint all-domain command and control; and intelligence, surveillance and reconnaissance solutions** as well as additional U.S. forces. The measures will add key communications and advanced capabilities to the island as well as **increase the military’s power projection abilities**. “One of the things that I talk about with respect to Guam is its strategic location on the globe,” says Gen. Kenneth Wilsbach, USAF, commander, [Pacific Air Forces](https://www.pacaf.af.mil/) and the Air Component commander of U.S. Indo-Pacific Command. “Add the fact that it is U.S. sovereign territory. It’s the farthest western location that we have, that we can project from.” Gen. Wilsbach also is the executive director, Pacific Air Combat Operations Staff, Joint Base Pearl Harbor–Hickam, Hawaii. In his role leading the Pacific Air Forces, or PACAF, Gen. Wilsbach is responsible for the Air Force’s efforts in the complex environment of the Indo-Pacific region, which spans over about half of the Earth’s surface, is home to 44 percent of the world’s trade and 60 percent of the world’s population. The general also supports more than 46,000 airmen serving principally in Japan, South Korea, Hawaii, Alaska and Guam. The Defense Department’s Indo-Pacific Strategy from June of 2019 outlined the department’s position within the U.S. governmentwide strategy for the region. The Air Force’s role in that policy is to support the U.S. Indo-Pacific Command’s strategy and main objective of a free and open Indo-Pacific, the general explains. With the Indo-Pacific as the priority theater for the U.S. military, the main goal is to build partnerships and promote a networked region, one that is able to unite in defense against the growing threats of China, Russia, North Korea and Iran. Given the geographical vastness of the Indo-Pacific region and the number of nation partners of various sizes, the United States’ relationships with allies and partners in the Pacific serve as a force multiplier. As the U.S. military works to build capabilities, conduct exercises, improve training and increase information sharing with these countries, Guam is an important strategic and centralized hub, says Gen. Wilsbach. As a tactical axis, Guam serves key theater operations and logistical support to all U.S. forces in the region. Guam holds some of the Indo-Pacific’s most significant ammunition and fuel storage capabilities, key intelligence, surveillance and reconnaissance (ISR) solutions and protections for the island itself. “The amount of firepower that we could generate from that island is tremendous,” Gen. Wilsbach notes. “The airfield itself is enormous, with two runways, lots of apron, lots of parking areas, a very large munitions storage area. And so, it’s a very capable airfield.”

## \*\*Hawaii

### Aff

#### Decolonization and sovereignty. Solvency questions about I-Law institutions pressuring the US to recognize the Kingdom’s sovereignty.

**Kauanui 2020,** “J. Kēhaulani Kauanui discusses her monograph, Paradoxes of Hawaiian Sovereignty: Land, Sex, and the Colonial Politics of State Nationalism, with Ntina Tzouvala.”

<https://twailr.com/hawaiian-sovereignty-and-the-limits-of-statehood-de-occupation-or-decolonisation/>

Hawaiian Sovereignty and the Limits of Statehood: De-Occupation or Decolonisation? Paradoxes of Hawaiian Sovereignty examines the contradictions that emerge in relation to colonial biopolitics and governance techniques by the Hawaiian Kingdom – taken up by Indigenous elites to transform a range of cultural practices – in an effort to resist western imperialism and protect Hawaiian sovereignty. Kauanui makes this powerful argument by examining early nineteenth century changes in land tenure, gender status, and sexual norms and possibilities. Kauanui theorizes the relationship between the processes of enclosure and the imposition of proprietary relations to land, gender, and sexuality as core aspects of the encounter between Hawaiian elites, white missionaries, and western forces in the early nineteenth century. Importantly, the book documents how these historical genealogies are playing out in the contemporary nationalist movement. In this engaging and relevant analysis, Kauanui reflects on contemporary decolonial struggles in Hawai‘i and the meaning and limitations of self-determination, sovereignty, and statehood. What motivated you to write this book? I have been affiliated with the Hawaiian sovereignty movement since 1990 – participating while located outside of the islands as a diasporic Kanaka Maoli (Indigenous Hawaiian). I have seen many changes in the political landscape since then. Regarding my project, over the last twenty years, there has been a perplexing shift in political discourse, in which some pro-independence leaders have increasingly denied that the Kanaka Maoli ever historically experienced colonialism. This is because, as the logic goes, the Hawaiian Kingdom is an independent state that is merely illegally occupied by the United States (U.S.). The crux of this position is based on the notion that occupation and colonialism are mutually exclusive. This book project explores decolonization in relation to land, gender, and sexual politics given this political impasse. As I show, to tackle this predicament it is imperative to understand the hybrid status of the Hawaiian case. There is here a legal genealogy of independent statehood, which is separate from the U.S. state and Hawai‘i as the so-called “50th state.” I also examine why some Hawaiians oppose any acknowledgement, let alone critical analysis, of colonialism, and clarify what the stakes are of this denial. In turn, I insist on engagement with settler colonialism as an analytic and social form of domination while also drawing on normative frameworks of international law in order to expose the limits of de-occupation, decolonization, and Indigenous rights. In the 1960s and 1970s, colonised peoples around the world generally understood decolonisation as a process of universalisation of the nation-state. Despite the initial euphoria, this process led to the rise of states that have turned out to be profoundly repressive and exploitative of both humans and nature. In your own book, you make a powerful case against statehood and western conceptualisations of sovereignty as forms of genuine decolonisation for Hawai‘i. Do you want to share with us your thinking on this front? Paradoxes argues that the Hawaiian situation demands an approach that is not state-centered (whether part of the U.S. or Hawaiian Kingdom) in order to fully explore recuperating a decolonial modality. Without exceptionalising Hawai‘i, our history differs from most of the countries that fought for decolonization in the 1960s and 70s. The Hawaiian Kingdom was established in 1810 in response to western encroachment. By 1843, the United States, Great Britain, and France recognized the monarchy as an independent state. From that time, until the 1893 U.S.-backed overthrow, all nation-states throughout the west and several in other parts of the world recognized Hawaiian sovereign statehood. The 1893 U.S. backed coup – orchestrated by U.S. Minister John L. Stevens in unison with a dozen settlers – constituted an illegal occupation, which the U.S. later admitted was an “act of war.” The U.S. government then purportedly annexed the Hawaiian Islands in 1898. But several things transpired in between the overthrow and the annexation. For one, when the U.S. government did not annex the islands right away after the overthrow, the settlers formed their own provisional government, and by 1894 formed the ‘Republic of Hawai‘i.’ That entity moved to have the U.S. annex Hawai‘i through a treaty once William McKinley succeeded Grover Cleveland as U.S. President. However, Kanaka Maoli organized en mass to stop the annexation by mobilizing the entire population to express their opposition through what they called the Ku‘e Petitions in 1897. As a result, the U.S. Senate could not garner the two-thirds majority vote to pass the treaty of annexation. However, the U.S. government passed a congressional resolution purportedly annexing the Hawaiian Islands the following year, in violation of international law. Noenoe Silva has documented this history in her important work based on Hawaiian language sources, Aloha Betrayed: Native Hawaiian Opposition to U.S. Colonialism (Duke University Press, 2004). As I mentioned earlier, some kingdom nationalists dismiss any analysis of settler colonialism as a social formation and enduring structure, exclusively drawing attention to the U.S. occupation. In turn, rather than UN protocols for decolonization, they assert that the case of Hawaiʻi ought to be guided by The Hague Conventions (1899 and 1907), which have the status of customary international law and provide a definition of occupation upon which the Fourth Geneva Convention relies. My own work suggests that it is both the normalization of U.S. settler colonialism and imperialism that contribute to the erasure of Hawai‘i as a site of enduring occupation, which the U.S. government continues in order to assure its military expansion to control more than half the world through the U.S. Pacific Command. And yet, the U.S. government—if ever pressed by the international community—cannot substantiate its claim to the Hawaiian Islands since the archipelago was never ceded through treaty or conquest. Even the U.S. government acknowledged this illegitimate taking in its 1993 apology to the Hawaiian people. U.S. Congress passed the Apology Resolution (Public Law 103-150), admitting that the overthrow was illegal and apologizing for the U.S. role in that act of war. The joint-senate resolution states that ‘the Indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.’ After this resolution passed, the entire Hawaiian sovereignty movement seemed to shift as this admission from the U.S. government seemed to clear a space for a new generation of independence activism. In terms of the critiques of statist nationalism I present in the book – examining the shortcomings of the federal recognition and de-occupation models, I show how they insufficiently deal with the particularities of the Hawaiian case, since neither federal law nor international law fully reckons with these historical injustices. Under the Obama Administration, and before that under Bush, the proposed tribal model for Hawaiians is a federally driven ‘solution’ to the so-called Hawaiian problem – an attempt to extinguish the Hawaiian sovereignty question as a moral, political, and legal one. Despite attempts by state officials to contain the outstanding Hawaiian sovereignty claim within U.S. federal policy (now at a standstill under the Trump Administration anyhow), the claim to Hawaiian independence endures. Your historical approach focuses on the domestic transformations promoted by Hawaiian elites as responses both to external pressures and as means to maintain and extend their own power and privilege. This is a methodological choice that has not always been obvious or dominant in histories of colonialism and settler-colonialism. Why did you feel it was important to highlight this aspect of the encounter between Hawai‘i’s and U.S. imperialism? This is one of the paradoxes of Hawaiian sovereignty; Kanaka Maoli have an un-extinguished claim to independent nationhood related to the fact that the Kingdom was internationally recognized as an independent state. At the same time, however, this legal development was dependent on the very things that degraded the Indigenous polity in the early to late nineteenth century that constituted a form of ‘respectability politics’ to prove Hawaiian capability for self-governance. The long legacy of colonial biopolitics under the Kingdom – internal reforms initiated by Hawaiian elites – included the introduction of private property, the imposition of marriage (while criminalizing all other sexual interactions outside of church and state-sanctioned unions), and the legal subordination of women. These historical changes continue to impact Kanaka Maoli today. Attentive to the limits of the law, Paradoxes turns to non-statist forms of decolonization that tend to land, gender, and sexuality based on Indigenous Hawaiian sovereignty, which can be found in what Hawaiians refer to as ea – the power and life force of interconnectedness between deities, ancestral forces, humans and other animals, and all elements of the natural world. As I show, land, gender and sexuality – targeted early for ‘reform’ – are crucial sites for the production of life for an ethical future and a substantiation of sovereignty through remaking indigeneity without the reliance on juridical regimes of power. Protesters commemorating 126 years since the overthrow of the Kingdom of Hawaii. Photo: (Image: Hawaii News Now/file) Even though your work does not exclusively focus on international law, its concepts feature prominently in your narrative, including for example the insistence by Hawaiian nationalists that the islands were never colonised, but they remain under unlawful occupation to date. Can you tell us more about the different forms of engagement with international law (and international politics) by the Kanaka Maoli? My initial exposure to Hawaiians taking up international law was in 1993 in Hawaiʻi, when I attended Ka Hoʻokolokolonui Kanaka Maoli – The People’s International Tribunal on the Rights of Indigenous Hawaiians. People’s Tribunals are mounted outside state entities, and differ from Judicial Tribunals (which are set up by governments and Member States of the United Nations). Esteemed Kanaka Maoli elder Kekuni Blasdell, M.D. (now deceased) convened the Tribunal, which consisted of members of civil society and world-renowned human rights experts to adjudicate the Hawaiian case. This was important on many levels, especially given the grassroots participation, but another reason is because U.S. government considers the Hawaiian people wards of the state that, therefore, cannot pursue any legal claim as a people in the courts. Therefore, this was an issue of calling on the world community to hear our case – a different politics of recognition, if you will. There is also a long and robust history of Kanaka Maoli going to the United Nations to bring attention to the Hawaiian case. One of the earliest I am aware of was Gail Kawaipuna Prejean who worked with the International Indian Treaty Council (IITC) until his death in 1992. Founded in 1977, the IITC was the first Indigenous NGO to gain Consultative Status with the UN Economic and Social Council. Finally, Hawaiian leader Dennis ‘Bumpy’ Kanahele has served on the board of the IITC since the 1990s and continues to do so. Also, Pōka Laenui (aka Hayden Burgess), Mililani Trask, and Nālani Minton have all been crucial actors in terms of engaging international law. In 1983, Laenui joined the World Council of Indigenous Peoples and was tasked to be the political spokesperson at international forums, including several agencies within the United Nations. He was selected as the Indigenous Expert to the International Labor Organization’s drafting committee on the Rights of Indigenous Peoples Convention (ILO 169), and subsequently played an instrumental role in the drafting of the UNDRIP. Mililani Trask was a member of the Indigenous Initiative for Peace and she helped author the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). She was elected Vice Chair of the General Assembly of Nations of the Unrepresented Nations and Peoples Organization. After the UN General Assembly passed the UNDRIP, Trask served as one of eight representatives to the UN Permanent Forum on Indigenous Issues in its inaugural term. Nālani Minton attended the UN meetings of the Working Group of Indigenous Peoples on behalf of Ka Pākaukau (founded by Blaisdell, mentioned earlier) and also worked over a decade helping with the drafting process of the UNDRIP. I should also note Maivân C. Lâm, a tireless ally to Kanaka Maoli who has lent her expertise to the movement for decades, and who worked closely with Blaisdell as she served a one of the advocate prosecutors for the Hawai‘i Tribunal – also played a crucial role in the Working Group and drafting process for the UNDRIP. There are other engagements with international law that focus on testing the legal waters for the Hawai‘i case. For example, in 1999, an individual who identifies as a subject of the Hawaiian Kingdom took a case to the Permanent Court of Arbitration (PCA) asserting that the Government of the Hawaiian Kingdom was ‘negligent’ because he had been convicted under U.S. laws and was incarcerated as a result. He argued that the Kingdom had not taken affirmative steps to prevent the imposition of U.S. laws. An arbitration agreement was reached in Honolulu and then submitted to the PCA – and the court suggested that David Keanu Sai, a sovereignty leader who identifies as an agent for the Government of the Hawaiian Kingdom, should formally invite the U.S. to join the arbitration proceedings. The idea in this instance was to compel the U.S. government to contest the existence of the Kingdom as an independent state – which juridically would be hard to dispute. There are other ways Hawaiians have pressed the case in various international forums. Groups including Ka Lāhui Hawai‘i and Ka Pākaukau (mentioned above) pressed the sovereignty issue at the international level for nearly two decades prior to the 1998 hundredth year anniversary of the U.S. claiming to have annexed Hawai‘i in 1898. In turn, a UN report recommended that Hawai‘i be returned to a UN List of Non-Self Governing Territories, which would mean eligibility for decolonization through a UN-sponsored plebiscite. Your book deals extensively with the transformations of gender and sexuality that came about as a result of the spread of Christianity and the efforts of domestic elites to repudiate accusations of immorality and savagery. At the same time, you appear deeply skeptical about the idea that the legalisation of same-sex marriage undoes this colonial legacy. Is this skepticism related to the rights-form as a means of emancipation? Yes, definitely – but there’s more to it than that. Marriage is about property, and my work is about challenging all forms of proprietary relations. The pre-colonial Hawaiian world, which is well documented given that we are talking about a period up to the late eighteenth century, allowed for same-sex sexual expression, polyandry and polygyny. Marriage was introduced by Calvinist missionaries from New England in the early nineteenth century, and with marriage came coverture – the subordination of women’s civil status. All of this is not to romanticize pre-colonial Hawaiian society, which had a stratified and hierarchical kinship system. Women and men were positioned in relationship to each other in an egalitarian way, but with an important qualifier—in relation to each other within their respective genealogical rankings. And, of course, there will always be debates about what constitutes ‘tradition’ when engaging in projects of Indigenous resurgence. Hawaiians had a range of models of gender and sexual diversity. For example, traditional ways of registering interest in an enduring intimate relationship were called awaiulu (to bind securely, fasten, or tie) or hoʻao (to stay until daylight). The intimate relationships between kane (man) and wahine (woman) – and probably māhū (intersex subjects), although that research needs to be undertaken given the historical erasures of those with indeterminate gender – are sometimes referred to in the literature as ‘marriage’ but that term does not correspond to Kanaka relationships. Bisexuality was the norm and people of all genders could have multiple partners.

In Paradoxes, I discuss nation-based accounts of Indigenous sovereignty, interrogations of the legal power of the settler state, and foreground Indigenous criticism of the overarching colonial and gendered/sexualized power relations facing Kanaka Maoli within the Hawaiian sovereignty movement. Jumping ahead to more recent history, I argue that while there is Indigenous cultural revitalization of Hawaiian concepts that may be considered part of broader cultural decolonization, the state legislature’s passage of the same-sex marriage bill is a form of settler colonial continuity. In light of the unlawful 1893 U.S.-backed overthrow and 1898 annexation of an independent state, those in the Hawaiian nationalist movement contest the legitimacy of the ‘50th state’. In Hawai‘i, then, same-sex marriage extends the colonial imposition of male-female marriage to the contemporary politics of assimilation and affirmation of U.S. occupation under the cover of inclusion in a multiracial liberal democracy in the ‘land of aloha’. The idea of the ‘paradox’ runs through your account. Do you think there is a way out of this paradox for the Kanaka Maoli, or living with contradictions is the best one can hope for? I am not trying to arrive at the ‘right’ approach to Hawaiian sovereignty, because the constitution of the category itself is paradoxical. My project is a broad critique of statist nationalism – focusing on the two most prominent models in the contemporary sovereignty movement in order to show their structural limitations with regard to addressing ongoing settler colonialism, and bringing about decolonization of our social world to challenge premises that render Indigenous sovereignty an unthinkable political reality. I do not construct any binary to take on proponents of federal recognition and Kingdom nationalists; instead, my aim is to challenge these as the two dominant forms of statist nationalism, and to show how neither confronts settler colonialism effectively due to the limits of statist solutions, and the actual paradoxes of Hawaiian sovereignty. What I hope readers understand is that the central aim in Paradoxes is precisely to expose the paradoxes. These are not contradictions that can be resolved; they are structural and thus need to be navigated carefully. This is why I look to land-based Indigenous resurgence projects, to track how they confront that structure of domination, and therefore enable decolonial futures.

## \*\*Indigenous Peoples

### Aff

#### Macklem’s essay criticizes historic interpretations of recognition and its application to indigenous peoples, globally.

**Macklem 2008,** Patrick Macklem, Indigenous Recognition in International Law: Theoretical Observations, 30 MICH. J. INT'L L. 177 (2008). Available at: <https://repository.law.umich.edu/mjil/vol30/iss1/3>

This Essay addresses this question in the context of the evolving status of indigenous peoples in international law. International instruments vest rights in indigenous peoples, and establish indigenous peoples as international legal actors to whom States and other international legal actors owe legal duties and obligations. These developments began between the First and Second World Wars, when the International Labour Organization (ILO) began to supervise indigenous working conditions in colonies. They continued after the Second World War with ILO Conventions No. 107 and 169, which vested rights in indigenous populations located in States that are a party to their terms. More recently, the U.N. General Assembly enacted the Declaration on the Rights of Indigenous Peoples,8 which declares that indigenous peoples possess a wide array of rights, including the right to self-determination. It affirms the international legal existence of indigenous peoples by recognizing them as legal subjects, and it renders international law applicable to their relations with States. Some of these international instruments, such as conventions adopted by the ILO, legally bind States that are a party to their terms. Others, like the U.N. Declaration, do not, strictly speaking, legally bind international legal actors, but they nonetheless have diffuse legal consequences for the development of both international and domestic law.

If state recognition may be said to be "comprised of two quite distinct acts: a political act and a legal act,"9 what legal act of recognition brings indigenous peoples into existence in international law? What criteria does international law provide to determine the international legal existence of indigenous peoples? Some international legal instruments provide guidance on what constitutes an indigenous population or people, but they are not explicit about what constitutes its international legal status.'° Others, such as the U.N. Declaration on the Rights of Indigenous Peoples, specify no criteria for determining whether a community constitutes an indigenous people in international law. In this Essay, I argue that questions regarding indigenous recognition in international law ought to be approached in light of the nature and purpose of international indigenous rights. Indigenous rights in international law mitigate some of the adverse consequences of how the international legal order continues to validate what were morally suspect colonization projects by imperial powers. Indigenous peoples in international law are communities that manifest historical continuity with societies that occupied and governed territories prior to European contact and colonization. They are located in States whose claims of sovereign power possess legal validity because of an international legal refusal to recognize these peoples and their ancestors as sovereign actors. What constitutes indigenous peoples as international legal actors, in other words, is the structure and operation of international law itself.

I develop these claims by engaging with several issues raised by indigenous recognition in international law. What legal conclusions has international law drawn from the "political fact" of indigenous peoples in the past? What is the relationship between legal recognition of States and legal recognition of indigenous peoples? What are the legal forms of indigenous recognition, and what ends do they serve in international law? What role does indigenous legal recognition play in the structure and operation of the international legal order? Part I heuristically locates Kelsen's description of the role of recognition in a broader account of international legal rules and principles governing the acquisition and distribution of sovereign power, and recounts how international law validated claims of sovereign power over indigenous peoples and their territories. Parts II and III describe developments in the ILO that led to the gradual emergence of indigenous populations as legal actors in international law. Part IV addresses developments in the United Nations, culminating in the recent adoption of the U.N. Declaration on the Rights of Indigenous Peoples. Part V offers some theoretical observations on the legal requirements of indigenous recognition in international law, the relation between legal recognition of States and legal recognition of indigenous peoples, and the nature and purpose of international indigenous rights.

## \*\*Kurdistan

### Aff

#### Solvency advocate for Syrian Kurds

Hunt ’21. Edward Hunt, 5-14-2021, "U.S. Commission Calls for Recognition of Rojava," Foreign Policy In Focus, <https://fpif.org/u-s-commission-calls-for-recognition-of-rojava/> (AF)

A U.S. commission on religious freedom is calling on the U.S. government to grant formal recognition to the Autonomous Administration of North and East Syria (AANES), the northeastern region of Syria that is commonly known as Rojava. Late last month, the U.S. Commission on International Religious Freedom published its Annual Report, which includes a recommendation that the U.S. government “recognize the AANES as a legitimate, local government.” The U.S. commission’s recommendation gives a boost to the autonomous administration’s efforts to garner international support for its creation of a self-administered region within northeastern Syria. If successful, Rojava’s experiment with regional autonomy and direct democracy could become a model of political organization for Syria and one of the few positive developments to emerge from the country’s decade of civil war. “This model in the autonomous administration should be supported,” Rojava’s top diplomat to the United States, Sinam Mohamad, said at a conference last month after the release of the report. The Rojava model could be “a solution for the Syrian crisis,” she added. For the past several years, Syrian Kurds have been building a system of democratic governance in Rojava. As they have been partnering with U.S. military forces in the war against the Islamic State, Syrian Kurds have been developing their own self-governing structures to administer Rojava as an autonomous zone within Syria. In March 2016, several regions in northeastern Syria voted to join together in a self-administered system that would seek autonomy within Syria. Although the U.S. government and other regional governments refused to recognize the move, Rojava has been functioning as an autonomous region. Its governing structures administer the area, provide the area with security, and conduct diplomacy with the United States and other regional powers. While many on the left have praised Rojava for its commitment to pluralism, gender equality, and direct democracy, the region continues to face several challenges, especially from Turkey, the Islamic State, and the Syrian government of Bashar al-Assad.

### Neg

#### Consequences of recognizing Kurdistan

Jasim ’21. GIGA Focus Middle East. Biden’s Challenge: Kurdish Autonomy and Turkish Expansionism. Number 1 | 2021 | ISSN: 1862-3611 Dastan Jasim (AF)

To make a really substantial move, two steps are essential: First, official multilateral peace talks between the Turkish government and the PKK should be initiated, in which the US and the EU take part. Second, a roadmap for Kurdish self-rule should be designed that transcends the phony debate of dependence vs. independence and looks at the greater issue of real institution-building within the Kurdish areas in Syria and Iraq by creating accountable and representative political institutions. If Biden wants to bring the United States back into global politics and Middle Eastern affairs, initiating a discussion about the type of political framework into which the AANES can be embedded within a post-war order in Syria could be a valuable entry point. This discussion, however, cannot be held without bringing Turkey back into the process, ideally by holding peace talks directly with the PKK. If such talks succeed and an internationally recognised political status for the Kurds in Syria can be negotiated, the US will manage to powerfully stabilise its strongest bulwark against the resurgence of ISIS in the region. A clear US take on Turkey can also enable the EU to act more strongly and more coherently vis-à-vis Turkey in other contexts, such as in the Eastern Mediterranean, Libya, and Armenia. It is time for the EU, especially Germany, to reconsider its present relationship with Turkey. Neither are negotiations on EU admission ongoing, nor are there clear plans to sanction Turkey. This political limbo cannot go on endlessly – it just encourages Turkey to keep testing its limits. Further, Germany should try to dampen the power the Turkish state has in Germany, specifically against political dissidents and oppositional figures who have sought refuge there. Much of Germany’s reluctance is rooted in its awareness of this condition. Turkish state networks in Germany should be dismantled to allow for both the safety of Turkey critics in Germany and a foreign policy that does not bend to Ankara’s influence.

## \*\*Nagorno-Karabakh/Arsakh

### History/Background

#### Not Recognized by:

* Any UN Member State
* Relevant to note that Armenia doesn’t even recognize NK/A.
* Relevant things about other country recognition can be found in the various sources on the Wikipedia page but theres things to say for Australia, Canada, Czech Republic, France, Guatemala, Italy, Spain, UK, and Uruguay.

#### Recognized by:

Transnistria, Abkhazia, and South Ossetia. (Since 2001, 2006, and 2006 respectively)

- the first one is not recognized, the latter 2 have been recognized by several UN states, although not the US, so see those topic paper sections for potential advantage ground or combined aff ground.

#### US Recognition things:

\* The following states Passed a bill recognizing Artsakh: California (2014), Georgia (2016), Hawaii (2016), Louisiana (2013), Maine (2013, but then receded 20 days later), Massachusetts (2012), Michigan (2017), New Jersey (2021), Rhode Island (2012), Colorado (2019), Minnesota (2020), Idaho (2021).

\* The following states Rejected a bill recognizing Azerbaijani territorial integrity: Kentucky (2016), Mississippi (2014), South Dakota (2014), Tennessee (2014), and Wyoming (2014) [I know, not a real state, but still]

\* The following states Rejected a bill recognizing Artsakh: Vermont (2014)

\* The following states Passed a bill recognizing Azerbaijani territorial integrity: Arizona (2014) and New Mexico (2014)

\* The following states haven’t done anything with the issue: [tldr; there’s 30 of them] Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Maryland, Missouri, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virgina, Washington, West Virginia, Wisconsin.

#### How long has this been an issue?

* Since Azerbaijan became a state in 1991
* Ethnically Armenian Oblast of Azerbaijan during the USSR days
* When USSR dissolved – internal conflict between those Armenians who wanted NK to go to Armenia and Azerbaijanis who did not

#### War History:

* First NK War and Ethnic Cleansing -> Karabakh and 7 other regions of Azerbaijan became an Armenia-allied defacto state – The Republic of Artsakh ; Feb 1988 – May 1994 ; Gotta love some Pogroms (Sumgait – 1988, Baku -1990, [against Armenians] Gugark – 1998, Khojaly -1992 [Against Azerbaijanis]) – The ceasefire was broked by Russia lol – tons of displacement until….
* 2020 Nagorno-Karabak War -> Azerbaijan and Turkey vs Artsakh and Armenia ; Began Sept. 2020; Azerbaijani offensive at the “Line of Contact” established at the end of the First war; main goal -> Reclaim the mountains; Armenia and Artsakh respond with martial law and total mobilization; Azerbaijan says martial law, curfew, and partial mobilization. Turkey is a mess in this, yay, gives upper hand to Azerbaijan, and marginalizes Russia’s influence in the region -RELEVANT – Also drones? Guess who they got those from? Probably us. Drones adv? UN nations have condemned both sides and called for de-escalation.
  + 3 separate ceasefires failed
    - Russia:
    - France:
    - USA:
  + Successful Ceasefire: after the capture of NK’s 2nd largest city – Armenia +Artsakh + Azerbaijan + Putin ; All hostilities end in Nov 2020. Some territory returned on both sides. Russian Soldiers deployed as peace keepers.
    - Armenian POW’s potential ground
    - Armenia’s case against Azerbaijan in the International Court of Justice as ground? – date check cuz 2021?

#### Recognition History:

* Currently referred to as part of Azerbaijan in UN resolutions
* But none of this passed under Chapter VII of the UN Charter [Action with Respect to Threats to the Peace, Breaches of Peace, and Acts of Aggression]
* Because not passed under Ch. 7, may or may not be binding but also …. -shrug-
* Supposedly, the territory is also official bc the borders were recognized when Azerbaijan got statehood. But this is more than disputed territory, it’s a statehood issue.
* The Resolution #1416, adopted by PACE in 2005, stated that "Considerable parts of the territory of Azerbaijan are still occupied by Armenian forces, still in control of the Nagorno-Karabakh region." The resolution further stated: "The Assembly reiterates that the occupation of foreign territory by a member state constitutes a grave violation of that state’s obligations as a member of the Council of Europe and reaffirms the right of displaced persons from the area of conflict to return to their homes safely and with dignity." Recalling the Resolutions 822, 853, 874, and 884 (all 1993) of the UN Security Council, PACE urged "the parties concerned to comply with them, in particular by refraining from any armed hostilities and by withdrawing military forces from any occupied territories." The resolution also called on "the Government of Azerbaijan to establish contact, without preconditions, with the political representatives of both communities from the Nagorno-Karabakh region regarding the future status of the region."
* In January 2016, the PACE adopted the Resolution #2085 entitled "Inhabitants of frontier regions of Azerbaijan are deliberately deprived of water" which stated that "the occupation by Armenia of Nagorno-Karabakh and other adjacent areas of Azerbaijan creates similar humanitarian and environmental problems for the citizens of Azerbaijan living in the Lower Karabakh valley". The resolution also requested "the immediate withdrawal of Armenian armed forces from the region" and "the Armenian authorities to cease using water resources as tools of political influence or an instrument of pressure"

### Aff

#### The US should recognize the Nagorno-Karabakh Republic – the de facto state has proven its ability to be independent -- that’s key to peace in the South Caucasus Region

**Torosyan 19,** (Hayk Torosyan: Russian-Armenian (Slavonic) University, International Relations, Faculty Member, Orebro University of Sweden, and PhD studies at the Russian-Armenian (Slavonic) University in Political Science. Upon completing the latter, He worked at the Institute for National Strategic Studies of the RA Ministry of Defense, a research center focusing on strategic issues facing the state and the region. He was specifically involved in strategic crisis simulations for policy decision making. He also teaches political science in his alma mater, “SOME ASPECTS OF STATE-BUILDING PROCESS IN THE REPUBLIC OF ARTSAKH (NKR)”, Вестник РАУ № 2, 2019, 51-68, https://science.rau.am/uploads/blocks/0/7/701/files/Vestnik\_2019\_izmenennyy(1).pdf#page=51) 23

The paper discusses the law-governed state building process in the Republic of Artsakh (NKR) with the formation and development of institutions that are of utmost importance for a sovereign state. The article presents the political dynamics of the Karabakh conflict, then touches upon the institution building in the non-recognized NKR and tries to advocate the importance of this process as a factor of ensuring the security of the NKR and the stability of the entire South Caucasus region. The author concludes that the NKR is a political reality. Being non-recognized, this de facto state has proven its ability to conduct elections that meet international standards, to protect its borders, and to build a decent public administration system without the active assistance of the international community. Moreover, given the NKR – by the pace of its democratic development and commitment to democratic values – is on much higher level than the state, from which it separated, the international community should not deny its right to self-determination, but support the efforts of the Nagorno Karabakh’s people for independence. The achievements in state building process of this non-recognized state, as well as its adherence to the peaceful resolution of the conflict with Azerbaijan can only contribute to the lasting peace and security in the South Caucasus Region. Keywords: Artsakh, Nagorno-Karabakh Republic, state-building, Azerbaijan, institution building, South Caucasus. Introduction In recent years, experts have been paying increasing attention to the possibility of establishing a long-term and sustainable peace, after reaching a ceasefire between conflicting sides. However, if the focus of experts remains on post-conflict peacebuilding through peacekeeping operations with the direct participation of the UN and other international organizations, then as part of our research, we consider the process of legal state-building in the Republic of Artsakh (Nagorno-Karabakh Republic (NKR)), based on the formation and development of the most important institutions of a sovereign state which they have mainly carried out on their own. As the well-known Russian public figure and historian Victor Sheynis noted, “The Nagorno-Karabakh Republic has matured both as a country and as a state” [2]. In this research, we briefly review the political dynamics of the Karabakh conflict, the process of institution building in the NKR in the condition of being non-recognized and try to justify the importance of this process as a factor ensuring the security of the NKR and the stability of the entire region of the South Caucasus, precisely from the point of view of its viability as an independent state. The importance of institution building as a factor for peace is underscored by the United Nations. According to the former SecretaryGeneral Ban Ki-moon, the UN should develop institution building to ensure a smooth transition to the development of statehood at the national level [3]. Ban Ki-moon notes that “institutions can play a very important role in maintaining peace and reducing the risk of a return to violence, so the building of legal and effective institutions that ensure the protection and promotion of human rights should be central to peacekeeping efforts” [4]. H. Torosyan 53 In addition, German political scientist Stefan Wolf believes that peacebuilding and state-building are not identical, but closely connected processes. By establishing and/or strengthening state institutions in the postconflict environment of divided societies, a tangible and positive contribution can be made to sustainable peace… and focusing on institutional choice provides the link between peacebuilding and democratic state-building [5]. Political dynamics of the Nagorno-Karabakh conflict One of the consequences of the collapse of the Soviet Union was not only the appearance of fifteen new independent states on its former territory, but also the appearance of new entities, which are de facto states and have the signs of statehood, noted in the first article of the “Montevideo Convention on Rights and Duties of States” of 1933: a permanent population, a defined territory, government and capacity to enter into relations with the other states” [6], however those states did not succeed in terms of widespread international recognition. Such unrecognized or partially recognized de facto states are the Republic of Abkhazia, Republic of Artsakh, the Pridnestrovian Moldavian Republic and the Republic of South Ossetia. One of the largest and bloodiest conflicts on the post-Soviet territory is the Nagorno-Karabakh conflict, whose roots date back to the beginning of the 20th century when after the collapse of the Russian Empire new independent states were formed on its former territory. In May 1918, the previously never-existing Azerbaijani state appeared on the political map of the world, which made claims not only on Armenian territories, in particular, Karabakh, but also on Georgian ones. However, the League of Nations, the forerunner of the UN, stated that due to the border disputes with neighboring states, an exact definition of the current borders of Azerbaijan is not possible and the provisions of the Charter do not allow Azerbaijan to be admitted to the League of Nations in the current circumstances [7]. At the same time, it is important to note that NagornoKarabakh was recognized by the League of Nations as a disputed territory and was not included in the territory of the independent Azerbaijani 54 Some aspects of state-building process in the Republic of Artsakh (NKR) Democratic Republic, which in 1920, with the proclamation of Soviet Azerbaijan, ceased to exist. Moreover, in December 1920, after the establishment of the Soviet system in Armenia, the communist leader of Azerbaijan Nariman Narimanov “welcomed the victory of the brotherly people” and announced that the three disputed provinces, Karabakh, Nakhichevan, and Zangezur would from now on be part of Soviet Armenia” [8]. Based on the refusal of Soviet Azerbaijan from claims to “disputed territories” and the agreement between the governments of Armenia and Azerbaijan, in June 1921 Armenia declared Nagorno-Karabakh as its integral part. However, soon the leadership of Azerbaijan resumed its claims to Nagorno-Karabakh. In 1921, plenary session of the Caucasus Bureau – which did not has the authority 24 to resolve territorial disputes between the third parties, due to the fact that the USSR was not yet created, and Armenia and Azerbaijan were still de-jure independent states – neglecting the decision of the League of Nations and rejecting a plebiscite as a democratic mechanism for establishing borders between Armenia and Azerbaijan, under the direct pressure of Joseph Stalin and with procedural violations, decided to include Nagorno-Karabakh in the territory of Azerbaijani SSR, with the formation of broad autonomy on these Armenian territories [9]. The contemporary stage of the conflict began in 1988 when in response to the legal demands of the people of Nagorno-Karabakh for selfdetermination, the Azerbaijani authorities carried out the ethnic cleansing of Armenians throughout the whole Azerbaijan, of which there exists overwhelming evidence. This is also stated in the resolution adopted by the US Congress on May 17, 1991, condemning the attacks on innocent children, women, and men in Armenian areas and communities in and around the Nagorno-Karabakh [10]. According to Nobel Peace Prize laureate and human rights activist, academician Andrei Sakharov, “For more than 60 years, the Armenian majority of the population of NagornoKarabakh has been subjected to oppressions on national bases by the Azerbaijani authorities… In the new conditions of Perestroika, Armenians had hope for a change of the untenable situation” [11]. H. Torosyan 55 As a result, Azerbaijan unleashed large-scale military operations that have led to a great loss of life and become the cause of a large number of refugees from both sides; Azerbaijan has finally lost the control not only over Nagorno-Karabakh but also over seven adjacent districts. In turn, parts of the Martakert, Martuni and Shaumyan districts of the NKR are still under the control of the Azerbaijani army. A ceasefire agreement was signed in 1994 and negotiations between the parties are mediated by the OSCE Minsk Group, led by three co-chairs: Russia, the United States and France, the permanent members of the UN Security Council. The legal bases of the NKR self-determination As noted by a prominent expert on inter-ethnic relations Galina Starovoytova, “the formation of their own State was the only hope of ethnic minorities fighting for the preservation of their identity” [1]. With that objective, the people of Nagorno-Karabakh – since the proclamation of NKR on September 2, 1991, relying on the principles of self-determination and equal rights of peoples, which are fundamental in international law and enshrined in the Charter of the United Nations [12] – under the control of international observers exercised their right to self-determination through nationwide referendum of December 10, 1991. The right to selfdetermination of the people is also enshrined in a number of other international legal acts, including the International Covenant on Civil and Political Rights, the Helsinki Final Act of 1975, Concluding Document of the Vienna Meeting of 1986 and the document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 1990 [13]. On April 3, 1990, the USSR Law Procedure for Resolving Questions Connected with a Union Republic’s Secession from the USSR was ratified. By Article 3 of the Law, “In a Union republic which includes within its structure autonomous republics, autonomous oblasts, or autonomous okrugs, the referendum is held separately for each autonomous formation. The people of autonomous republics and autonomous formations retain the right to decide independently the question of remaining within the USSR or within the seceding Union republic, and also to raise the question of their own state-legal status” [14]. Azerbaijan – declaring secession from Soviet 56 Some aspects of state-building process in the Republic of Artsakh (NKR) state legal jurisdiction by the Act of Independence of October 18, 1991, even before the referendum in Nagorno-Karabakh, in accordance with the provisions of the Law of the USSR – “legislatively rejected the necessity to coordinate with it the further fate of Nagorno-Karabakh. There was also no necessity to coordinate the results of the self-determination with the USSR central authorities due to the Alma-Ata Declaration of December 21, 1991, on the dissolution of the USSR…” [15]. Thus, according to the Soviet and international law, two equal subjects of international law were formed on the territory of the Azerbaijani SSR, the Republic of Azerbaijan and the Nagorno-Karabakh Republic. The same view is shared by professor of Hamburg University Otto Luchterhandt. During the international conference “The 20th Anniversary of the NKR Independence: Realities and Prospects” in 2012 in Stepanakert, he noted that the Declaration of Independence of Nagorno-Karabakh dated January 6, 1992, does not contradict the norms and principles of international law [16]. In his turn, French MP Francois Rochebloine at the conference “The National Liberation Struggle of the Armenians of Artsakh: from Gulistan to the present days”, held in Stepanakert on October 2013, with the participation of prominent political figures and scholars from around the world including Austria, Belgium, Germany, Russia and France, mentioned that “the result of the realization of Artsakh’s right to selfdetermination was the formation of a state with all its attributes, developing spheres of life” [17]. Thus, the above-mentioned clearly shows that Nagorno Karabakh has never been part of independent Azerbaijan and was illegally included in the territory of Azerbaijan SSR. Moreover, as after the collapse of the USSR, by the Act of Restoration of Independence Azerbaijan proclaimed itself the successor of the Azerbaijan Democratic Republic which existed from May 28, 1918 to April 28, 1920, it has no legal rights toward the NKR [18]. 25

#### NKR is seeking Trump’s recognition – views Golan decision as an opportunity

**Harutyunyan** 20**19** – “Karabakh Official Buoyed By Trump’s Golan Move,” https://www.azatutyun.am/a/29845422.html) bhb

U.S. President Donald Trump’s decision to recognize Israel’s annexation of the Golan Heights set an important precedent which could benefit Armenia and Nagorno-Karabakh in the conflict with Azerbaijan, a senior Karabakh official said on Wednesday. Trump signed a relevant proclamation at the White House on Monday in the presence of Israeli Prime Minister Benjamin Netanyahu. He said United States should have recognized Israel's sovereignty over the Golan Heights "decades ago." Israel captured the rocky plateau in the 1967 Middle East war and annexed it in 1981 in a move not recognized internationally. Trump’s decision has been condemned Syria, other Arab nations as well Turkey, Russia and Iran. Armenia, which maintains a cordial relationship with Syria, has not yet officially reacted to it. A top aide to Bako Sahakian, the president of the unrecognized Nagorno-Karabakh Republic, was encouraged by the “fundamental development.” “President Trump substantiated his decision with the notion that the Golan Heights are critical for Israel’s security,” the official, Davit Babayan, told RFE/RL’s Armenian service. “There is no reference to historical other issues,” said Babayan. “There is only the security context. In this sense, the Golan Heights are almost as significant for Israel as the Karvachar (Kelbajar) district is for Artsakh (Karabakh) and the Republic of Armenia.” “We must use that as a precedent and show [the international community] that we are in the same situation … This seems like a gift which we have gotten without having done anything. In my view, failure to utilize it would be a crime,” he added.

#### Great powers have a duty to recognize Nagorno-Karabackh

Amit K. **Chhabra 2013**, Visiting Professor of Law, St. George’s University; J.D., Notre Dame Law School; A.B., Cornell University. “Superpower Responsibility For State Recognition: Charting A Course For Nagorno-Karabakh” Boston University International Law Journal [Vol 31:131 201x] Superpower Responsibility For State Recognition,” https://www.bu.edu/ilj/files/2014/05/Chhabra\_JCI2-1.pdf

“To recognize a community as a State is to declare that it fulfills the conditions of statehood as required by international law. If these conditions are present, existing States are under the duty to grant recognition.” - Hersch Lauterpacht, Recognition of States in International Law2 This article concludes that there is a custom mandating state recognition, though not exactly as it was envisioned by the MC criteria. First, this custom is localized to the region of the former Soviet Union pursuant to the Guidelines, as discussed above. Second, there is no mandate that the Great Powers take any action to actually recognize; rather, they need only engage with NKR. Ultimately, their own factfinding, as well as domestic politics and actions of other nations will determine whether they recognize or decide to not recognize. At that point, and on the basis of their own findings, these nations will be under a self-imposed obligation to act.The heart of this claim is that the world’s Great Powers have an enhanced responsibility to independently evaluate whether they should extend diplomatic recognition to NKR. This responsibility can only be executed by acting without regard to the outcome of the OSCE-led negotiations or concerted action through the United Nations. Additionally, these powers cannot arbitrarily make this determination on the basis of self-interest. Rather, their duty is to act objectively. With great power comes great responsibility.

This might include welcoming NKR as an independent state in the community of nations and recognizing its government. This conclusion is reinforced by the fact that NKR’s self-determination efforts have been widely received as substantially consistent with conventional thinking on international humanitarian law and the appropriate use of force as a means to obtain independence. Additionally, international custom favors a responsibility to protect people that have suffered humanitarian crisis. Although the situation has largely been stabilized on the ground, the commitment to re-build still exists and continues to implicate Great Power engagement with NKR. The form that recognition takes may include producing a written declaration, entering diplomatic or treaty negotiations with the new state, and sending and receiving agents.169 Regardless of the outcome of the OSCE effort, therefore, the leading powers of the world community now appear to have a ripened duty to effectively engage with NKR. Their actions would be persuasive upon the European Community and the Minsk Group members. We can only hope for widespread acceptance of an independent Nagorno-Karabakh as the dream of a long-suffering people if there is \concerted initiative of one Great Power at a time.

#### Potential Solvency

This proto-state dispute is one of increasing international relevance because of escalating tensions that have led to border skirmishes in 2020. The conflict exists largely between Armenia and Azerbaijan, and specifically between a secessionist movement of an Armenian minority. The Nagorno-Karabakh territory is currently recognized by international institutions as a part of Azerbaijan, but many of the people of the area identify ethnically as Armenian. Azerbaijan has been holding only cursory control over the area, including allowing the formation of an independent government, for over 30 years.

#### International Cooperation//UN//EU

<https://www.france24.com/en/20200930-un-security-council-calls-for-immediate-end-to-fighting-in-nagorno-karabakh>

<https://www.canberratimes.com.au/story/6991293/nagorno-karabakh-conflict-unacceptable-eu/>

#### Ilaw – Armenia vs Azerbaijan

<https://media.un.org/en/asset/k1z/k1zrr42ylv>

For developments on the case at ICJ: <https://www.icj-cij.org/en/case/180>

<https://mirrorspectator.com/2022/02/03/international-lawyer-kerkonian-to-discuss-case-of-armenia-v-azerbaijan-in-international-court-of-justice/>

<https://www.justsecurity.org/80760/litigating-aggression-backwards/>

<https://asbarez.com/karnig-kerkonian-to-discuss-armenia-v-azerbaijan-in-the-international-court-of-justice-in-zoom-presentation/>

<https://www.rferl.org/a/armenia-azerbaijan-icj-feud/31598184.html>

#### Water Rights Abuse:

<http://semantic-pace.net/tools/pdf.aspx?doc=aHR0cDovL2Fzc2VtYmx5LmNvZS5pbnQvbncveG1sL1hSZWYvWDJILURXLWV4dHIuYXNwP2ZpbGVpZD0yMjQyOSZsYW5nPWVu&xsl=aHR0cDovL3NlbWFudGljcGFjZS5uZXQvWHNsdC9QZGYvWFJlZi1XRC1BVC1YTUwyUERGLnhzbA==&xsltparams=ZmlsZWlkPTIyNDI5>

<https://archive.globalpolicy.org/security-council/dark-side-of-natural-resources/water-in-conflict/49597-armenian-azerbaijani-water-politics.html>

<https://eurasianet.org/perspectives-dont-water-it-down-the-role-of-water-security-in-the-armenia-azerbaijan-war>

<https://www.sustainability-times.com/environmental-protection/a-long-running-conflict-between-armenia-and-azerbaijan-has-devastated-local-rivers/>

<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=22429&lang=en>

#### Terrorism/ Temperature Abuses- Gas Supply shut off (this is a slash bc is it terrorists or Azerbaijan or Russia? The world may never know XD sources disagree)

https://armenianweekly.com/2022/03/23/humanitarian-terrorism-in-artsakh-population-deprived-of-gas-supply-again/

<https://eurasianet.org/karabakh-accuses-azerbaijan-of-again-cutting-off-gas-supplies>

#### Drones?

<https://www.aljazeera.com/features/2020/10/11/nagorno-karabakh-conflict-ushering-in-new-age-of-warfare>

<https://foreignpolicy.com/2021/03/30/army-pentagon-nagorno-karabakh-drones/>

<https://www.washingtonpost.com/world/europe/nagorno-karabkah-drones-azerbaijan-aremenia/2020/11/11/441bcbd2-193d-11eb-8bda-814ca56e138b_story.html>

#### War – US Draw in, Ukraine, Russia, Regional, etc.

<https://warontherocks.com/2022/04/on-future-wars-and-the-marine-corps-asking-the-right-questions/>

<https://neweasterneurope.eu/2022/04/12/why-armenia-is-neutral-on-the-war-in-ukraine/>

<https://armenianweekly.com/2022/03/29/a-view-from-baku-how-azerbaijan-perceives-the-russia-ukraine-conflict/>

#### POWs

[https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody#](https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody)

[https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated#](https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated)

### Neg

#### Potential Neg Ground:

Although this region is not very explored by mainstream media, it is relatively deeply explored in international relations literature as a site for potential conflict in the near future. Authors who advocate against full recognition of the NKR usually cite our alliance with Azerbaijan and the potential to push them into the hands of Russia. That alliance has a particular importance when it comes to energy security, which many authors believe is a key reason that we should not formally recognize the NKR. There is also good evidence about the potential for reenergizing talks over the Armenian genocide, which could have serious implications with the US and other allies in the area. Finally, good negative evidence exists to support the Pandora disadvantage for the region, which is also included below.

#### US recognition would undermine international cooperation with Azerbaijan – the impacts are anti-terrorism, Afghanistan, US-Russia military dialogue, Caucasus energy security

**Mammadov** 20**18** – Dr. Farhad Mammadov is the director of the Center for Strategic Studies under the president of the Republic of Azerbaijan (“America's Double Standard on Nagorno-Karabakh,” https://nationalinterest.org/blog/the-buzz/americas-double-standard-nagorno-karabakh-24944) bhb

It should be underlined that one of the main duties of Western observers and experts must be a very careful approach to each side’s nationalist narratives and claims, which have justified all kinds of violence and obstructed resolution of the conflict. In fact, the conflict cannot be solved according to any side’s historical claims and imagined narratives, but rather according to principles of international law. Modern international law is based on the system established by the UN Charter, and precludes the violation of state borders through the use of force; therefore, the current international system should be regulated in accordance with the principles of international law. Otherwise, the system will lead to disorder and chaos. Since the history of the South Caucasus is full of conflicts and territorial claims, undermining international law and establishing double standards might set negative and bloody precedents for the future. Before referring to long-ago historic events in his recent article, the United States’ former ambassador to Armenia, John Evans, should have carefully studied Armenians’ popular claims that Stalin transferred or awarded Nagorno-Karabakh to Azerbaijan. This claim does not have any ground in historical fact, and is an intentionally jumbled translation from Russian to English. Historical documents prove that the creation of autonomous Nagorno-Karabakh within Azerbaijan was first suggested by G. K. (Sergo) Ordzhonikidze, a member of the politburo of the Communist Party, in his telegram to Stalin and Georgy Chicherin in 1920. Furthermore, in all firsthand historical sources, and in all instances from Bolshevik rulers of the region during that period, the decision regarding Nagorno-Karabakh was not передать—to hand over, to pass, to award—as Armenians claim. But, in all instances, the decision involved the Russian verb оставить, which means “to keep” or “to preserve,” within Azerbaijan. The honorable ambassador, who is an expert on Russia’s history and language, understands very well the difference between the English verb allocate and the Russian verb оставить, and has all the resources at his disposal to double-check these facts. After Donald Trump entered the White House, he signed a decree banning former administration officials from lobbying the United States on behalf of foreign governments. The activities of the Armenian lobby are a well-known fact, and its influence over U.S. foreign policy has always been tremendous. The Armenian diaspora has been lobbying in hopes to shape U.S. foreign policy toward a pro-Armenian stance on the Nagorno-Karabakh conflict. One of the Armenian lobby’s significant achievements was the adoption and maintenance of Section 907 of the Freedom Support Act, which has frozen U.S. aid to Azerbaijan. Although previous Democratic and Republican administrations alike have understood the negative impact of Section 907 for U.S. 43 national interests, and tried to remove it, the strong Armenian lobby has successfully resisted these efforts. That the Armenian diaspora’s lobbying through financial and political means hampers American policy in the South Caucasus has been voiced by officials of previous administrations. The United States has hitherto supported the sovereignty and territorial integrity of Azerbaijan within its internationally recognized borders. Azerbaijan, as a secular Muslim country, has been always a trustworthy partner for the United States in fighting international terrorism and supporting the U.S. mission in Afghanistan. Azerbaijan has also emerged as a reliable platform for international negotiations, including for dialogue between Russian and American military chiefs. Moreover, Azerbaijan’s contribution to the energy security of the United States’ European allies is an undisputed reality.

#### Recognition in peace talks causes Azerbaijan backlash and deal failure

Seymur **Kazimov,** 3/27/**2019** "Proposals to include Nagorno-Karabakh in peace talks raise red flags in Azerbaijan," OC Media, https://oc-media.org/proposals-to-include-nagorno-karabakh-in-peace-talks-raise-red-flags-in-azerbaijan/

At a joint press conference in Brussels with the EU’s Commissioner for European Neighbourhood Policy, Johannes Hahn, Pashinyan was asked about the recent meetings with Ilham Aliyev. ‘Our upcoming meeting should inter alia feature a discussion on the format of the negotiations, because we do believe, and our position has not changed so far, that in order to achieve an eventually effective solution, we first of all need to create an appropriate format, which would imply Nagorno-Karabakh’s participation in the negotiation process’, Pashinyan said. Hahn emphasised that the parties should maintain the format of the existing negotiations on the settlement of the Karabakh conflict: ‘If the conversation is about our support, I think that we need to maintain the format of the current negotiations. There is no need to create something new for the sake of creating it. In general, it’s about getting trust among the parties’, Hahn said. ‘No serious initiatives’ According to Avaz Hasanov, conflict specialist and chairman of the Humanitarian Research Public Union, the recent processes of conflict resolution show that the sides have no serious initiatives to begin the normal negotiation process. According to him, the Armenian side is slowing down the negotiation process with various proposals to gain time for a better position. The Azerbaijani side is interested in the continuation of negotiations. ‘The views voiced during the OSCE Chairman-in-Office’s visit to the region, as well as the meeting of Pashinyan with Johannes Hahn prove that the continuation of negotiations and achievement of the results are important for the West’, Hasanov told OC Media. Hikmat Hajiyev, Head of the Department for Foreign Policy under the Presidential Administration, writes in an article, published on Euractiv.com that ‘the Armenian prime minister cannot answer a very simple question, saying he cannot speak on behalf of the Armenians living in Karabakh: What are the Armenian armed forces doing in the sovereign territories of Azerbaijan?’ ‘Paradoxically, the Armenian leadership, on the one hand, expresses support for the efforts of the OSCE Minsk Group co-chairs, while on the other hand, calls for the change of the format of the negotiations and violates the co-chairs’ work,’ Hajiyev notes. ‘The format remains unchanged’ Rey Karimoghlu, a veteran of the Nagorno-Karabakh war and spokesperson for the Karabakh Veterans Union, is sceptical about the purpose and activities of the Minsk Group. ‘I think the negotiations on the solution of the problem are ineffective. In general, the activity of the OSCE Minsk Group should be suspended. Azerbaijan should liberate its occupied territories by diplomatic and military means. It is possible both by international law and the laws of Azerbaijan’, Karimoghlu told OC Media. According to a press statement by the Co-Chairs of the OSCE Minsk Group on the upcoming meeting, a fair and lasting settlement must be based on the core principles of the 1975 Helsinki Final Act, which is based on two 44 core tenets of territorial integrity and the right to self-determination. As per Leyla Abdullayeva, spokesperson for the Azerbaijani Foreign Ministry, ‘this statement by the co-chairs of the Minsk Group is a signal to Armenia and we welcome it’. ‘Negotiations on resolving the conflict are conducted between Armenia and Azerbaijan. The format of the negotiations remains unchanged. Attempts to attract the separatist regime established in our occupied territories to negotiations and attempts to change the format are unacceptable. The statement of the co-chairs also includes the steps to be taken in connection with the settlement of the conflict,’ the spokesperson said.

#### Recognition destroys the negotiation process and triggers a war

**Mustafayeva 16** – Dr. Najiba Mustafayeva, a research fellow at the Center for Strategic Studies (SAM) in Azerbaijan. She specializes in international law, human rights and conflict resolution. (“**Armenia’s recognition of Nagorno-Karabakh could trigger a war**”, Euractiv, May 17, 2016, https://www.euractiv.com/section/armenia/opinion/armenias-recognition-of-nagorno-karabakh-could-trigger-a-war/)

Recent preparations by Armenia to recognise as independent the occupied Azerbaijani territory of Nagorno-Karabkh will stop the negotiation process and give free hand to Baku to take advantage of its military superiority, writes Najiba Mustafayeva. Najiba Mustafayeva is an expert at the Center for Strategic Studies (SAM) in Azerbaijan. She specialises in international law, human rights and conflict resolution. Armenia’s government approved on 5 May a legislative initiative of opposition lawmakers on recognizing of the so-called “Nagorno-Karabakh Republic” and sent it for consideration to the parliament. The draft law was initiated by MPs Zaruhi Postanjyan and Hrant Bagratyan. The international organisations and third states adhere to the position that Nagorno-Karabakh belongs to Azerbaijan, and the military forces of Armenia must be withdrawn from all occupied territories of Azerbaijan, as stipulated by the relevant resolutions of the UN Security Council, which are ignored by Armenia. Deputy Foreign Minister of Armenia Shavarsh Kocharian said that the approval of the draft law by the Armenian government is linked with the results of the discussion between Armenia and Nagorno-Karabakh, taking into account other developments, including external. Both Russia and the US disapproved of the move by Yerevan. Dmitry Peskov, spokesman for Russian President Vladimir Putin, said the Kremlin called on all the parties involved in the Nagorno-Karabakh conflict to avoid steps that could violate the fragile ceasefire and lead to the escalation of tensions in the region. “We are calling both sides of the conflict as before to avoid any steps that could destroy the rather fragile ceasefire and lead to an escalation of tension in Karabakh”, Peskov said. US Department of State Deputy Spokesperson Mark Toner restated his country’s position. “The United States, along with the rest of the international community, does not recognize Nagorno-Karabakh,” Toner said, adding: “Nagorno-Karabakh’s final status will only be resolved in the context of a comprehensive settlement, so we urge the sides to come to the negotiating table in good faith in order to reach a settlement that achieves those goals”. Following these clear signals of international disapproval, the Armenian government issued a clarification that it did not approve the bill which would recognise the independence of Nagorno-Karabakh, but made an assessment of a legislative initiative by the two MPs. In Armenia, any legislative initiative of parliamentarians needs to get a preliminary assessment by the country’s government. Armenia’s spokeswoman for the prime minister, Gohar Poghosyan, said that the government “has not approved the bill on recognising the independence of the Nagorno-Karabakh at this stage”. The National Assembly of Armenia has abstained for the time being considering the bill that would officially recognise the independence of the so-called “Nagorno Karabakh Republic”, the Armenian Parliament said. Novruz Mammadov, Deputy Head of the Administration of the President of the Republic of Azerbaijan, called the proposal a provocation of the Armenian leadership – aimed at spoiling the negotiation process, maintaining the status quo and disrupting the negotiation process, in affront to international law and relevant UN Security Council resolutions. Mammadov also called on the Minsk Group co-chairs to express their opinion on the issue. The Ministry of Foreign Affairs of Azerbaijan said that by regularly perpetrating provocative acts, as well as violating the ceasefire, firing at the cities and villages of Azerbaijan along the line of contact of armed forces of Armenia and Azerbaijan and the border of two countries, Armenia aims to freeze the situation and block any progress in the negotiations process. By such acts, the leadership of Armenia also attempts to justify the obvious failure of its aggressive and annexationist policy and satisfy the demands of various military and extremist circles of Armenian society for the sake of its own internal political ambitions. The recognition of Nagorno-Karabakh is an attempt to stop the signing of a compromise on the basis of the “Kazan formula”, involving, in particular, a long-term discussion of the status of Nagorno-Karabakh. By recognizing the independence of the so-called “NKR”, the Armenian government will waive this part of the “Kazan formula” and would destroy its integrity, built on a complex system of 45 balance between Armenia and Azerbaijan. Thus, Yerevan is breaking a temporary compromise, not leaving Azerbaijan, to prepare for a military solution to the conflict. As Russian political analyst Aleksandr Karavayev noted, Baku would evaluate the recognition of Nagorno-Karabakh as an act of abandoning the negotiation process that lasted for more than 20 years, under the guise of Minsk Group Co-Chairs. It was obvious that Co-Chairs, diplomats and heads of the states would also condemn the recognition of Nagorno-Karabakh by Armenia. This would give a free hand to Azerbaijan, which has an overwhelming military advantage over Armenia.

#### NKR links to the Pandora DA (in high school topic paper)

**Gut** 20**17** – Arye Gut is a noted expert on the former Soviet Union and the Middle East and the head of the Israeli NGO, International Society Projects (“Impunity engenders crimes: separatism from Nagorno-Karabakh to Catalonia,” https://www.jpost.com/Blogs/News-from-Arye-Gut/Impunity-of-separatism-from-Nagorno-Karabakh-to-Catalonia-515043) bhb

An intensification of separatist tendencies is a great danger and alarm in the contemporary world. The separatism in the South Caucasus that has begun from the occupation of the territory of Azerbaijan by Armenia has spread to other post-Soviet states, and today it has already begun to reflect itself in Western Europe, in particular in Spanish Catalonia. If you do not study and prevent this process in time, in the near future it can spread itself in other states of the West and the world. Looking at the emergence of separatism in the modern world, we can remind the words of the famous Dutch thinker E. Rotterdam, who called for giving a stable nature to territorial relations between states. He said: "We need to find ways to ensure that the borders of states cease to be subject to change and become stable, because changes in state borders lead to war." On November 20, the International Forum "Separatism as a threat to international peace and security" was held in Brussels, Belgium, organized by the Congress of European Azerbaijanis and the Nizami Ganjavi International Center with the support of the State Committee for Diaspora Affairs. The forum was attended 200 delegates, including Ali Hasanov, the Assistant to the President of the Republic of Azerbaijan on social and political issues, Nazim Ibrahimov, chairman of the State Committee for Work with the Diaspora, deputies of the Azerbaijan Milli Majlis, members of the European Parliament and parliaments of European countries, as well as deputies of a number of countries suffering from separatism, politicians, former presidents of the International Center Nizami Ganjavi, social and political figures, heads of Azerbaijan Diaspora organizations in Europe, experts, scientists and journalists. Initiated by Azerbaijan, this International Forum will support the struggle of nations and states whose territorial integrity has been violated, and whose population has been expelled from their homelands," the Azerbaijani President's Assistant for Public and Political Affairs Ali Hasanov has told journalists. "For many years we have warned Europe and the world that ethnic separatism is not to be played with. If you do, it ultimately leads to conflicts between peoples and states, causes bloody confrontations, and people suffer as a result. For many years, Azerbaijan has experienced every face of this pain – displacement, its peoples' becoming refugees and internally displaced persons, and the killing of thousands of its people, and even its peoples' remaining homeless," the Azerbaijani President's Assistant said. 'Now, after Europe has seen the bitter consequences of this threat playing with ethnic separatism, it supported our right voice. Today's forum is an obvious confirmation of this. Spain's territorial integrity is its national right, the national law of the state and cannot be violated by anyone. This is one of the fundamental principles of international law. I think that as the EU demonstrates unanimous support for the territorial integrity of Spain, it will also adequately react to ethnic separatism, which takes place in 46 the lives of other nations, and will continue to recognize Azerbaijan's territorial integrity as it has done so far. Ali Hasanov said that the policy of "double standards" currently prevailing in the system of international relations hinders the implementation of a resolute and principled struggle against ethnic separatism.

#### Politics link:

<https://www.bostonherald.com/2022/04/03/anuzis-why-are-members-of-congress-lobbying-for-a-pro-russian-separatist-republic/>

#### The Peace Talks DA (No, this is not an Inherency Question. Armenia and Azerbaijan are potentially maybe doing peace talks – Artsakh is pissed, war is a DA)

<https://caspiannews.com/news-detail/separatist-sentiment-surges-in-armenia-ahead-of-possible-peace-talks-with-azerbaijan-2022-4-6-4/>

<https://eurasianet.org/armenia-signals-willingness-to-cede-control-over-karabakh>

<https://armenianweekly.com/2022/03/16/armenia-and-azerbaijan-consider-peace-talks-as-violence-in-artsakh-escalates/>

## \*\*North Korea

### Aff

#### Explicit solvency advocate for official recognition of North Korea as a state

**Waldron 2017,** Arthur, GEOPOLITICUS, “Why We Must Recognize North Korea” July 13, 2017 <https://www.fpri.org/2017/07/must-recognize-north-korea/>

The reason that negotiations over North Korea have never achieved anything is simple. Their avowed goal is impossible to achieve. It is well-past time to accept that no means, political or military, exists to eliminate North Korean nuclear weapons. Their continued existence is certain, as will be explained. That being the case, it is time for the United States in particular to adopt a new approach. This approach would be to recognize North Korea diplomatically, as a state, and as one having nuclear capability. Washington and Pyongyang should each build embassies and exchange ambassadors. This is the best alternative now available. It will not restore peace to Asia but it will bring partial progress that is real, rather than the total solution on which all agree, but that is simply impossible. On June 21. 2017 United States Secretary of State Rex Tillerson stated that Washington and Beijing agreed to “a complete and irreversible denuclearization of Korean Peninsula.” [1] Two weeks later, on July 7, 2017 it was reported that Mr. Putin and Mr. Trump had also agreed on such“ a complete and irreversible denuclearization.”[2] South Korea has already agreed repeatedly to this idea. But how could such a situation ever be created? No country possessing nuclear weapons is ever again going to give them up. Ukraine did so, trusting to the pledges of the Budapest Memorandum (4 December 2004) in which “The Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America reaffirm their commitment to Ukraine, in accordance with the principles of the Final Act of the Conference on Security and Cooperation in Europe, to respect the independence and sovereignty and the existing borders of Ukraine” That was proven a worthless scrap of paper when Russia invaded (2014-present) and annexed Crimea. No one could miss the lesson nor will North Korea: keep your nuclear weapons and no one will dare invade you. Give them up and your position is vulnerable. Suppose, however that North Korea solemnly agreed to denuclearize under treaty provisions, perhaps similar to those of Budapest. Proving that Pyongyang had complied would be impossible. North Korea is 48,000 square miles; under her surface are labyrinths of tunnels, factories, and military facilities of which we have no clue. To hold back and conceal a substantial nuclear strike force would be easy, nor could any inspection regime, up to and including a military occupation, detect it if the concealment were competently done. Even a military holocaust over the country would not surely eliminate such weapons. Note too that even a residual North Korean nuclear force would probably range from 49 to 100 (author’s estimate), as compared to 7,000 Russian bombs, China’s perhaps 1,000 (author’s estimate), India’s 130, Pakistan’s 140, Israel’s 80, France’s 300, Britain’s 215, and the United State’s 6,600. Her threat is deeply concerning, but the region is far more worried by China.[3] At worst North Korea will flatly turn down our offer of recognition, in which case we should state that it remains open. If embassies having secure conference facilities, and able ambassadors are created, then for the first time the United States and Pyongyang will have a secure means of communicating ideas, however sensitive. This too may lead nowhere. But as the advantages of closer ties with the United States and her world of allies become clear, it is equally possible that Pyongyang will come to see that they can offer much more than their current shaky alignment with Russia and China. No quid pro quo should be offered for this standard diplomatic procedure. Nor should anyone imagine that, if successfully accomplished, it will bring peace to hand. The greatest threat to Asia is not North Korea but China’s illegal expansion and militarization over millions of square miles into territories to which she has no claim, seas to her east and mountains of or near north India. This fact of Chinese aggression means that the U.S. and her allies must continue to be strong; indeed stronger than they are at present. If a recognized North Korea continues to develop weapons of mass destruction, our only option will be further to increase the armaments and missile defenses of our Asian allies. My own view is that if South Korea finds the North unresponsive to her peace overtures, she will develop her own nuclear weapons, regardless of American opinion. The same is almost certainly true for Japan, which China is forcing into a remilitarization that she does not want. When the Japanese do things, though, they tend to do them well, so we may assume that, if China does not change the situation radically, she will soon face a Japan possessing a nuclear deterrent—I argue only for minimal nuclear deterrents for our allies, perhaps no more than nuclear tipped torpedoes or nuclear cruise missiles that can be launched near shore—as well as and an air force as good as any. Finally, what of North Korea? She will no longer be glued in place, attached to China of which she is not fond. With her independent forces she will also be too strong for China to intimidate. lest she cause nuclear attack. By the same token, North Korea will no longer be forced to ally only with rogue nations. She will have the option of moving into a more central and multipolar position globally, both diplomatically and economically. The possibility of trading in real world markets may afford her the opportunity to change. These are only hopes. For now we extend our hand of formal recognition. But we offer nothing in return, nor do we diminish our relations with South Korea and other allies. Not a trail whose terminus is visible. But a rail at least that we can begin to walk.

### Neg

#### State recognition is not needed for peace treaty

**Kyung-ok Do 2020** , Research Fellow, Korea Institute for National Unification, Jun-hyeong Ahn Professor, Korea National Defense University, “The Peace Agreement on the Korean Peninsula: Legal Issues and Challenges”, Copyright ⓒ Korea Institute for National Unification, 2020

B. Recognition of State As stated above, since states do not have monopoly in concluding treaties, doing so would not directly translate into implicit recognition of state. For instance, in 1920, prisoner exchange treaties were concluded between the United Kingdom and the Soviet Union and between France and the Soviet Union. However, both United Kingdom and France only recognized Soviet Union as a state years later. Israel and the neighboring Arab states also concluded numerous armistice agreements, but many Arab states have not recognized Israel as a state. Still, treaties specifically intended to govern a bilateral relationship comprehensively for an indefinite period of time can only be devised between states and have been considered as implying that concluding such a treaty means recognizing the other party as a state. Treaties of Friendship, Commerce and Navigation or Treaties on Basic Relations are exemplary of such treaties.9) Treaties of Friendship, Commerce and Navigation establishes the rights and obligations on commerce and navigation between states of friendly relations, regulating the entrance, residence, business of citizens and the exchanges of consul representatives. Treaties on Basic Relations establish basic political and diplomatic relations between states. In addition, some argue that concluding peace agreements is an implicit act of the recognition of state.10) Such an argument can be interpreted as viewing the conclusion of a peace agreement as the conclusion of a treaty that comprehensively governs relations for an extended period between parties since a peace agreement not only terminates a war but also marks the beginning of the establishment or recovery of friendly relations between parties. However, peace agreement cases of the past do not typically exhibit a standardized format. In other words, peace agreements take various forms depending on the environment and circumstances under which the agreement was concluded. In this sense, concluding a peace agreement itself does not necessarily lead to the recognition of state; the more appropriate view would be that it may or may not be considered to be the implicit recognition of state depending on the environments and circumstances under which the agreement was concluded. The Korean Peace Agreement exhibits a peculiarity in that the two divided states are included as parties to the peace agreement. Hence, the format and content of the Korean Peace Agreement are bound to exhibit a peculiarity due to the special premise – a divided state. In the divided Korean Peninsula, the conclusion of a peace agreement comprehensive enough to imply a mutually implicit recognition of state is highly unlikely. Still, if the parties wish to clarify their stances on this issue upon the conclusion of the agreement, they can specify in the agreement that the conclusion of the Korean Peace Agreement does not lead to the recognition of state or they can devise a separate declaration clarifying this.

Some argue that both South-North Korea and North Korea-the U.S. should recognize each other as states in the process of concluding the peace agreement and transitioning into a peace regime.11) Such an argument is based on the idea that recognition of state will guarantee the opponent entity’s effective execution of international responsibilities. In fact, these arguments refer to existing cases where clauses on recognition of state were included in the peace agreements for this specific reason. Recognition of a state is a political and policy decision, so parties to the peace agreement can do so upon its conclusion if desired. However, the “ability to recognize as state” and the “necessity to recognize as state” are two completely different things. Parties to treaty, regardless of them being states or other international entities, generally have the responsibility to faithfully execute the treaty. Hence, the logic that recognition of state is a must to guarantee the effective execution of the treaty is weak. Also, recognition of state clauses included in existing peace agreements should be seen as agreements among the involved parties grounded upon political and policy judgments. North Korea and the U.S. can consider recognizing each other as states in the process of concluding the peace agreement, but doing so should be approached much more carefully given the special circumstances of the two Koreas. After all, reciprocally recognizing each other as states may legally consolidate the divided status.12)

## \*\*Palestine

### Notes/Background

#### The core negative ground against the Palestine affirmative centers around the Israel-US alliance, which could be dramatically altered by the recognition of Palestine. Other negative positions of import would be an argument about emboldening other secessionist movements as well as quality arguments surrounding the history of US colonialism in the region.

### Aff

**The foundation of the US-Israeli alliance is built upon the US’s support for Israel over Palestine but it’s vulnerable — the aff flips America’s stance which crushes the alliance** - Beauchamp 18 — Zack Beauchamp is a senior correspondent at Vox, where he covers global politics and ideology, and a host of Worldly, Vox's podcast on foreign policy and international relations. His work focuses on the rise of the populist right across the West, the role of identity in American politics, and how fringe ideologies shape the mainstream. Before coming to Vox, he edited TP Ideas, a section of Think Progress devoted to the ideas shaping our political world. He has an MSc from the London School of Economics in International Relations. (“Why are the US and Israel so friendly?” Vox, 11/20/2018, <https://www.vox.com/2018/11/20/18080080/israel-palestine-us-alliance>)

That’s a hugely controversial question. Though American support for Israel really is massive, including billions of dollars in aid and reliable diplomatic backing, experts disagree sharply on why. Some possibilities include deep support for Israel among the American public, the influence of the pro-Israel lobby, and American ideological affinity with the Middle East’s most stable democracy. The countries were not nearly so close in Israel’s first decades. President Eisenhower was particularly hostile to Israel during the 1956 Suez War, which Israel, the UK, and France fought against Egypt. As the Cold War dragged on, the US came to view Israel as a key buffer against Soviet influence in the Middle East and supported it accordingly. The American-Israeli alliance didn’t really cement until around 1973, when American aid helped save Israel from a surprise Arab invasion. Since the Cold War, the foundation of the still-strong (and arguably stronger) relationship between the countries has obviously shifted. Some suggest that a common interest in fighting jihadism ties America to Israel, while others point to American leaders’ ideological attachment to an embattled democracy. Perhaps the simplest explanation is that the **American public** has, for a long time, **sympathized far more with Israel than with Palestine**: One very controversial theory, advanced by Professors John Mearsheimer and Stephen Walt, credits the relationship to the power of the pro-Israel lobby, particularly the American Israel Public Affairs Committee (AIPAC). Critics of this theory argue that AIPAC isn’t as strong as Walt and Mearsheimer think. AIPAC’s failure to torpedo the Iran nuclear deal during the Obama administration underscored the critics’ point. Regardless of the reasons for the “special relationship,” American support for Israel really is quite extensive. The US has given Israel $118 billion in aid over the years(about $3 billion per year nowadays). Half of all American UN Security Council vetoes blocked resolutions critical of Israel. Despite this fundamentally close relationship, there are occasionally tensions between Israeli and American officials. This was particularly true under US President Barack Obama and Israeli Prime Minister Benjamin Netanyahu; the two leaders clashed regularly over issues like settlements and Iran. The relationship reached a particularly nasty point when Netanyahu planned, with congressional Republicans, a March 2015 speech to a joint session of Congress that was highly critical of Obama’s approach to Iran. The Obama administration was furious over what it saw as Netanyahu conspiring with Obama’s domestic political opposition to undermine his policies. The Trump administration has led to renewed warmth in the Israeli-American relationship, culminating in Trump’s December decision to formally recognize Jerusalem as Israel’s capital. The stark difference between Obama and Trump approaches to Netanyahu reflects a growing partisan gap inside the United States, with Republicans taking an increasingly hard-line “pro-Israel” position. **If Democrats end up concomitantly becoming more willing to criticize the Israeli government**, Israel may well end up a partisan issue in America — which actually would **threaten the foundations of the US-Israel alliance.**

#### Recognizing Palestine would open Pandora’s Box

Rivkin and Casey 11 - Washington, D.C., lawyers who served in the Justice Department during the Reagan and George H.W. Bush administrations. Mr. Rivkin is also a senior adviser to the Foundation for Defense of Democracies. (“The Legal Case Against Palestinian Statehood,” Wall Street Journal, Proquest)//BB

**The Palestinian Authority**, by contrast, **does not meet the basic characteristics of a state necessary for such recognition.** These requirements have been refined through centuries of custom and practice, and were authoritatively articulated in the 1933 Montevideo Convention on the Rights and Duties of States. As that treaty provides, to be a state an entity must have (1) a permanent population, (2) a defined territory, (3) a government, and (4) the capacity to enter into relations with other states. As of today, **the PA has neither a permanent population nor defined territory** (both being the subject of ongoing if currently desultory negotiations), **nor does it have a government with the capacity to enter into relations with other states.** This pivotal requirement involves the ability to enter and keep international accords, which in turn posits that the "government" actually controls— exclusive of other sovereigns—at least some part of its population and territory. **The PA does not control any part of the West Bank to the exclusion of Israeli authority, and it exercises no control at all in the Gaza Strip. The PA does not**, therefore, **qualify for recognition as a state and**, concomitantly, it does not **qualify for U.N. membership**, which is open only to states. All of this is surely understood by the PA and its backers, and is also why the administration has correctly labeled this effort as a distraction—"stunt" being a less diplomatic but even more accurate term in these circumstances. What is unfortunate is that the Obama administration has failed to present the case against a Palestinian statehood resolution in legal rather than tactical terms, even though these arguments are obvious and would greatly reinforce the U.S. position, also providing a thoroughly neutral basis for many of our allies, particularly in Europe, to oppose Mr. Abbas's statehood bid. The stakes in this battle are high. The **PA's effort to achieve recognition by the U.N**., even if legally meaningless, is not without **serious consequences**. To the extent that state supporters of that measure may themselves have irredentist populations or active border disputes with their neighbors—as do Russia, China, Britain and Turkey—they will certainly store up future trouble for themselves. Traditionally, states rarely recognize (even if they may materially support) independence movements in other states. This is because granting such recognition may have **very serious consequences**, up to and **including war.** (The classic example here being France's recognition of the infant United States in 1778 and its immediate and inevitable entry into the War for Independence against Britain).

#### US Recognition Solvency Advocate

Ilan **Goldenberg 2020,** July 2, 2020, Ilan Goldenberg is the director of the Middle East Security Program at the Center for a New American Security; he served on the State Department negotiating team on the Israeli-Palestinian conflict. “Opinion: Recognizing the state of Palestine is the only appropriate response to Israeli annexation,” <https://www.washingtonpost.com/opinions/2020/07/02/recognizing-state-palestine-is-only-appropriate-response-israeli-annexation/>

The Israeli government may begin taking steps toward unilaterally annexing portions of the West Bank soon. This move would present a grave threat to any possibility of a future two-state outcome that allows Israelis and Palestinians to live in freedom and security, each in a state of their own. It would also shatter the paradigm that has governed resolution of the Israeli-Palestinian conflict for decades. Israeli annexation would herald a new era of unilateralism, the consequences of which would be a policy shift on the Palestinian side of the equation as well. Sign up for a weekly roundup of thought-provoking ideas and debates

Annexation is far from a foregone conclusion. Alternate Prime Minister Benny Gantz, Arab leaders, former Vice President Joe Biden and nearly every Democrat in Congress have voiced concern or outright opposition. The Trump administration’s position is unclear, as it envisioned annexation in the context of a larger peace plan that the Israeli government seems more reluctant to endorse. If annexation does occur, however, and it is recognized by the Trump administration, the two-state solution will stand on the precipice of irrelevance. In such a world, it will be critical to take steps to bolster its renewal and establish a new set of facts on the ground that shape a two-state environment. The most effective and meaningful response by U.S. supporters of a two-state solution — especially in Congress — is to advocate formal recognition of the state of Palestine. Annexation would be an unmistakable sign that Israelis are moving away from two states. But no less significant would be the impact on Palestinians, who would no longer believe that a state of their own is achievable. Polling in the Palestinian territories already shows support for two states at its lowest point since Israelis and Palestinians began negotiating in 1993 with the signing of the Oslo Accords. The opposition is based not on the substance of an agreement, but in the lack of belief that it is possible in the face of 25-plus years of failure and the growth of Israeli settlements on land supposedly designated for a Palestinian state. Unilateral Israeli annexation, designed to demonstrate to Palestinians that Israel will not be held hostage to a Palestinian veto over its borders and territory, would have a far more expansive effect. It would hasten the process of deterioration of Palestinian institutions toward further dysfunction and authoritarianism, as they would be increasingly be seen by Palestinians as tools for Israeli occupation, not preparation for statehood. Eventually, this lack of legitimacy would cause the Palestinian Authority to collapse. Recognition of a Palestinian state would be a huge political boost to Palestinian supporters of two states by providing symbolic achievement of a long-desired national aspiration. It would boost the Palestinian Authority’s legitimacy and forestall its collapse. U.S. recognition should make clear that while the final borders of Israel and Palestine must be negotiated between the parties, they should be based on the 1967 lines with mutually agreed on land swaps, grounding U.S. policy in 50 years of precedent. U.S. recognition would almost certainly cause most partners in Europe, who have thus far refrained from recognizing a Palestinian state, to follow. But even if a U.S. administration chose not to recognize Palestine, simply signaling to European countries that the United States would not oppose them taking this action could trigger a wave of international recognition that would boost Palestinians at a moment of despondency.Recognition would also be an appropriate countermeasure to Israeli unilateralism that puts a two-state outcome at severe risk. Just as Israeli annexation is an attempt to skip negotiations and jump to the endpoint of recognition of Israeli territorial claims in the West Bank, recognition of a Palestinian state would be a similar leap to the endpoint of Palestinian goals in any negotiating process. While recognition of Palestine may appear extreme at first glance, it actually constitutes the middle ground inside the Democratic Party in the wake of annexation. More conservative voices will argue that convincing Israel not to take annexation any further than it has, or even withdrawing President Trump’s recognition of what has taken place, would be sufficient. But this will merely give lip service without taking concrete action to save the two-state solution. Progressives will argue that instead the United States should start putting conditions on the $3.8 billion it provides in security assistance to Israel every year, but that step would unnecessarily harm U.S. and Israeli security interests in the Middle East, wouldn’t really resonate inside Palestinian society and wouldn’t move either side closer to two states. Ultimately, let’s hope that Israel makes the right decision and chooses not to unilaterally annex West Bank territory. But if it does, supporters of the two-state solution in Congress, as well as the many advocacy organizations, and Jewish and Arab community leaders who engage on this issue with the United States, should call for U.S. recognition of the state of Palestine as the best way to preserve any hope for a two-state solution in a new era of Israeli-Palestinian unilateralism.

#### Two-State Solution can come through State Recognition of Palestine

**AP 2022**, February 7, 2022 “Israeli and Palestinian figures propose a plan for an independent state of Palestine” THE ASSOCIATED PRESS https://www.npr.org/2022/02/07/1078258023/independent-state-palestine-proposal-two-state-confederation-israel

JERUSALEM — Israeli and Palestinian public figures have drawn up a new proposal for a two-state confederation that they hope will offer a way forward after a decade-long stalemate in Mideast peace efforts. The plan includes several controversial proposals, and it's unclear if it has any support among leaders on either side. But it could help shape the debate over the conflict and will be presented to a senior U.S. official and the U.N. secretary general this week. The plan calls for an independent state of Palestine in most of the West Bank, Gaza and east Jerusalem, territories Israel seized in the 1967 Mideast war. Israel and Palestine would have separate governments but coordinate at a very high level on security, infrastructure and other issues that affect both populations. The plan would allow the nearly 500,000 Jewish settlers in the occupied West Bank to remain there, with large settlements near the border annexed to Israel in a one-to-one land swap.

Settlers living deep inside the West Bank would be given the option of relocating or becoming permanent residents in the state of Palestine. The same number of Palestinians — likely refugees from the 1948 war surrounding Israel's creation — would be allowed to relocate to Israel as citizens of Palestine with permanent residency in Israel. The initiative is largely based on the Geneva Accord, a detailed, comprehensive peace plan drawn up in 2003 by prominent Israelis and Palestinians, including former officials. The nearly 100-page confederation plan includes new, detailed recommendations for how to address core issues. Yossi Beilin, a former senior Israeli official and peace negotiator who co-founded the Geneva Initiative, said that by taking the mass evacuation of settlers off the table, the plan could be more amenable to them. Israel's political system is dominated by the settlers and their supporters, who view the West Bank as the biblical and historical heartland of the Jewish people and an integral part of Israel. The Palestinians view the settlements as the main obstacle to peace, and most of the international community considers them illegal. The settlers living deep inside the West Bank — who would likely end up within the borders of a future Palestinian state — are among the most radical and tend to oppose any territorial partition. "We believe that if there is no threat of confrontations with the settlers it would be much easier for those who want to have a two-state solution," Beilin said. The idea has been discussed before, but he said a confederation would make it more "feasible."Numerous other sticking points remain, including security, freedom of movement and perhaps most critically after years of violence and failed negotiations, lack of trust. Israel's Foreign Ministry and the Palestinian Authority declined to comment. Thorny issues easier to address by two states in a confederation, architects of the plan say The main Palestinian figure behind the initiative is Hiba Husseini, a former legal adviser to the Palestinian negotiating team going back to 1994 who hails from a prominent Jerusalem family. She acknowledged that the proposal regarding the settlers is "very controversial" but said the overall plan would fulfill the Palestinians' core aspiration for a state of their own. "It's not going to be easy," she added. "To achieve statehood and to achieve the desired right of self-determination that we have been working on — since 1948, really — we have to make some compromises." Thorny issues like the conflicting claims to Jerusalem, final borders and the fate of Palestinian refugees could be easier to address by two states in the context of a confederation, rather than the traditional approach of trying to work out all the details ahead of a final agreement."We're reversing the process and starting with recognition," Husseini said. There have been no serious Mideast talks for a decade It's been nearly three decades since Israeli and Palestinian leaders gathered on the White House lawn to sign the Oslo accords, launching the peace process. Several rounds of talks over the years, punctuated by outbursts of violence, failed to yield a final agreement, and there have been no serious or substantive negotiations in more than a decade. Israel's current prime minister, Naftali Bennett, is a former settler leader opposed to Palestinian statehood. Foreign Minister Yair Lapid, who is set to take over as prime minister in 2023 under a rotation agreement, supports an eventual two-state solution. But neither is likely to be able to launch any major initiatives because they head a narrow coalition spanning the political spectrum from hard-line nationalist factions to a small Arab party. On the Palestinian side, President Mahmoud Abbas' authority is confined to parts of the occupied West Bank, with the Islamic militant group Hamas — which doesn't accept Israel's existence — ruling Gaza. Abbas' presidential term expired in 2009 and his popularity has plummeted in recent years, meaning he is unlikely to be able to make any historic compromises. The idea of the two-state solution was to give the Palestinians an independent state, while allowing Israel to exist as a democracy with a strong Jewish majority. Israel's continued expansion of settlements, the absence of any peace process and repeated rounds of violence, however, have greatly complicated hopes of partitioning the land. Support for a two-state solution is shifting The international community still views a two-state solution as the only realistic way to resolve the conflict. But the ground is shifting, particularly among young Palestinians, who increasingly view the conflict as a struggle for equal rights under what they — and three prominent human rights groups — say is an apartheid regime. Israel vehemently rejects those allegations, viewing them as an antisemitic attack on its right to exist. Lapid has suggested that reviving a political process with the Palestinians would help Israel resist any efforts to brand it an apartheid state in world bodies. Next week, Beilin and Husseini will present their plan to U.S. Deputy Secretary of State Wendy Sherman and U.N. Secretary-General Antonio Guterres. Beilin says they have already shared drafts with Israeli and Palestinian officials. Beilin said he sent it to people who he knew would not reject it out of hand. "Nobody rejected it. It doesn't mean that they embrace it." "I didn't send it to Hamas," he added, joking. "I don't know their address."

#### ICC Jurisdiction, I-Law and Palestinian Statehood

Tanvi Bhargava & Rebecca Cardoso (B.A. L.L.B. (Hons.) Students at Jindal Global Law School, Sonipat.) **2021** “An Examination of Palestine’s Statehood Status through the Lens of the ICC Pre-Trial Chamber’s Decision and Beyond” October 20, 2021Joe DelGrandeOnline Forum Submission1 Comment An online article by Tahttps://www.nyujilp.org/an-examination-of-palestines-statehood-status-through-the-lens-of-the-icc-pre-trial-chambers-decision-and-beyond/

I. Introduction Since as far back as the fall of the Roman Empire, the territory of Palestine has remained disputed. On November 29, 1947, the United Nations General Assembly (UNGA) adopted Resolution 181, which called for the creation of two independent states in the territory of Palestine.[1] One was the Jewish state of Israel, and the other the Arab state of Palestine. In the wake of two wars in 1948 and 1967, Israel expanded into the Arab lands and annexed territories including the West Bank, the Gaza Strip, and East Jerusalem, leading to hostility between both peoples. Subsequently, the two groups initiated numerous truces and peace agreements to no avail. The Israeli Defense Force and Palestinian groups, such as Hamas, have been in continuous conflict, leading to destruction and deadly violence. For example, during the 2014 Israel-Gaza conflict, groups like Human Rights Watch accused both the Israeli military and Palestinian militants of war crimes.[2] Because of the absence of worldwide legal recognition and support, Palestinians have remained vulnerable and devoid of protection. The Palestinian Liberation Organization (PLO), the legitimate representative of the Palestinian people, gained observer status at the UNGA in 1974, the same year it was formed.[3] The PLO represents Palestine in a diplomatic capacity, but has no authority over local governance. In essence, the PLO has no domestic legal authority. On the other hand, the Palestinian Authority (PA) is a body that has “municipal authority” over the Palestinian territories.[4] The PA was established as an interim governing body in 1993. While the PLO is prima facie superior to the PA, the latter has attained more political importance.[5] Accordingly, it has made several efforts to gain statehood recognition both at the United Nations and internationally, finally achieving formal recognition from the UNGA in 2012 when it received ‘non-member state’ status.[6] In 2015, after accepting the jurisdiction of the International Criminal Court (ICC), Palestine became a party to the Rome Statute and lodged a declaration under Article 12(3) alleging that Israel had committed war crimes in occupied Palestinian territory since 2014.[7] Consequently, on February 10, 2021, the Pre-Trial Chamber (PTC) ruled that it was competent to try the alleged war crimes and formally launched an investigation.[8] Although traditionally “only those accorded the status of statehood can be actors who count in the international legal arena,” [9] this note argues that the PTC ruling moved a step forward from this traditional stance by accepting a case brought by a non-state actor, making this decision a milestone development in international law. This note will first examine traditional theories of statehood for the purpose of constructing the status of Palestine’s statehood in international law, including constitutive and declaratory approaches. It will then analyse how the PTC approached the question of Palestinian statehood in its ruling. Finally, it will highlight the significance of this decision by establishing how and why this approach has triggered considerable progress in international law. This note concludes by arguing that the statehood of Palestine requires an assessment under the constitutive approach, rather than the declaratory one. In other words, scholars and global and international leaders should not assess Palestinian statehood by conforming to a particular theory but should evaluate the question with practical considerations in mind. II. Theories of Statehood In international law, there is no specific definition of what constitutes a ‘state.’ Scholars and theorists have developed several definitions, but they are not universal. According to Article 1 of the Montevideo Convention, for example, “the state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with other states.”[10] James Crawford has held this to be “the best-known formulation of the basic criteria for statehood.”[11] In essence, the state is a “sui generis legal entity operating and existing under its own authority and power.”[12] However, because of the lack of uniform rules and definitions regarding statehood, international bodies often face the dilemma of what precise definition to apply. Specifically, entities and organizations seeking to apply the Montevideo criteria must choose between two primary theories of statehood: the constitutive theory, which takes into account the element of recognition, and the declaratory theory, which excludes this element. According to the declaratory school of thought, the standards specified under the Montevideo Convention suffice to fulfil the criteria of statehood under international law. Recognition in this context is mere acknowledgment of the ‘fact’ that such an entity fulfils the criteria set forth.[13] This theory is significant in that it does not provide states with the privilege of recognizing or overlooking the identity of any entity based on their “political convenience.”[14] Instead, an entity becomes a ‘fact,’ and a lack of recognition cannot negate its statehood. However, scholars like Michele Pitta have critiqued this theory precisely because it undermines recognition, arguing that the Montevideo criteria cannot be the sole determiner of statehood because, without the additional element of recognition, would-be states would lack international personality and would be unable to benefit from their international rights.[15] If a state is to exist as a ‘fact,’ then it must also exist under international law.[16] Therefore, if a state fulfils all of the declaratory criteria, mere lack of recognition should not prevent it from exercising legal rights bestowed upon it as a state. The constitutive theory, on the other hand, asserts that it is the act of recognition that leads to the creation of a state.[17]Hence, formal acknowledgement by already existing states establishes the new entity as a state.[18] Mutual recognition is what forms the crux of this school of thought. Like the declaratory theory, the constitutive theory has its own challenges. Specifically, the theory fails to identify clear standards for statehood, such as the precise number of states required to grant legal recognition or the level of international recognition that an entity must receive. Additionally, in situations where only one part of the legal community recognizes an entity’s statehood, the question whether that entity is fully a state becomes murky. This is where the matter of self-determination comes into play. Self-determination is a principle of international law according to which a country can determine its own statehood by making their own government and controlling their own population. A focus on the principle of self-determination helps tip the scales in favor of Palestinian claims to statehood. III. Status of Palestine’s Statehood in International Law Having laid out the two main theories underlying the concept of statehood, it is now possible to apply them to the Palestinian context. The declaratory theory of statehood and the Montevideo criteria struggle to support the legal recognition of Palestine’s international statehood. Although Palestine does have a definitive and permanent population and Palestinians reside in both the West Bank and the Gaza Strip, the application of these criteria quickly runs into a number of challenging issues. For instance, Palestine’s “defined territory” remains unclear. Some argue that the West Bank and the Gaza Strip are territories of Palestine, while others argue that those territories constitute modern-day Israel, rendering the definition of Palestinian territory ambiguous.[19] Furthermore, the Palestinian Authority does not enjoy exclusive authority over these territories; some parts are co-administered with Israel (e.g., parts of the West Bank) and some administered by Hamas (e.g., the Gaza Strip), meaning that Palestine can point to no single entity that possesses effective control over the territory.[20] Additionally, the PA’s inability to retain exclusive authority over certain foreign policy decisions without Israel’s cooperation creates further difficulty. Hence, under the declaratory theory, which relies exclusively on the formal Montevideo Criteria, Palestine fails to meet many of the qualifications necessary to be considered as a state. The constitutive theory of state recognition, on the other hand, provides greater support for Palestinian claims to statehood. Under this theory, Palestine meets the criteria of statehood if other states recognize its statehood.[21] Such a formal acknowledgement may have come in the form of the UNGA’s 2012 resolution on the status of Palestine’s statehood.[22] The resolution received 138 votes in favor, 9 against, and 41 abstentions.[23] Consequently, Palestine was granted non-member observer state status in the United Nations.[24] While General Assembly Resolutions are not per se legally binding on U.N. member-states, leaving this decision’s impact on the legal determination of Palestinian statehood under international law unclear, they do assist in shaping the formation and content of international law, laying stronger foundations for more formal recognition.[25]

The fact that a majority of nations (138 in total) recognized Palestine’s statehood renders the constitutive theory an appealing instrument for Palestine to legally construct itself as a state. Nevertheless, complexities arise because the final vote was merely partial, not unanimous. Still, this partial recognition from the Resolution undoubtedly amounts to progress for Palestine in two aspects. First, it can fulfil the fourth of the Montevideo criteria, i.e., it can enter into relations with other States, bringing it a step closer to satisfying even the declaratory theory test. Second, even partial recognition may confer important benefits. For instance, the Institut de Droit International’s 1936 Resolution declares that “the existence of new States with all connected legal effects is not affected by the refusal of one or more States to recognize.”[26] Such language speaks in favor of Palestine’s recognition as a state even in the face of non-unanimous acceptance of the international community. While a declaratory approach leaves Palestine’s statehood disputed, under the more creative constitutive approach, it does satisfy qualities of a recognized state under international law. It is this latter approach that the PTC relied on in its ruling recognizing Palestine as a state for purposes of ICC jurisdiction. IV. Analysis of the Recent ICC Pre-Trial Chamber Decision On February 5, 2021, the ICC-PTC declared that it had territorial jurisdiction over the “Situation in Palestine.”[27] The PTC further stated that its jurisdiction extended to Gaza, the West Bank, and East Jerusalem.[28] In making this determination, the PTC faced the question of whether Palestine was a state such that it could bring a case before the ICC or whether it would be inconsistent with the objective of the Rome Statute to declare its jurisdiction over this extended territory. Generally, the ICC is not “constitutionally competent”[29] to decide issues of statehood.[30]Therefore, for the purposes of conferring jurisdiction in the context of the Rome Statute, the PTC concluded that because Palestine is a state party to the Rome Statute, Palestine is a ‘state’ for the objectives of Article 12(2)(a) of the Rome Statute.[31] The PTC anchored its decision in the text of the Rome Statute. The majority argued that because Palestine had already acceded to the Rome Statute as a state party, not admitting it would be conflicting and inconsistent with the objectives of the Rome Statute.[32] This resolved a previous lacuna in the statute’s procedure for admitting a party as a state to exercise its jurisdiction. As a prerequisite for ICC jurisdiction, the Rome Statute requires the conduct in question to have occurred on the territory of a “state,” and therefore acknowledges Palestine as a state party to the statute.[33]While the judges remained silent on the status of Palestine as a state in general under international law and were careful to limit their holding to the ambit of the Rome Statute, the crucial point is that the majority also depended on several UNGA resolutions.[34] For instance, the chamber alluded to the 2016 Security Council Resolution 2334, which reiterated the idea of a Palestinian state, the illegality of Israeli settlements in Palestinian Territory, and the subsequent obstacles to achieving Palestinian Statehood.[35] It also referenced the 2012 General Assembly Resolution 67/19, which addressed the right to Palestinian self-determination.[37] The majority also affirmed that the decision by the ICC should be in accordance with internationally recognized human rights, including self-determination.[37] In this context, the majority further noted that international bodies such as the United Nations and the ICJ had already recognized Palestine.[38] The Prosecutor, while agreeing with the PTC’s stance regarding jurisdiction, conveyed an alternative, more forceful position. While the PTC essentially limited its focus on self-determination in order to ensure the case would fall within the scope of ICC jurisdiction, the Prosecutor asserted that Palestine should enjoy statehood under international law generally, extending beyond the mere right to self-determination.[39] The Prosecutor also attempted to support an argument for statehood by delegitimizing the Montevideo criteria, claiming that the presence of Israeli settlements in Palestinian territory obviated Palestine’s need to fulfil such strict criteria as a defined territory.[40] Furthermore, the Prosecutor stated that statehood in international law should be a natural outcome of situations in which people enjoy a recognized right of self-determination.[41] Ultimately, the PTC’s decision is important because, as a formal international legal body, it can change the contours of the discussion on Palestinian Statehood under international law. Even though it cannot determine matters of statehood or bind the international legal community to its decisions, it can nevertheless help influence discussions that take place in other bodies regarding Palestine, progressively leading towards stronger and more formal recognition. V. Concluding Remarks: A Declaratory or Constitutive Approach to Statehood? This note aimed to highlight why the question of Statehood should be assessed under a constitutive, rather than declaratory approach. Instead of being constrained by the strict and formal requirements of the traditional Montevideo Convention, the best way to uplift a population in dire need of legal protection is to emphasize its right to statehood. International organizations like the United Nations and the ICC have made decisions in recent years that support this constitutive view of statehood. After the 2012 General Assembly Resolution set the stage for the PTC to proclaim ICC jurisdiction over Palestine by according it non-member observer status, the PTC made use of this opportunity to fill a lacuna in the Rome Statute by recognizing Palestine as a state for purposes of the ICC’s jurisdiction. Although none of these actions are conclusive on their own, Palestine can remain hopeful that it will someday soon achieve full recognition of its statehood status.

#### Recognizing Palestine Protects US National Security

Duss and Cohen 15 – The United States should recognize the state of Palestine; Matthew Duss is president of the Foundation for Middle East Peace. Michael A. Cohen is a fellow at the Century Foundation. <https://www.washingtonpost.com/opinions/the-united-states-should-recognize-the-state-of-palestine/2015/03/27/1815e9b4-d366-11e4-ab77-9646eea6a4c7_story.html> (MF)

This is not about punishing Israel; it’s about protecting U.S. national security. Recognizing Palestine would, by helping the two-state cause, address a key source of resentment toward the United States, making it easier for American policymakers to pursue other priorities in the Middle East, such as preventing an Iranian nuclear weapon, defeating the Islamic State and strengthening regional security partnerships. It would ease dealings with governments in Turkey, Egypt, Jordan and Saudi Arabia, which often agree with Israel’s regional strategy but revile its treatment of Palestinians. It would signal to the Israelis — and their neighbors — that the United States will act in its own interests, even when those interests conflict with a close ally’s views. And it would strengthen the Jewish homeland’s security (a long-standing U.S. national interest), as many in Israel’s security establishment [understand.](http://www.al-monitor.com/pulse/originals/2012/al-monitor/shin-bet-heads-occupation.html) Recognizing Palestine would also address a persistent foreign policy problem: the divide between America’s official policy of support for Palestinian statehood and its continued support for an Israeli government that deliberately impedes that goal.

#### US recognition facilitates a peaceful conclusion to the Palestine-Israel dispute. It would allow the US to be a honest broker in the negotiation and send a signal to Israel that recalcitrance will no longer suffice.

Duss and Cohen 15 – \*president of the Foundation for Middle East Peace, \*\*fellow at the Century Foundation (Matt and Michael, “The United States should recognize the state of Palestine,” *Washington Post*, Proquest)//BB

The Israeli-Palestinian peace process — the one that is supposed to end with a two-state solution — is on life support. Both sides in the conflict have made their share of missteps, but Benjamin Netanyahu, Israel’s prime minister, all but pulled the plug earlier this month by pledging during his reelection campaign that Palestine would never become a state on his watch. He reaffirmed the sentiment even as he dialed back the rhetoric after the vote. This position runs directly counter to U.S. national security goals.

A two-state solution has been an American policy for nearly two decades. In a 2002 speech, George W. Bush became the first president to explicitly call for the creation of an economically sustainable, demilitarized Palestinian state. “The establishment of the state of Palestine is long overdue,” he said in 2008. “The Palestinian people deserve it. And it will enhance the stability of the region. And it will contribute to the security of the people of Israel.” Today, virtually all American politicians, on both sides of the aisle, publicly support this outcome. But with Netanyahu standing in its way, how can the United States advance this goal?

By recognizing the state of Palestine.

This is not about punishing Israel; it’s about protecting U.S. national security. Recognizing Palestine would, by helping the two-state cause, address a key source of resentment toward the United States, making it easier for American policymakers to pursue other priorities in the Middle East, such as preventing an Iranian nuclear weapon, defeating the Islamic State and strengthening regional security partnerships. It would ease dealings with governments in Turkey, Egypt, Jordan and Saudi Arabia, which often agree with Israel’s regional strategy but revile its treatment of Palestinians. It would signal to the Israelis — and their neighbors — that the United States will act in its own interests, even when those interests conflict with a close ally’s views. And it would strengthen the Jewish homeland’s security (a long-standing U.S. national interest), as many in Israel’s security establishment understand.

Recognizing Palestine would also address a persistent foreign policy problem: the divide between America’s official policy of support for Palestinian statehood and its continued support for an Israeli government that deliberately impedes that goal.

Netanyahu, while paying lip service to the two-state solution, has relentlessly worked to undermine it during his three terms as prime minister — and not just by expanding settlements, violently suppressing unarmed protests and exacerbating the divisions between the West Bank and the Gaza Strip. He has offered no hope to the Palestinians. No wonder Palestinian President Mahmoud Abbas began asking other countries, and the United Nations, to recognize Palestine after a previous round of talks collapsed in 2010. Now that Netanyahu has admitted publicly what many already believed — that he’ll never play midwife to Palestine — it’s clear that if Washington wants to achieve this goal, it must seek another route.

The only way to end this conflict, presidents from both parties have argued for decades, is through direct negotiations between Israelis and Palestinians. That’s why U.S. officials have opposed unilateral measures, such as Palestinian-backed U.N. Security Council resolutions condemning Israeli settlements or efforts to join international organizations. But the path of direct talks is closed off, at least while Netanyahu remains in power: Palestinians are not going to sit down with an Israeli prime minister who campaigns on a rejection of their foundational demand. As one American official told us last fall, “There is not a Palestinian alive who believes that there is any hope for political negotiation with Netanyahu.” At a news conference Tuesday, President Obama said much the same: “What we can’t do is pretend that there’s a possibility of something that’s not there. . . . For the sake of our own credibility, I think we have to be able to be honest about that.”

Given this reality, it is pointless for the United States to initiate yet another round of talks that will accomplish nothing. But the Israelis and the Palestinians will eventually have to return to direct talks to negotiate issues such as national borders, dividing Jerusalem, the right of return for Palestinian refugees, the recognition of Israel as a Jewish state, the future of Israeli settlements and joint security arrangements. Recognizing Palestine now would lay the groundwork for those future negotiations. It would be an object lesson for Israelis about the costs of continued recalcitrance, and it would ensure that the United States plays a more effective role as a broker in talks by diminishing the dramatic power asymmetry that has bedeviled the peace process.

In some ways, recognition of Palestine would look awfully like an American seal of approval for Abbas and his actions. This is problematic, because he, too, has at times been a obstinate partner in the peace process. According to U.S. officials, he “shut down” when Obama presented him with a framework for future negotiations in the Oval Office in March 2014. He has dragged his feet on a deal in which Palestinian Authority security forces would take control of Gaza’s crossing points, a prerequisite for desperately needed relief and reconstruction in the territory. And in the 11th year of a four-year presidential term, he has not taken any serious steps to prepare Palestinians for national elections — even though this was an ostensible goal of his party’s reconciliation agreement last year with Hamas, the extremist group that rules Gaza.

Elections are particularly important because Abbas is a weak and embattled president. Any enduring agreement with Israel will require a Palestinian leader who is credible and legitimate. Recognizing Palestine would signal to its electorate that diplomacy (which Abbas favors) clearly works better than violence (which Hamas favors), serving as a powerful campaign argument for moderate Palestinian politicians.

Until then, in exchange for this diplomatic victory, the United States should require the Palestinian leadership to deal with a number of issues — the transfer of security authority in the Gaza Strip, an end to the crackdown on civil society in the West Bank, preparations for elections — while also making clear that international pressure on Israel cannot replace the hard bargaining and painful compromises that negotiations toward a final settlement require.

President Obama said Tuesday that it’s difficult to envision how a Palestinian state could be formed following Netanyahu’s negative comments during his re-election campaign. (Reuters)

None of this would affect America’s commitment to Israeli security. Washington should continue to ensure Israel’s military edge and deepen U.S. coordination with the country’s security establishment. The Hamas government in Gaza is a daily reminder that peace is a risky venture for Israelis. They must be secure in the knowledge that the United States has their back. The United States should also press Arab states to edge toward more open discussions with Israel, reiterating the promise of full normalization contained in the 2002 Arab Peace Initiative. This would reinforce to Israel the massive upside of a two-state solution.

In the end, recognizing Palestine would be both good for U.S. national security and consistent with basic American foreign policy values: support for self-determination and independence. Indeed, it was precisely these values that informed the U.S. decision to recognize Israel as an independent state in 1948. The past few years have seen millions of Arab citizens demonstrating, and sometimes giving their lives, for their rights and freedoms. We should join the 130 countries that already recognize Palestine, signaling that we share and support those goals for everyone, everywhere.

#### There is a clear harm: Palestinians face domination and subordination under Israeli settlerism

Salem 17 - Walid Salem is director of the Center for Democracy and Community Development and a lecturer at al-Quds University (Walid, “Apartheid, Settler Colonialism and the Palestinian State 50 Years On,” *Palestine-Israel Journal*, 22.23)//BB

The preceding overview shows that after 50 years of occupation the Palestinians are facing three combined processes of domination and subordination. The first is of a belligerent occupation that kills, arrests, shells and invades. The second is of an apartheid system of discrimination in favor of the settlers at the expense of the Palestinians. This is in addition to all the restrictions on the Palestinians’ freedom of movement and the “ghettoization” of their lives. The third is a growing settler colonial project that is territorialized at the expense of the Palestinian people, increasing deterritorialization. Between these three components, the balance falls in favor of the settlers, whom the Israeli army protects and the government legislates for. Moreover, one of the aims of the restrictions that are imposed on the Palestinians is the preservation of the settlers’ safety and security. Within this framework a typical settler colonial project can be identified with Israel representing the mother state and the colonial settlements as its daughter (Shtayyeh, 2016, p.24). Shtayyeh concludes accordingly that “[w] hen Netanyahu speaks about the two states, he means the settlers state over Area C that consists of 62 percent of West Bank, and a Palestinian entity that is attached to it” (Ibid). Similarities and contrasts with the Irish case are striking here. In terms of similarities, it can be seen that, in the beginning, the Irish faced a British settler colonialism, starting from the 12th century. However, after the growth in the number of British settlers in Northern Ireland, over the last two centuries, the issue became an internal one in Northern Ireland, where authority was shared between the settlers and the indigenous Irish citizens, while Britain became a mediator between the two sides, with its relative bias falling on the side of the settlers. As in Northern Ireland, two communities — one indigenous and one colonial-settler — are competing over the same territory. The indigenous community comprises 3 million living in West Bank and East Jerusalem, and the colonial-settler community consists of around 627,000 as of the end of 2016, representing more than one-fifth of the Palestinian population. The colonial settlers are more powerful than the Palestinians due to Israeli army and government support and the fact that they have their own militias and security patrols. Negating this similarity, power-sharing does not look to be an option between these two communities, as was the case in Northern Ireland. This is because, firstly, the international resolutions delegitimize the Israeli settlements established over the OPT. Secondly, the Palestinians reject the settlement project. Finally, the exclusivist nature of the Israeli Government vision does not leave any space for any sign of Palestinian sovereignty in the territories. That being said, one does not require special powers of prediction to see that it is only a matter of time before the big confrontation will start between the settlers and the Palestinians. The rehearsal for such confrontation is already represented by the daily attacks of the settlers against the Palestinians in the West Bank, which are usually carried under the Israeli army protection of the settlers. The UN Office of Coordination of Humanitarian Assistance (OCHA) and other organizations are doing a good job documenting these attacks.

#### Michelle Alexander and Angela Davis make a compelling case for US solidarity with Palestinians, and an end to the unconditional US support for Israel

---The Davis book referenced in this article is: Freedom Is a Constant Struggle: Ferguson, Palestine, and the Foundations of a Movement

---This article is cited and answered in this Hill article: https://thehill.com/opinion/international/426379-alan-dershowitz-time-to-tell-the-truth-about-the-palestinian-issue

Alexander 19 – author of The New Jim Crow, writer, civil rights advocate, and visiting professor at Union Theological Seminary (Michelle, “Time to Break the Silence on Palestine,” *New York Times*, Lexis)//BB

On April 4, 1967, exactly one year before his assassination, the Rev. Dr. Martin Luther King Jr. stepped up to the lectern at the Riverside Church in Manhattan. The United States had been in active combat in Vietnam for two years and tens of thousands of people had been killed, including some 10,000 American troops. The political establishment — from left to right — backed the war, and more than 400,000 American service members were in Vietnam, their lives on the line. Many of King’s strongest allies urged him to remain silent about the war or at least to soft-pedal any criticism. They knew that if he told the whole truth about the unjust and disastrous war he would be falsely labeled a Communist, suffer retaliation and severe backlash, alienate supporters and threaten the fragile progress of the civil rights movement. King rejected all the well-meaning advice and said, “I come to this magnificent house of worship tonight because my conscience leaves me no other choice.” Quoting a statement by the Clergy and Laymen Concerned About Vietnam, he said, “A time comes when silence is betrayal” and added, “that time has come for us in relation to Vietnam.” It was a lonely, moral stance. And it cost him. But it set an example of what is required of us if we are to honor our deepest values in times of crisis, even when silence would better serve our personal interests or the communities and causes we hold most dear. It’s what I think about when I go over the excuses and rationalizations that have kept me largely silent on one of the great moral challenges of our time: the crisis in Israel-Palestine. I have not been alone. Until very recently, the entire Congress has remained mostly silent on the human rights nightmare that has unfolded in the occupied territories. Our elected representatives, who operate in a political environment where Israel's political lobby holds well-documented power, have consistently minimized and deflected criticism of the State of Israel, even as it has grown more emboldened in its occupation of Palestinian territory and adopted some practices reminiscent of apartheid in South Africa and Jim Crow segregation in the United States. Many civil rights activists and organizations have remained silent as well, not because they lack concern or sympathy for the Palestinian people, but because they fear loss of funding from foundations, and false charges of anti-Semitism. They worry, as I once did, that their important social justice work will be compromised or discredited by smear campaigns. Similarly, many students are fearful of expressing support for Palestinian rights because of the McCarthyite tactics of secret organizations like Canary Mission, which blacklists those who publicly dare to support boycotts against Israel, jeopardizing their employment prospects and future careers. Reading King’s speech at Riverside more than 50 years later, I am left with little doubt that his teachings and message require us to speak out passionately against the human rights crisis in Israel-Palestine, despite the risks and despite the complexity of the issues. King argued, when speaking of Vietnam, that even “when the issues at hand seem as perplexing as they often do in the case of this dreadful conflict,” we must not be mesmerized by uncertainty. “We must speak with all the humility that is appropriate to our limited vision, but we must speak.” And so, if we are to honor King’s message and not merely the man, we must condemn Israel’s actions: unrelenting violations of international law, continued occupation of the West Bank, East Jerusalem, and Gaza, home demolitions and land confiscations. We must cry out at the treatment of Palestinians at checkpoints, the routine searches of their homes and restrictions on their movements, and the severely limited access to decent housing, schools, food, hospitals and water that many of them face. We must not tolerate Israel’s refusal even to discuss the right of Palestinian refugees to return to their homes, as prescribed by United Nations resolutions, and we ought to question the U.S. government funds that have supported multiple hostilities and thousands of civilian casualties in Gaza, as well as the $38 billion the U.S. government has pledged in military support to Israel. And finally, we must, with as much courage and conviction as we can muster, speak out against the system of legal discrimination that exists inside Israel, a system complete with, according to Adalah, the Legal Center for Arab Minority Rights in Israel, more than 50 laws that discriminate against Palestinians — such as the new nation-state law that says explicitly that only Jewish Israelis have the right of self-determination in Israel, ignoring the rights of the Arab minority that makes up 21 percent of the population. Of course, there will be those who say that we can’t know for sure what King would do or think regarding Israel-Palestine today. That is true. The evidence regarding King’s views on Israel is complicated and contradictory. Although the Student Nonviolent Coordinating Committee denounced Israel’s actions against Palestinians, King found himself conflicted. Like many black leaders of the time, he recognized European Jewry as a persecuted, oppressed and homeless people striving to build a nation of their own, and he wanted to show solidarity with the Jewish community, which had been a critically important ally in the civil rights movement. Ultimately, King canceled a pilgrimage to Israel in 1967 after Israel captured the West Bank. During a phone call about the visit with his advisers, he said, “I just think that if I go, the Arab world, and of course Africa and Asia for that matter, would interpret this as endorsing everything that Israel has done, and I do have questions of doubt.” He continued to support Israel’s right to exist but also said on national television that it would be necessary for Israel to return parts of its conquered territory to achieve true peace and security and to avoid exacerbating the conflict. There was no way King could publicly reconcile his commitment to nonviolence and justice for all people, everywhere, with what had transpired after the 1967 war. Today, we can only speculate about where King would stand. Yet I find myself in agreement with the historian Robin D.G. Kelley, who concluded that, if King had the opportunity to study the current situation in the same way he had studied Vietnam, “his unequivocal opposition to violence, colonialism, racism and militarism would have made him an incisive critic of Israel’s current policies.” Indeed, King’s views may have evolved alongside many other spiritually grounded thinkers, like Rabbi Brian Walt, who has spoken publicly about the reasons that he abandoned his faith in what he viewed as political Zionism. To him, he recently explained to me, liberal Zionism meant that he believed in the creation of a Jewish state that would be a desperately needed safe haven and cultural center for Jewish people around the world, "a state that would reflect as well as honor the highest ideals of the Jewish tradition.” He said he grew up in South Africa in a family that shared those views and identified as a liberal Zionist, until his experiences in the occupied territories forever changed him. During more than 20 visits to the West Bank and Gaza, he saw horrific human rights abuses, including Palestinian homes being bulldozed while people cried — children's toys strewn over one demolished site — and saw Palestinian lands being confiscated to make way for new illegal settlements subsidized by the Israeli government. He was forced to reckon with the reality that these demolitions, settlements and acts of violent dispossession were not rogue moves, but fully supported and enabled by the Israeli military. For him, the turning point was witnessing legalized discrimination against Palestinians — including streets for Jews only — which, he said, was worse in some ways than what he had witnessed as a boy in South Africa. Not so long ago, it was fairly rare to hear this perspective. That is no longer the case. Jewish Voice for Peace, for example, aims to educate the American public about “the forced displacement of approximately 750,000 Palestinians that began with Israel’s establishment and that continues to this day.” Growing numbers of people of all faiths and backgrounds have spoken out with more boldness and courage. American organizations such as If Not Now support young American Jews as they struggle to break the deadly silence that still exists among too many people regarding the occupation, and hundreds of secular and faith-based groups have joined the U.S. Campaign for Palestinian Rights. In view of these developments, it seems the days when critiques of Zionism and the actions of the State of Israel can be written off as anti-Semitism are coming to an end. There seems to be increased understanding that criticism of the policies and practices of the Israeli government is not, in itself, anti-Semitic. This is not to say that anti-Semitism is not real. Neo-Nazism is resurging in Germany within a growing anti-immigrant movement. Anti-Semitic incidents in the United States rose 57 percent in 2017, and many of us are still mourning what is believed to be the deadliest attack on Jewish people in American history. We must be mindful in this climate that, while criticism of Israel is not inherently anti-Semitic, it can slide there. Fortunately, people like the Rev. Dr. William J. Barber II are leading by example, pledging allegiance to the fight against anti-Semitism while also demonstrating unwavering solidarity with the Palestinian people struggling to survive under Israeli occupation. He declared in a riveting speech last year that we cannot talk about justice without addressing the displacement of native peoples, the systemic racism of colonialism and the injustice of government repression. In the same breath he said: “I want to say, as clearly as I know how, that the humanity and the dignity of any person or people cannot in any way diminish the humanity and dignity of another person or another people. To hold fast to the image of God in every person is to insist that the Palestinian child is as precious as the Jewish child.” Guided by this kind of moral clarity, faith groups are taking action. In 2016, the pension board of the United Methodist Church excluded from its multibillion-dollar pension fund Israeli banks whose loans for settlement construction violate international law. Similarly, the United Church of Christ the year before passed a resolution calling for divestments and boycotts of companies that profit from Israel’s occupation of Palestinian territories. Even in Congress, change is on the horizon. For the first time, two sitting members, Representatives Ilhan Omar, Democrat of Minnesota, and Rashida Tlaib, Democrat of Michigan, publicly support the Boycott, Divestment and Sanctions movement. In 2017, Representative Betty McCollum, Democrat of Minnesota, introduced a resolution to ensure that no U.S. military aid went to support Israel’s juvenile military detention system. Israel regularly prosecutes Palestinian children detainees in the occupied territories in military court. None of this is to say that the tide has turned entirely or that retaliation has ceased against those who express strong support for Palestinian rights. To the contrary, just as King received fierce, overwhelming criticism for his speech condemning the Vietnam War — 168 major newspapers, including The Times, denounced the address the following day — those who speak publicly in support of the liberation of the Palestinian people still risk condemnation and backlash. Bahia Amawi, an American speech pathologist of Palestinian descent, was recently terminated for refusing to sign a contract that contains an anti-boycott pledge stating that she does not, and will not, participate in boycotting the State of Israel. In November, Marc Lamont Hill was fired from CNN for giving a speech in support of Palestinian rights that was grossly misinterpreted as expressing support for violence. Canary Mission continues to pose a serious threat to student activists. And just over a week ago, the Birmingham Civil Rights Institute in Alabama, apparently under pressure mainly from segments of the Jewish community and others, rescinded an honor it bestowed upon the civil rights icon Angela Davis, who has been a vocal critic of Israel’s treatment of Palestinians and supports B.D.S. But that attack backfired. Within 48 hours, academics and activists had mobilized in response. The mayor of Birmingham, Randall Woodfin, as well as the Birmingham School Board and the City Council, expressed outrage at the institute’s decision. The council unanimously passed a resolution in Davis’ honor, and an alternative event is being organized to celebrate her decades-long commitment to liberation for all. I cannot say for certain that King would applaud Birmingham for its zealous defense of Angela Davis’s solidarity with Palestinian people. But I do. In this new year, I aim to speak with greater courage and conviction about injustices beyond our borders, particularly those that are funded by our government, and stand in solidarity with struggles for democracy and freedom. My conscience leaves me no other choice.

#### A very clear solvency advocate for US recognition promoting peace

Carter 16 - founder of the Carter Center, was the 39th president of the United States (Jimmy, “Jimmy Carter: America Must Recognize Palestine,” *New York Times*, Proquest)//BB

That prospect is now in grave doubt. I am convinced that the United States can still shape the future of the Israeli-Palestinian conflict before a change in presidents, but time is very short. The simple but vital step this administration must take before its term expires on Jan. 20 is to grant American diplomatic recognition to the state of Palestine, as 137 countries have already done, and help it achieve full United Nations membership. Back in 1978, during my administration, Israel’s prime minister, Menachem Begin, and Egypt’s president, Anwar Sadat, signed the Camp David Accords. That agreement was based on the United Nations Security Council Resolution 242, which was passed in the aftermath of the 1967 war. The key words of that resolution were “the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in the Middle East in which every state in the area can live in security,” and the “withdrawal of Israel armed forces from territories occupied in the recent conflict.” From left, President Anwar Sadat of Egypt, Prime Minister Menachem Begin of Israel and President Jimmy Carter of the United States in 1978 during the White House announcement of a Middle East peace agreement reached at Camp David. Credit Associated Press Image From left, President Anwar Sadat of Egypt, Prime Minister Menachem Begin of Israel and President Jimmy Carter of the United States in 1978 during the White House announcement of a Middle East peace agreement reached at Camp David. CreditAssociated Press The agreement was ratified overwhelmingly by the Parliaments of Egypt and Israel. And those two foundational concepts have been the basis for the policy of the United States government and the international community ever since. This was why, in 2009, at the beginning of his first administration, Mr. Obama reaffirmed the crucial elements of the Camp David agreement and Resolution 242 by calling for a complete freeze on the building of settlements, constructed illegally by Israel on Palestinian territory. Later, in 2011, the president made clear that “the borders of Israel and Palestine should be based on the 1967 lines,” and added, “negotiations should result in two states, with permanent Palestinian borders with Israel, Jordan and Egypt, and permanent Israeli borders with Palestine.” Today, however, 38 years after Camp David, the commitment to peace is in danger of abrogation. Israel is building more and more settlements, displacing Palestinians and entrenching its occupation of Palestinian lands. Over 4.5 million Palestinians live in these occupied territories, but are not citizens of Israel. Most live largely under Israeli military rule, and do not vote in Israel’s national elections. Meanwhile, about 600,000 Israeli settlers in Palestine enjoy the benefits of Israeli citizenship and laws. This process is hastening a one-state reality that could destroy Israeli democracy and will result in intensifying international condemnation of Israel. The Carter Center has continued to support a two-state solution by hosting discussions this month with Israeli and Palestinian representatives, searching for an avenue toward peace. Based on the positive feedback from those talks, I am certain that United States recognition of a Palestinian state would make it easier for other countries that have not recognized Palestine to do so, and would clear the way for a Security Council resolution on the future of the Israeli-Palestinian conflict. The Security Council should pass a resolution laying out the parameters for resolving the conflict. It should reaffirm the illegality of all Israeli settlements beyond the 1967 borders, while leaving open the possibility that the parties could negotiate modifications. Security guarantees for both Israel and Palestine are imperative, and the resolution must acknowledge the right of both the states of Israel and Palestine to live in peace and security. Further measures should include the demilitarization of the Palestinian state, and a possible peacekeeping force under the auspices of the United Nations. A strong Security Council resolution would underscore that the Geneva Conventions and other human rights protections apply to all parties at all times. It would also support any agreement reached by the parties regarding Palestinian refugees. The combined weight of United States recognition, United Nations membership and a Security Council resolution solidly grounded in international law would lay the foundation for future diplomacy. These steps would bolster moderate Palestinian leadership, while sending a clear assurance to the Israeli public of the worldwide recognition of Israel and its security. This is the best — now, perhaps, the only — means of countering the one-state reality that Israel is imposing on itself and the Palestinian people. Recognition of Palestine and a new Security Council resolution are not radical new measures, but a natural outgrowth of America’s support for a two-state solution.

#### Recognition gives Palestinians a stake in state decision-making

Cole 16 – PhD, Professor of History @ Michigan, His new book, The New Arabs: How the Millennial Generation Is Changing the Middle East (Simon and Schuster), will officially be published July 1st. He is also the author of Engaging the Muslim World and Napoleon's Egypt: Invading the Middle East (both Palgrave Macmillan). He has appeared widely on television, radio and on op-ed pages as a commentator on Middle East affairs, and has a regular column at Salon.com. He has written, edited, or translated 14 books and has authored 60 journal articles (Juan, “Now Is the Time for Obama to Recognize Palestine,” *Common Dreams*, <https://www.commondreams.org/views/2016/12/27/now-time-obama-recognize-palestine)//BB>

What is wrong with the present arrangement is that the Palestinians do not have citizenship in a real state. A state controls the water, air and land of a territory. The Palestine Authority controls none of those things. A state has a judicial system that can protect the basic property and human rights of a citizen. Palestine has none of those things. Important cases are kicked to the Israeli judiciary, which with a few exceptions tends to rule in favor of Israelis. And, a lot of decisions are made for Palestinians by the Israeli army or by colonial administrators. People who are stateless, in the phrase of Supreme Court Justice Earl Warren, do not have the right to have rights. It is unacceptable that millions of Palestinians should be kept stateless at the insistence of Israel. Prime Minister Binyamin Netanyahu has even vowed that he will not allow a Palestinian state as long as he is in power (a violation of the Oslo Peace Accords). The reason that all these decades of negotiations have proved fruitless is that the Palestinians, as stateless, don’t really have standing to negotiate. You can renege on agreements with stateless people at will, as Netanyahu has repeatedly done, without fearing any consequences and without the stateless having recourse. So you can’t start with negotiations. You have to start by addressing Palestinians’ lack of citizenship. It should be noted that the National Socialists in Germany stripped German Jews of their citizenship, in preparation for committing a Holocaust against them or driving them out of their homes as refugees. (Let’s see, sniffed Goebbels, if any of their liberal champions will want them then.) The Nazis understood very well that you can do with Stateless people what you will, and that no one will effectively so much as object. For the Zionist right wing, Israel comes as a solution to the problem that Jews are always in danger of losing their citizenship rights when they are citizens of other states. (This was a problem of the 1930s; it is not clear that it is perennial or universal– contrast with the US). Moreover, in a nuclear-armed world, the idea that a state can protect you from another holocaust is a false messiah; ask the people of Hiroshima and Nagasaki. In any case, solving the artificially created problem of Jewish statelessness cannot come at the price of creating Palestinian statelessness. One way or another, I insist on the problem of Palestinian statelessness being solved. I don’t care how it is solved. They can become Israeli citizens, or Palestinian citizens. But they have to be citizens of something. Otherwise, we will continue to see serial disasters befalling them, and the injustice being perpetrated on them will continue to generate security risks to the US. The chair of the executive committee of the Palestine Liberation Organization, Saeb Erekat, said Monday that the Palestinian leadership was invigorated by the UN Security Council resolution condemning Israeli colonization of the Palestinian West Bank. As a result, it would redouble its efforts to achieve full membership in the United Nations for the State of Palestine. Likewise, he said, the Palestinians would take their case to the International Criminal Court at the Hague, charging Israeli officials with various crimes against the international law of occupation, chief among them flooding their own citizens as colonizers into the Occupied Territory. Erekat recognizes that the Palestinian cause will go nowhere until Palestine has some of the perquisites of a state, such as UN membership and ability to take cases to the International Criminal Court. So here we come to President Obama. Just as he established diplomatic relations with Cuba, so he could do the same with regard to Palestine. It would be one step toward resolving the decades-old problem of Palestinian statelessness.

#### Recognition of Palestine breaks the cycle of self-interested politics and promotes Israel-Palestine peace

Stokes 16 – Ph.D., @ University of Pittsburgh for his research on the recognition of Tibet, Taiwan, and Palestine (DaShanne, “Is This The Real Reason The U.S. Doesn’t Recognize Palestine?,” *Huff Po*, <https://www.huffpost.com/entry/is-this-the-real-reason-why-us-wont-recognize-palestine_b_9777246?utm_hp_ref=taiwan>)

As a political sociologist, I am most familiar with the inner workings of political recognition. Through recognition, the practice of acknowledging an entity’s statehood, governments open the doors to treaty relations, trade, foreign aid, and, potentially, membership in the United Nations. Recognition offers hope, the promise of equality and having a nation’s voice heard on the world stage. But it also provides leverage by which powerful states like the U.S. can extract concessions and meddle in internal affairs. Look at the enduring conflicts surrounding suppressed states like Taiwan and Palestine, which the U.S. does not recognize—the decades of bloodshed between Israel and Palestine, the Chinese missiles aimed at Taiwan since the third Taiwan Strait Crisis in 1996—and the costs of being unrecognized become blazingly clear. During my research into the United States’ refusal to recognize the statehood of Palestine, I found that the state of Palestine was recognized by a higher percentage of governments at the time of its failed application to the U.N. in 2011 (68 percent) than Israel was (64 percent) when it was successfully admitted in 1948. Contrary to claims, the primary reason for this wasn’t Palestinian unilateralism and belligerence. No, the real reason was U.S. obstructionism and efforts designed to blame the Palestinian people—depicting them as unreasonable unilateralists in order to further U.S. and Israeli interests. By withholding recognition and blocking its admission to the U.N., the U.S. has attempted to force Palestine into accepting statehood that, by design, fixes the game by ensuring a “qualitative military edge” for Israel. I can’t imagine anything less democratic, less American. That military edge goes well beyond arguments about what is “right” and “just.” Privileging Israel by denying recognition to Palestine strengthens America’s strategic foothold in an oil producing region. It also supports Israel as a client market for U.S. weapons sales. By 2015, American aid to Israel had long surpassed the $100 billion mark, transforming Israel into one of the top ten arms suppliers in the world. Withholding recognition, it turns out, is big for business. And it doesn’t end there. The U.S. has reaped billions more by strategically withholding recognition from Taiwan, too. By denying recognition while still treating Taiwan like an independent state by selling it weapons to defend itself from the invasion of China, the United States has helped perpetuate Taiwan’s ambiguous international position while setting it up as a lucrative client for U.S. arms sales in the Asia-Pacific. Last year, the Obama administration authorized the sale of $1.83 billion in arms to Taiwan. This was over and above the $23.59 billion (not adjusted for inflation) made since 1980 as reported by the Arms Control Association in 2012. There are several reasons why the U.S. recognition game has become a political racket. First and foremost is that with no central authority to provide oversight, state leaders are free to interpret the “facts” of an entity’s statehood in ways that support stereotypes and further their own interests. Furthermore, as I found in my research on the recognition of Taiwan and Palestine, the institution of recognition has built within it an institutionalized privilege for Great Powers like the United States. Such states wield disproportionate power and influence, such as in the United Nations Security Council, and they typically do everything they can to ensure that the game remains fixed in their favor. As we’ve seen time and time again with Taiwan and Palestine, this creates a self-reinforcing cycle: suppressed states fight for their rights by seeking recognition, recognition is denied in order to further self-interests, and the conflict continues—with those on top reaping the benefits. If the U.S. is to be taken as anything other than a bully, and if we truly have an interest in creating a lasting peace in the Middle East and across the Taiwan Strait, it will not be through denying recognition of Taiwan and Palestine in order to further American self-interests. We must acknowledge and take responsibility for the conflicts we have helped to create, and act to create real change. That, after all, is the true hallmark of democracy — a commitment to justice, honest self-appraisal, and action — even when it means challenging ourselves and the political institutions we hold most dear.

#### It’s key to lasting peace

Cole 14 – PhD, Professor of History @ Michigan (Juan, After Cuba, Obama Can Make History by Recognizing Palestine, https://www.thenation.com/article/after-cuba-obama-can-make-history-recognizing-palestine/)//BB

Now that President Obama has broken the taboo on recognizing Cuba, he should send a US ambassador to Palestine as a prerequisite for a comprehensive peace treaty. Palestinians, as stateless, not only lack most basic human rights, they do not even have a right to have such rights. Their property is unstable—they never know what they actually own, and whatever they think they own can be usurped at will. Their farms are encroached on; their olive orchards sabotaged; their wells go dry because Israeli squatters dig deeper ones and extract the water for agriculture on Palestinian land. Sometimes they are murdered with impunity by militant, armed squatters, while they are kept unarmed and vulnerable by the occupation military. An epochal evil was done the Jewish people by European fascists, who murdered 6 millon of them in death camps in the 1940s. But a great wrong was also done to the Palestinian people in 1947-48, when the British Mandate of Palestine was partitioned into Israel and Palestinian territories that came to be held in trusteeship by Egypt and Jordan. In the course of the war, involving some 500,000 Jewish settlers and various ragtag Arab armies (with a similar number of troops), about 720,000 Palestinian noncombatants, out of 1.2 million, were chased from their homes without compensation. As late as 1939, British authorities envisaged establishing an independent Palestinian state in 1949, just as post–World War I European Mandates in Syria and Iraq eventuated in independent states. The 1948 war and ethnic cleansing of Palestinians, called the “Nakba,” or “Calamity” in Arabic, forestalled any such Palestinian state. In 1967 Israel took the Gaza Strip and the West Bank (along with the Golan Heights and the Sinai) as colonies in the aftermath of the war with Egypt, Syria and Jordan, gaining millions of Palestinian subjects and creating another wave of refugees. The United Nations charter forbids the acquisition of territory by military conquest—and despite what apologies for this colonialism argue, there is no exception for territory inhabited by stateless people. The framers of the UN Charter certainly did not intend to allow any form of aggressive conquest and annexation of territory, much less against the weak. The Israelis decided from the 1970s to contravene the Fourth Geneva Convention of 1949 on the treatment of occupied peoples, which forbids the militarily dominant power from flooding its population into the occupied territory, (e.g., the United States could not have expelled people from Basra in Iraq in 2004 and brought millions of Americans to settle in the country, without also contravening international law). Because the Palestinians in the occupied territories have no right to have rights, no agreement made with them can be enforced. All of the promises the Israelis made in the Oslo peace accords have been reneged on by now. Netanyahu once even boasted of this achievement. In the 1990s, not only did the Israelis not gradually withdraw from the West Bank as they had undertaken to do, but they doubled the number of Israeli squatters on Palestinian territory in the eight years after the so-called peace accords. Israeli complaints about the rise in the 1990s of a new wave of terrorism by Palestinian militants are just, but do not justify putting several hundred thousand squatters on Palestinian land and undermining the authority of the Palestine Authority altogether. If the Israeli policy of torpedoing the Oslo Accords had been a security success, we would not still be hearing about the insecurity of Israelis today from Hamas, Islamic Jihad and so forth. Secretary Kerry’s attempt to conclude another set of accords was therefore always quixotic and doomed to failure. A powerful Israeli state simply has no reason to abide by its commitments with a stateless, weak people divided into bantustans and encircled by checkpoints. If Palestinian statelessness is at the root of the crisis, then the solution is obvious. The Palestinians must erect, and be recognized as, a state. Israeli squatting on Palestinian territory is theft on a grand scale, i.e., a tort. Palestinians, as stateless, have no forum in which they can adjudicate this tort. The United States decries the Israeli settlements verbally, but hypocritically does whatever is necessary to protect the squatters and their backers. For this reason, the acceptance by the United Nations in 2012 of Palestine as a non-member observer state was a significant advance. Likewise positive are Sweden’s recognition of Palestine and the rash of Western European parliamentary resolutions this fall in favor of doing so (in Britain, France, Spain, Ireland and Portugal). Palestine’s current moves toward joining the International Criminal Court are all to the good, since the court can deploy the Rome Statute of 2002 to sanction Israeli squatting on Palestinian land and any policies that amount to apartheid. Unlike with United Nations Security Council Resolutions, an ICC judgment cannot be blocked by a United States veto. If President Obama truly wants to make a mark on history, authorizing Secretary Kerry for more, likely fruitless negotiations or easily derailed agreements is not the way to do it. Rather, he should show the boldness he did with regard to Cuba, and simply recognize Palestine and send a US ambassador to East Jerusalem. (This step would not imply a demand that Jerusalem be partitioned administratively; Chandigarh in India is the capital of two states, after all). Only a recognized Palestinian state can make peace, but more importantly, only such a state has standing in international institutions to help guarantee that agreements with it are honored.

#### Empowers Palestinian moderates, promotes peace

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As the founders of the United States wrote in the Declaration of Independence, an effectively governed state that keeps order and fosters the well-being of its citizens is an essential means of guaranteeing basic human rights and civil liberties. It is also something that the Palestinians have been denied for too long now. The world seems to have delegated the decision of whether and when the Palestinians will have their own state to Israel. But negotiations between the Palestinians and Israel were already unlikely to lead to a viable Palestinian state before the election of Benjamin Netanyahu as Israeli prime minister. Now it is no longer certain they will continue. Netanyahu's speech at a Likud central committee meeting in 2002 sums up his view of a Palestinian state: "Not today, not tomorrow, not ever." Although Netanyahu's stance has evolved little since then, it is time for the rest of the world, and especially the U.S., to adopt a new one. To retake the initiative, the U.S. must unilaterally recognize a Palestinian state now, with the expectation that its allies will almost certainly follow its lead -- and that Israel will at the very least acquiesce at first, and in all likelihood eventually follow suit. The U.S. Constitution gives the president the power to recognize a foreign state, without the need to consult Congress. President Barack Obama should announce that the U.S. will recognize Palestine, within the "green line" borders, subject to three conditions: First, there should be fresh elections for the Palestinian parliament and the formation of a government responsible for the whole territory. Second, the government of Palestine should accept -- with explicit reference to Israel, which it must recognize -- the ordinary obligations of every state not to attack other states and to prevent the use of its territory to launch attacks on other states or their citizens. Third, the government of Palestine should guarantee the safety and rights of minorities living within its territories, including Jews living in the West Bank. The conditions should not require any explicit acknowledgement of Israel's "right to exist as a Jewish state," the so-called "Recognition-Plus." Enforcement of the second condition would be enough to protect Israel's existence. On the other hand, Israel should not be expected to dismantle its West Bank settlements. Settlers who remain there will simply be Israeli residents -- or, if they choose, Jewish citizens -- of Palestine, just as there are Palestinian residents and citizens of Israel. Neither should there be any demand that Israel accept a "right of return" for Palestinian refugees. In fact, the proposal requires nothing of Israel except acquiescence. Afterwards, the two states would be free to negotiate further accords, which could include border adjustments and voluntary exchanges of population. But they would be doing so as two sovereign nations with recognized borders. Will the Palestinians accept these conditions? Possibly not, at least not at first. But the offer should remain on the table. Even if they never accept it, the situation will be none the worse for it having been made. In that case, the "peace process" can continue down its endless path to nowhere. Will Hamas win the fresh elections? Possibly. But regardless of who constitutes the future government of Palestine, recognition will be withheld until it undertakes not to make or allow attacks on Israel. (A Palestinian government will of course need financial aid and other help to maintain control throughout its territory.) Will Israel acquiesce? The Netanyahu government will probably object. The U.S. might even have to face down the threat of military action. But acceptance should come when Israelis consider what their long-term options are. Israel will be better off living next to a Palestinian state whose government is committed not to make or allow attacks on Israel than it will be if there is no settlement to the current cycle of violence. Enforcing that commitment may turn out to be beyond the Palestinian government's power. But even in that case, Israel and the U.S. will be no worse off than they are now. The "peace process" before Annapolis was based on the proposition that the Palestinians don't deserve to have their own state until they are all peaceable and well behaved. This puts the cart before the horse. As was well understood by John Locke and other writers whose ideas are reflected in the Declaration of Independence, human beings need government in order to become peaceable and well-behaved. The U.S. approach must now recognize that the restraint of violence can only be accomplished by the non-violent members of a society. Only Palestinian moderates can stop the Palestinian extremists' rockets, and they are more likely to succeed with the legitimacy -- and force -- of a recognized sovereign state than as collaborators with an occupying power.

#### There is a security K aff

Olesker ’18

(Ronnie Olesker, Middle East Journal, “Securitized Diplomacy: Israel’s Jewish Identity and the Israeli-Palestinian Peace Process, VOLUME 72, NO. 1, WINTER 2018, <HTTPS://DOI.ORG/10.3751/72.1.11>, Accessed 4/17/2019, PIA)

In the summer of 2013, the administration of United States president Barack Obama embarked on a robust, new diplomatic effort to broker peace between Israel and the Palestinians. United States Secretary of State John Kerry engaged in an intensive nine month shuttle diplomacy effort that ended in failure. The negotiations were officially halted in April 2014 after Hamas and the Palestine Liberation Organization (PLO) signed a pact to form a unified government, and Israel refused to honor its commitment to release a fourth round of Palestinian prisoners. One of the main points of contention revolved around the Israeli demand that the Palestinian leadership recognize Israel as a Jewish state — a demand that the Palestinians rejected out of hand. Israeli prime minister Binyamin Netanyahu made this demand a cornerstone of the negotiation, resulting in the Americans spending considerable time on this item. Secretary Kerry seemed baffled by the demand since he considered it a nonissue: the “‘Jewish state’ [issue] was resolved in 1947 in Resolution 181 where there are more than 30–40 mentions of [a] ‘Jewish state.’”1 Kerry added that the late PLO chair Yasir ‘Arafat had made reference to the fact that he had already accepted Israel’s existence as a Jewish state in 1988 and again as president of the Palestinian Authority (PA) in 2004.2 Netanyahu, for his part, stated that this recognition was “the real key to peace” and a “minimal requirement” or “essential condition” for negotiations to move forward.3 Israel’s focus on a Palestinian recognition of its Jewish character as part of the peace negotiation process raises important questions. Was this merely a negotiation ploy on Netanyahu’s part to stall and perhaps derail the negotiations, as some have argued,4 or was this part of a larger process of securitizing the Jewish identity of the state in such a way that Palestinian recognition becomes essential to Israeli security? After all, Palestinian recognition of Israel’s Jewish character has no material effect on Israel’s existence. Why, then, have recent Israeli governments adopted this demand as a precondition to the resolution of its conflict with the Palestinians, and can securitization theory help explain the failure of the last major diplomatic effort to resolve the Israeli-Palestinian conflict, led by Secretary Kerry in 2014? Securitization theory was first articulated by the so-called Copenhagen School of International Relations theory. In its original formulation, securitization theory saw security as a speech act in which actors that have the authority and capability to speak about security do so with regard to a specific issue, thereby reconstructing it into a matter of national security.5 This process then removes the issue from normal politics, allowing the actor (or securitizing agent) to construct the issue as exceptional, requiring extraordinary and often undemocratic measures to address the threat.6 To securitize means to construct issues (referred to as referent objects by the theory) as existential threats that require responses “outside the normal bounds of political procedure”7 by speaking about them in such a way that an intended audience — usually, the citizens of the country or members of specific groups — will accept the reconstruction. For example, political elites may securitize the issue of immigration by portraying immigrants as a national security threat to the general population that requires a response from the state that violates accepted norms, such as denying immigrants basic rights of due process.8 Securitization is therefore a framework of analysis that allows us to trace processes in which issues are constructed as matters of national security. For the securitization process to be successful, it must resonate with the intended audience.9 Securitization theory assumes that policy-making takes place in the public sphere where the audience is afforded an opportunity to provide the acting authority with legitimacy for its actions. Though originally based on speech acts, or utterances, “performed” by political elites, the theory has since acknowledged that securitizing acts can include texts, words, images,10 or physical acts such as protests.11 When an issue is securitized, it becomes the object of security policy. For example, when the national identity of a state is securitized, political actors are constructing it in such a way that any challenges to the national identity of the state are seen as threats to national security. Demography, language, and culture all become elements of a state’s security policy. Thus, not only territory but identity too can be defended as a referent object of national security policy.12 This article examines the move by the government of Binyamin Netanyahu to include nontraditional security concerns, namely the demand that the Palestinians recognize Israel’s Jewish identity, in Israel’s preconditions for peace negotiations. In doing so, the article first considers whether securitization theory can successfully be applied to cases that do not fit the traditional Westphalian understanding of statehood. If securitization is an appropriate framework for analyzing security moves outside of the Euro-American context, can it be used to explain why the state of Israel has incorporated its demand that the Palestinians recognize Israel as a Jewish state into a broader national security narrative? The study establishes that despite its European origin, securitization theory is adaptable to contexts outside of the liberal nation-state and can be very helpful in understanding the current stalemate in and intractability of the Israeli-Palestinian peace process and, in particular, the failed nine-month negotiation process led by Secretary Kerry in 2014. Using empirical evidence from this case study, the article contends that while securitization theory does have temporal and spatial application to other non-Western contexts, local context serves to modify some of its normative assumptions about societies as cohesive units of analysis. The article further argues that Israel’s securitization of its Jewish character, and in turn the demand that Palestinians recognize it as part of the negotiation process, was not merely a negotiation tactic but linked by political elites to the Jewish experience and even Zionism itself — the raison d’être of the state. The argument first begins with the question of whether securitization is limited in its empirical applicability to liberal nation-states. Holger Stritzel’s translational approach is explored, and the tenets of securitization as a concept of process are carved out. I then explore the applicability of securitization theory to the Israeli case and employ it to explain the failure of the latest round of negotiations between Israel and the Palestinians. I conclude by arguing that the Israeli demand is part of a long, ongoing process of securitizing the state’s Jewish identity The question of whether securitization theory is applicable to contexts outside of Europe and North America, and if so to what extent, has been heavily debated in the literature in recent years. Critics have argued that the theory’s assumptions are based on Euro-American concepts of state and political culture that may not be valid outside those contexts. In particular, Claire Wilkinson warned that in applying securitization theory outside of Western frameworks, the analyst may be editing and Westernizing security dynamics without taking into consideration local sensitivities and conditions.13 For example, audience acceptance may not be easy to gauge in societies with little to no governmental accountability to the public. In deeply repressive societies, the audience may be forced to accept any construction of threat by political elites. Without adjusting the theory to local settings, we may in fact be sustaining structural power dynamics that maintain and promote Euro-American interests. A notable example of this would be pundits’ assumptions that the lack of protests in Saudi Arabia indicates broad acceptance of the Kingdom’s alliance with the US or that, until 2011, Egyptians favored neoliberal economic reforms under Husni Mubarak. In other words, the Eurocentrism at the base of the theory is — as two of the pioneers of securitization theory, Barry Buzan and Ole Wæver, themselves acknowledged — “hugely distorting.”14 While scholars like Pınar Bilgin critiqued the universal appeal of the theory,15 studies have repeatedly pplied it to cases in Africa,16 Asia,17 and more recently, the Middle East.18 How then is securitization theory applied to cases characterized by a lack of transparent policy-making or in which the societal security of the “we” is still disputed? Scholars who have focused on the applicability of the theory outside Europe have largely focused on the role of the audience in repressive or semi-free societies.19 There has been less focus on the underlying assumptions securitization theory makes regarding what “society” or “nation” mean, particularly when referring to the societal sector of security policy that focuses on the security of identities.20 Societal security refers to the security of communal identity. A threat to societal security emerges when issues are constructed as threats to the (hegemonic) communal identity.21 In other words, societal insecurity emerges when “we” perceive a threat to our ability to exist as “us.”22 State security is concerned with threats to sovereignty; societal security is concerned with threats to identity.23 Thus, while a state may be secure, societies within it may remain insecure.24 The main criticism of applying securitization theory outside North American or European contexts, however, centers on the argument that the path by which these societies came to be is very different. Therefore, concepts of “state” and “society” may not correspond in meaning to the same terms used in the liberal nation-states of the West.

#### This area would allow affs to challenge realist theories of IR

Salem ’18

(Walid Salem, The Center for Democracy and Community Development – East Jerusalem, P.O. Box 20510 (Salah Eddin Street Post Office), East Jerusalem-Via Israel, “Beyond Exacerbating Asymmetry and Sustaining Occupation: An Alternative Approach for United States Intervention in the Israeli-Palestinian Conflict”, International Negotiation 23 (2018) 97–123, Accessed 4/17/2019, PIA)

Lessons from the past can serve as a starting point for future American intervention in the Israeli-Palestinian conflict. The main lesson learned is that realism does not work and that a transformative constructionist approach is required. The realism approach has been used in the Palestinian-Israeli conflict for the last 25 years. The starting point for realism is power and interest. Israel, as a state, enjoys an upper hand over the stateless Palestinians. Of note is the fact that realism was not the approach of Track 2 Israeli-Palestinian engagements beginning in the 1960s (Kaufman, Walidet & Verhoeven 2006). But it has been the American approach to mediation since Madrid in 1991, giving Israeli demands more credibility. Israeli-created settlements in the West Bank have become bargaining chips. Discussions focus on which parts of the territory should be kept and which should be annexed by Israel, instead of focusing on providing settlers the option to stay in a Palestinian state as citizens of Palestine or to migrate back to Israel. Realism also favors Israel at the expense of the Palestinians by designating Jerusalem as the capital of Israel, while granting Palestinians control over certain areas of the city, such as Al-Haram Al-Sharif. Another issue relates to territorial swaps. These have occurred as a result of the establishment of Israeli settlements and have been supported by what Israel deems its security needs. But such security concerns are reserved for only one party. Palestinians have also been asked to be realistic about the right of return for refugees to Israel, and to accept that only a symbolic number of refugees may ever be given the right to go back to Israel. These rights, of course, will remain subject to Israeli approval and involve a complex formula consisting of eligibility, criteria and numbers. Palestinians were asked to recognize Israel as a Jewish State, which automatically eliminated the rights of Palestinian refugees and, at the same time, put at risks the rights of Palestinian citizens of Israel. This realism has had three main problems since the beginning of negotiations between the two sides. The first is that it dealt with the West Bank, East Jerusalem and Gaza Strip as areas under dispute, not areas where a Palestinian state could live in peace and security beside Israel. Second, it accepted the asymmetry in power relations between the two sides, recognizing Israeli facts created in East Jerusalem and the West Bank as irreversible, and therefore a bargaining chip between the two sides. Finally, the Palestinian state’s size, territory, borders, date of establishment, and political, economic and security structures, are all topics subject to Israeli approval through specified negotiation parameters. This has given Israel veto power over the establishment of the Palestinian state based on 1967 borders over the last 24 years of negotiation. In this regard, Israel accepted the establishment of a Palestinian state, but not in accordance with 1967 borders, with East Jerusalem as its capital, or with sovereignty over borders. The annexation of large blocks of land for Israeli settlements continued, while a solution to the Palestinian refugee 106 Salem problem is continually ignored. With these reservations, the Israeli proposal is less about creating a Palestinian state alongside Israel and more about creating a Palestinian state based on land leftover after Israeli annexation of East Jerusalem and the settlement blocks. This realism is contradictory not only to the UN Charter and UN resolutions pertaining to the Palestinian-Israeli conflict, but also to the spirit of the Oslo agreement. As it stands (circa 2015), the establishment of a Palestinian state within this framework has led to the creation of a larger Israel or what Erekat (2015: 16) calls, “one state, two systems.” Israeli control spreads across most of historic Palestine, with two different systems in place: one for Israelis, including settlers living in on Palestinian territory, and another for Palestinians, who are discriminated against on their own lands. The outcome of this realism is a win-lose position that considers a two-state solution increasingly at risk as Israel expands into Palestinian territories. Are such facts reversible? Within the framework of realism, they lead to deepening divides and the growth of Israel at the expense of a collective transfer of Palestinians. The solution proposed here is a constructionist transformative approach for American engagement to solve the Palestinian-Israeli conflict. This approach is constructionist because it aims at creating a historical process for the construction of the state of Palestine by the United States.1 As constructionism might fall into the trap of relativism, it is combined here with the transformative approach. This approach aims to bring about structural changes within institutions which would do away with violence and asymmetry. In this sense, the transformative approach is one that includes bottom-up processes that build the political, economic and social structures of the weaker side in the conflict. In addition, it also fosters rights-based relationships between the antagonist parties (Galtung 2014; Lederach 2003; Ramsbotham, Woodhouse & Miall 2008: 29). Such a constructionist transformative approach differs from realism, which focuses on the use of power – mainly physical – to solve conflicts through topdown processes. A constructionist transformative approach would require the United States to use its power and leverage, but at the same time requires that it not limit its role to the use of that leverage. In the Israeli-Palestinian conflict, such an approach would have several characteristics. The first is that it would transform the conflict from a protracted or intractable conflict (Ramsbotham, Woodhouse & Miall 2008: 43–47, 84–89) 1 Constructionism is different from constructivism as a result of its focus on history and the role of social rather than individual actors (Delanty 2005: 140; Andrews 2012). because it does not recognize the facts created on the ground as being irreversible. For example, such facts could include those that separated East and West Germany with the Berlin Wall or those that created the French settlement projects in Algeria, both of which were ultimately reversed. Israel also reversed the settlement project in Gaza with a decision by Prime Minister Sharon in 2005. The same is true of the Israeli separation barrier in the West Bank, which could be dismantled or rebuilt at 1967 borders, instead of inside the territory of the West Bank. Moreover, the Israeli settlement projects could also be brought to an end fully or partly if there is political will. The second characteristic is that such an approach would allow the United States to create a multilevel system of top-down and bottom-up approaches (i.e., economic, political, security) working with international, regional and local actors through bilateral and trilateral levels of implementation.

#### There are answers to Wilderson’s critique of Black-Palestinian solidarity

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A glaring absence of Black radical and revolutionary intellectual history should be expected from any expression of “Afro-pessimism.” Indeed, could Afro-pessimism 2.0 take hold as another trend in mainstream academia except in the political void produced after the 1960s and ‘70s by local as well as global counter-revolution and counter-insurgency? This absence affects the shape and agenda of the critical analysis of “anti-Black racism” in essential ways. Wilderson’s critique of the “ruse of analogy” in Red, White & Black becomes a refrain that naturalizes academic approaches to politics now institutionalized with the continued reign of Western bourgeois liberalism. For older and enduring Black radical perspectives, the existence of “anti-Black racism” among non-Black peoples, organizations, and movements is neither a new nor shocking phenomenon. For many Black revolutionary movement logics of the ‘60s and ‘70s, for instance, this did not preclude alliance (or the exhaustion of alliances made) or lead to a doctrinaire rejection of “solidarity” work and its international (or “intercommunal”) possibilities.27 “Contradictions” were expected, so to speak, in theory and practice, which might be resolved or not, depending on material interest, circumstance, etc. For them, this work was not about gauging identity, or the perfection of a projected analogy, but mobilization for the political accomplishments of revolution—a revolutionism that could or may not work toward the development of a new humanism not white or racist or anti-Black after all. The reach for potential solidarities was not construed as a gift or an act of good-willed benevolence, wise or unwise given the risks. Even solidarity work with obviously problematic, openly enemy forces could be a strategic or tactical mode of advancing Black collective self-interests that might dispense with any alliance at any given moment in time without seeing the relationship as a statement of some total identity or non-identity of condition and interests. The notion of solidarity has nowadays been superficialized, remaining riveted on mere rhetorical proclamation and aesthetic or representational identification in neo-colonial culture industries here and there. An older, praxical approach to alliance, perhaps “analogy,” and solidarity is not taken up by current analyses of identity conflicts that prevail with the resurgence of a more academic political-intellectualism and a now much less contested liberalism. This is imperial “multiculturalism” and its malcontents. As much as Afro-pessimism (2.0) may object to certain instances of liberalism, or regulation white racist liberalism at least, it assumes these Western epistemic frameworks of white academic liberalism all the same, thereby ensconcing the colonialism and neo-colonialism it constantly and symptomatically denegates in text after text.

Black anti-colonialism / anti-colonialist Blackness

The great anti-colonialist poet of Négritude, Aimé Césaire wrote famously in his letter of resignation from the French Communist Party that he wanted Marxism and communism to be placed in the service of Black peoples and not Black peoples in the service of Marxism or communism. He maintained in 1956: “it is clear that our struggle—the struggle of colonial peoples against colonialism, the struggle of peoples of color against racism—is more complex, or better yet, of a completely different nature than the fight of the French worker against French capitalism, and it cannot in any way be considered a part, a fragment, of that struggle.” 28 As always, he was writing on behalf of Black people who were, proverbially, the only people on the planet who have been excluded from the “human race” by the “modern” history of Western racism and colonialism which obstructs “a true humanism—a humanism made to the measure of the world.”29 What is this Négritude if not Blackness, Black anti-colonialism, or anti-colonial Blackness?

This tradition is not a tradition in Wilderson who regularly critiques the analogical arrogance of Marxism, feminism, and an academic paradigm of “post-colonialism” with less common reference to “queer” or “gay and lesbian” categories of analysis as well—all in the name of pessimism. For him, none of these political frameworks with their privileged identarian subjects can capture the condition of “Blackness” and “slavery” (or “the Black/Slave”). While that perspective can allow for some insights—ones certainly seen before around the Black world and ones certainly avoided by so much institutional scholarship—it leaves the general categorical grid of established Western political epistemologies intact. The familiar academic terrain of “race, gender, class, and sexuality” frames the critique for “Blackness” of “gender, class, and sexuality” in addition to “post-coloniality” or “post-colonialism.” The most conventional US academic categories of identity and analysis are still rendered in full as discrete, monolithic, and monological categories and referents (e.g., workers, women, etc.), like the respective political ideologies based upon them in the traditional ideological history of the white West (e.g., Marxism, feminism, etc.). There are “workers” and then there are “women,” generically, and then sometimes there are “gays” by whatever name, not to mention “natives” or the colonized in this culturally specific epistemology of a specific culture of colonialism itself. The upshot is quite conservative, even anachronistically so. This critique is an internal if damning critique embodying and encouraging pessimism largely from within the established order of knowledge that it analytically engages and categorically replenishes and preserves.

The grid politics of Wilderson’s critique of “the ruse of analogy” leaves all manner of “Blackness” in a wasteland. The routine categorical contrast with “Native Americans” reduces all that and any colonial condition to a startlingly oversimplified matter of “land” (or “land restoration”); and it occludes “Afro-Indian” history as well as “Red-Black” maroonage all across the Americas. The constant generic contrast with “feminism” or “non-Black women” eclipses the more mammoth criticism of “gender” writ large in Diop and Amadiume’s Black-African studies of Europe or “Western Civilization” as a “racial patriarchy” of pessimism and “anti-Black” imperialism. The contrast with Marxism and its “workers” never resurrects any issues of “class” or economics from any other perspective to recognize or to resist, for example, the white invention of Black elites as vital instruments of racism, anti-Blackness, and white-supremacism. There never appears a trace of any critique of Black “social class’ (or political class) elitism in “Afro-pessimism” (2.0), which is a tell-tale sign of petty-bourgeois or “lumpen-bourgeois” articulations. Lastly, Wilderson’s occasional categorical contrast of “Blackness” with Palestinians or al-Nakba (which aligns in Arabic with the Swahili substitution for the term “Middle Passage”—Maafa, the “Catastrophe”) comprehends no Blackness in Palestine or among Palestinians. His Afro-pessimism can envision no Afro-Palestinianism, unlike a great tradition of Pan-African discourses that also do not dislocate Palestine from an anti-colonialist mapping of the African continent or the Afro-Asian landmass of a Pan-Africanist and “Bandung” imagination, one powerfully shared by Malcolm X and Fayez A. Sayegh. For “Black Power” internationally, Kwame Ture would refer to Palestine as the “tip of Africa” and uphold Fatima Bernawi, the iconic Black woman who’s been named the “first Palestinian female political prisoner,” as the paragon of “Black and Palestinian Revolutions.”30 She is likewise canonized by other AfroPalestinian icons themselves, such as Ali Jiddeh and Mahmoud Jiddeh of the African community of the Old City of Jerusalem, for example— or, say, Ahmad and Jumaa Takrouri of Occupied Jericho—who are each among the greatest of all icons across Historic Palestine, a country which has produced multiple Black Panther formations in Hebrew as well as Arabic in the 1970s and the 1980s. Again, Wilderson tacitly “nationalizes” his category of “Blackness” although this is scarcely in the interests of Black people in or outside of the US colonized mainland of Americanism; and so none of the above “Blackness” survives the critical grid of a very Anglo-American (and white racist state-bound) critique of “analogy,” regardless of the “Afro-pessimist” text at hand.

Do not the vulgar colonial-nativist politics of Incognegro’s strangely overlooked comment on “West Indians” go full blown then in Red, White & Black and elsewhere?31

There is here a general critical erasure of the massive tradition of Black anti-colonialism—or anti-colonial Black resistance to “anti-Blackness” and anti-Black colonialism, which transcends nationalization. Wilderson’s “Afro-pessimist” rejects the anti-colonialist paradigms of supposedly “other” peoples, and yet in a manner that reinstates US or Western coloniality nonetheless—a white colonialism that oppresses “the Black” inside and outside the United States’s official geopolitical limits. This position can thus make a virtue out of automatic and absolute anti-alliance postures with no further, actual political action then required for Black people, “the Black critic,” or any Black liberation struggle on this view. Such chauvinism without political commitment or engagement beyond critique is logically consistent, for pessimism, where mere resentment or ressentiment can masquerade as resistance or “pro-Black” “radicalism.” After all, Afro-pessimism (2.0) begins with a proud suspicion of Black liberation or Black liberation movement, itself, no less than of its potentially “anti-racist” or “anti-Black” political alliances. This provincial “American” pessimism reveals more affinities with Créolite in the Caribbean than Césaire’s anti-colonialist eruption of Pan-African Négritude, in reality, its narrowly and negatively delimited rhetoric of the “Blackness” of “the Black” (as “Slave,” of course) notwithstanding. As if this too is a virtue, pessimism is not just suspicious of power but possibility—while, upholding dystopia, it is casually dismissive of all historical actuality that does not support a pessimist paradigm, orientation or sensibility. Analytically, moreover, there is somehow no white colonialism for Blacks to fight in Africa or Black countries of Black people anywhere and no terrible landlessness that afflicts the African diasporas of Blackness captive within white settler and/or imperial state formations, for Wilderson and Afropessimism (2.0).

#### Recognition leads to coop, not conflict – Netanyahu’s rational and won’t escalate immediately

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<https://www.inss.org.il/publication/why-should-we-fear-the-recognition-of-a-palestinian-state/>) --- Pujol

Recognition of a Palestinian state will not have a detrimental impact on Israel’s security interests. However, an expanding trend of international recognition of Palestinian independence will create pressure for the renewal of negotiations between Israel and the Palestinians. If Prime Minister Netanyahu is serious about his support for a two state solution through negotiation, he should respond positively to the calls being voiced throughout the international community to resume talks. Israeli recognition of Palestinian statehood could also make it easier to return to the negotiating table – that is, unless Netanyahu and his partners in the government are being guided purely by domestic political considerations, most importantly the desire to keep the coalition intact.

#### The aff is certainly inherent

Jilani 17 – journalist @ The Intercept (Zaid, “TRUMP SAYS PALESTINIAN STATEHOOD ISN’T NECESSARY FOR PEACE. NETANYAHU CALLS HIM THE GREATEST.,” *The Intercept*, <https://theintercept.com/2017/02/15/trump-says-palestinian-statehood-isnt-necessary-for-peace-netanyahu-calls-him-the-greatest/)//BB>

PRESIDENT TRUMP WIPED away 15 years of U.S. policy on the Israeli-Palestinian conflict during a White House press conference with Israeli Prime Minister Benjamin Netanyahu on Wednesday afternoon, explaining his view that statehood for Palestinians is not necessary for peace. “So I’m looking at two-state and one-state and I like the one that both parties like,” Trump said as Netanyahu audibly chuckled. “I’m very happy with the one that both parties like. I could live with either one. I thought for a while that two state looked like it may be the easier of the two, but honestly if Bibi and if the Palestinians, if Israel and the Palestinians are happy, I’m happy with the one they like the best.” The two-state solution traditionally calls for Israel to withdraw its settlements and military occupation from internationally recognized Palestinian territories and to allow for the creation of a Palestinian state alongside Israel — thus, the two states. The solution was first endorsed by the Palestine Liberation Organization in 1988 alongside its recognition of the state of Israel; in 2002, Republican President George W. Bush declared that the creation of a Palestinian state was official U.S. policy. Since then, the two-state solution has enjoyed bipartisan support, with President Obama picking up where Bush left off in using negotiations to pressure Israel to withdraw from Palestinian territories. In the Trump era, that support appears to have ended. Palestinian statehood was dropped from the Republican National Committee’s 2016 presidential platform, and the president’s remarks Wednesday indicate that the United States would support a “peace” that does not include Palestinian independence from occupation — as if such a thing were possible. It also puts the U.S. government at odds with most of the world — such as the 138 countries who voted at the United Nations in 2012 to grant Palestine nonmember observer state status. Asked about his views on Palestinian statehood, Netanyahu joked that “if you asked five Israelis” what two states would look like, “you’d get 12 different answers.” He then insisted that he doesn’t want to deal with “labels” but rather “substance” — and that “in any peace agreement Israel must retain the overriding security control over the entire area west of the Jordan River.” This would effectively preclude withdrawing Israeli military from the occupied West Bank — and thus preclude any meaningful two-state solution. His right-wing Likud Party has long formally opposed Palestinian statehood as a part of its platform. But during the Obama era, the prime minister claimed to support such a state as part of a comprehensive peace deal. That claim was undermined by Israeli action. Under Netanyahu, the government of Israel allowed the settler population to grow by over 100,000. The pretense was gone during his 2015 re-election campaign, when he vowed that there would be no Palestinian state under his watch. With the election of Trump he may finally have a president who agrees. “There is no greater supporter of the Jewish people and the Jewish state than President Donald Trump. I think we should put that to rest,” Netanyahu said, ending the press conference.

### Neg

#### This is an anti-recognition article explicitly answering the Carter proposal in the aff section

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Writing in the New York Times, former President Jimmy Carter this week called on President Barack Obama to join with 137 countries and recognize the State of Palestine. Arguing that the two-state solution is dying and that something must be done to keep hope alive, Carter wrote: "I fear for the spirit of Camp David. We must not squander this chance." Yet having spent the better part of my adult professional life working to promote, facilitate and consummate negotiations between Arabs and Israelis, my advice is precisely the opposite of Mr. Carter's. I completely understand the urgent desire on the part of American peacemakers to do something. And in the case of Mr. Carter, that passion is especially strong. Few Israelis and Egyptians I know would take issue with the fact that had it not been for the role played by the US, led by President Jimmy Carter -- building on Anwar Sadat's historic visit and Menachem Begin's strong response -- there would have been no Egyptian-Israeli peace treaty in 1979. President Obama had, for his part, an eight-year shot at resolving this issue. Yet while the two-state solution is indeed in peril, there's little he can do in the next couple of months that will change that. As hard as it may be to accept right now, a unilateral move might make matters worse. And the reality is that any initiative the United States proposes -- especially recognition of Palestinian statehood -- would anyway have a very real chance of being overturned or undermined by the next administration, which would leave the Obama legacy in tatters, while diminishing US credibility in the process. There are several reasons why that would be the case, but three stand out: First, any initiative undertaken during the presidential transition in the United States would need to address not just Palestinian needs, but those of Israelis, too. No administration I've ever served in took a unilateral, consequential step related to the peace process that didn't bear this fundamental principle in mind. Indeed, it was Mr. Carter's own sensitivity not just to Sadat's concerns but to Begin's that produced the peace treaty. And right now, it's hard to see any balanced package of steps on the peace process that would be accepted by both sides and that would create an enduring foundation on which to build. Potential steps such as a presidential speech or a UN Security Council resolution laying out the parameters for a two-state solution would certainly have contained elements that both sides liked but also disliked. Second, US recognition of Palestinian statehood would almost certainly buoy Palestinian hopes -- but alienate the Israeli government, while having little appreciable impact on the realization of Palestinian statehood. In fact, this kind of symbolic act would inevitably widen the gap between Israelis and Palestinians, while ultimately increasing frustration and the risk of more violence by raising Palestinian expectations without any conceivable promise of delivering. In response to any unilateral declaration, the Israelis -- already deeply committed to settlements -- would likely respond with steps of their own that go beyond what they are already doing, such as building heavily in east Jerusalem, moving forward on the controversial E-1 project and perhaps even annexing portions of the West Bank. Many argue that the situation on the ground can't get much worse. But even if that is the case (and anyone familiar with this conflict knows things can certainly get a lot worse) one still has to ask what the point of unilateral recognition would be if it didn't take both sides in a positive direction. As a one-off symbolic step, one unmoored from any negotiating process and not followed up by efforts to create some kind of breakthrough, such an initiative would be, at best, a key to an empty room. At worst, it could unlock a host of unpredictable -- and mostly negative -- consequences. Third, there's the politically inconvenient question of how such a step would be viewed by the incoming administration, which in a few short months will have the power to shape US policy on the Israeli-Palestinian issue. Back in 1988, I participated in an effort by the United States to initiate a dialogue with the Palestine Liberation Organization during the transition from the Reagan administration to George H. W. Bush. That effort was welcomed by the incoming administration. But imagine what a Republican-controlled Congress would do if the outgoing Obama administration tried to recognize the State of Palestine or fashion a new Security Council resolution. Not only would the incoming administration move to reverse any initiative, a Trump administration keen to distance itself from what President Obama had done would likely move to assuage Israeli concerns. As a result, not only would Obama's legacy be exposed as empty rhetoric, but the new administration might find itself with an uptick in tension and violence as Palestinians react to Israeli efforts to demonstrate that it, too, can take unilateral actions. President Carter had his shot at Arab-Israeli negotiations, and, with the help of Sadat and Begin, made the most of it. President Obama has now had his. In the last couple of months of his administration, he should let this issue rest. Instead, he should adopt the diplomatic equivalent of the Hippocratic oath and do no harm. Because right now there's not a whole lot of opportunity to do good. Ultimately, the key to solving the Israel-Palestinian conflict does not rest in President Obama's hands, nor in those of his successor. It's the parties, stupid. And neither they nor the peace process are ready yet for prime time.

#### There is a strong US-Israel relations DA

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Berzak, Joshua (2013) "The Palestinian Bid for Statehood: Its Repercussions for Business and Law," *Journal of International Business and Law*: Vol. 12: Iss. 1, Article 6. Available at: <http://scholarlycommons.law.hofstra.edu/jibl/vol12/iss1/6> --- jake justice

The United States already has announced that it does not support Palestine's "unilateral initiative. 78 United States President Barack Obama expressed that the U.S. believes that a Palestinian state only can come about as the result of negotiations with Israel. 79 Obama explicitly stated that, "Peace will not come through statements and resolutions at the United Nations - if it were that easy, it would have been accomplished by now. 8 0 The U.S. still believes in a two-state solution with both states living side by side in peace and security.81 Simply put, the U.S. will veto the Palestinian initiative, and this veto ensures that Palestine's attempts to become a full member of the United Nations will fail. 2 Beneath the United States' spoken reason for its insistence on a veto lays Israel's role as a crucial ally of the U.S. in the tumultuous Middle East region and their pursuit of installing democracy there. 3 There are those detractors of the United States' decision who claim that the true underlying reason of the veto is because of this alliance. Specifically, the U.S. fears tension with their long-standing ally as U.N. membership would put Palestine on equal footing in negotiations, something Israel very much disfavors.84

#### One of the primary benefits of state recognition is access to development financing and infrastructure funding --- this evidence indicts that as inevitably colonialist in the context of Palestine

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The importance of infrastructure networks –such as roads, water or electricity—in processes of development in much of the Global South has been persistently celebrated in academic and policy literature. Whereas the proper sequencing of infrastructure and development remains a contested one, “most planners — following Rostow's (1960) teleological stages of economic growth — presume that infrastructures are a necessary and sufficient precondition for economic ‘take-off’ and, therefore, an appropriate indicator of progress” (Grandia, 2013:233). Indeed, infrastructure has long become ubiquitous in discussions of development, “a synonym for prerequisite, a way to label all those things lacking in the underdeveloped world—that is, everything separating the state of underdevelopment from that of modernity” (Rankin, 2009:70). This linear relation between infrastructure development and economic growth becomes more conspicuous in the literature focusing on so called conflict-afflicted scenarios, which are characterized by a legacy of damaged, neglected and uneven access to physical infrastructure. In these contexts, the success of ‘post-conflict’ stabilization and development aid efforts is predicated on rebuilding the indigenous institutional and infrastructural capacity (Barakat, 2005). As such, following the signing of a peace agreement, as politically shaky as this might be, donors often hurry to plan for infrastructure in an attempt to re-activate the productive sector and improving the wellbeing of the population (Del Castillo, 2008). Infrastructures and the powerful sense of development that they promise are thus seen to harbinger broader expectations of liberal peace building and state formation, and an invaluable tool to provide tangible benefits to the population and commensurate visibility for donors (see Collier 2007, Le More 2005). 3 Such teleological view of development however not only has a limited power in terms of explaining the role of infrastructure in promoting economic growth, let alone conflict stabilization (Jones and Howart, 2012); it also provides little insights into the ways in which infrastructure tends to consolidate patterns of fragmentation and inequality (Graham and Marvin, 2001; McFarlane and Rutherford, 2008). As such, this scholarship tends to emphasize the technical and economic value of infrastructure projects while overlooking its socio-political and spatial meaning. This is not surprising considering that mainstream development literature, like traditional accounts of urban politics, typically regard these networks as the purview of engineers or technocrats, rendering them apolitical and unworthy of attention in their own right (see Coutard, 1999; Graham and Marvin, 2001). Recent multidisciplinary studies –particularly critical geography— have however began to explore the centrality of infrastructure in development processes by looking at the ways these networks materialize in space often reinforcing existing power relations and “how infrastructures come to matter politically, both discursively and as a set of materials” (McFarlane and Rutherford, 2008:364). In doing so this research has shown how in the Global South, and particularly in colonial and nominally post-colonial settings, uneven patterns of infrastructure and access are also the result of specific practices of inter-national development structured by relations of power which are embodied in legacies of colonial infrastructure (McFarlane, 2008; Kooy, 2008). Thus while infrastructure can potentially be instrumental to the broader development and state building enterprise, they can also actively participate in often unexpected ways in the process by which power asymmetries are articulated and enacted. Bringing these critical insights to bear on traditional development accounts of infrastructure allows recognizing the profoundly political nature of these networks but it also enables a reading of development practice as a process of continuous spatial reorganization whereby infrastructure and territory are coproduced and transformed together. This spatial sensibility to infrastructural development calls attention to landscapes of inequality and racialized difference in ways that abstract aspatial development approaches cannot. For infrastructure networks effectively play a crucial role in the construction of territory as they create connections and disconnections among places and people, thus redefining spatial relations in physical and economic as well as political terms (see Brenner and Elden, 2009; Zanon, 2011). Such a relational approach to infrastructural development, which draws on a rich history of spatial theory in geography, becomes even more salient in settler colonial contexts–such as South Africa, United States, Canada or Israel. In these environments, whereas the expropriation of land and the parallel elimination of natives are the hallmarks of settler colonialism (Wolfe, 2006), the initial ability to dispossess, and eventually consolidate itself, rests primarily on physical power and the supporting infrastructure of the settler state (Harris, 2004). As such, infrastructures are a crucial material and symbolic means through which the settler community is territorialized while simultaneously indigenous outsiders are deterritorialized. Typically, as settler colonial infrastructures spread, these networks are normalized in their association with tropes of modernity, progress and development. Conjuring a spatial and political sensibility to the ways in which infrastructure territorializes in settler colonial settings allows us thus to explore the spatialities of development –a term emphasizing the production of space as a material and discursive practice1 . This attention to grounded development geographies significantly enhances our understanding of how donor aid and national development practices tend to consolidate and reproduce the racialized, fragmented and uneven character of colonial infrastructure in the Palestinian context. Here, and more specifically in the occupied West Bank , the prevalent post-conflict paradigm adopted by development planners during the past two decades –since the signature of Oslo’s interim ‘peace’ agreements— assumes occupation to be a temporary event rather than a structural condition. This view not only tends to accommodate the existing realities on the ground; it also confuses conflict for settler colonialism. As John Collins puts it, using the term conflict in Palestine without qualification obscures the nature of Israel’s ongoing settler colonial project as well as the violent social, political, economic and spatial structures that define and enable it, including infrastructure networks (2010). In effect, the Israeli settler state has transformed infrastructures into assets that create dual-spatial configurations through networks that entirely run along ethnic lines. These networks have been effectively redesigned from its original and purely utilitarian purpose into political and symbolic tools of Israel’s ethnonational project (see Azaryahu, 2001; Weizman, 2004; Jabary Salamanca, 2013). As such infrastructures are used to rearticulate space in ways that serve as a source of connection, but also as a means of disconnection, discrimination and control (see Halper, 2000; Weizman, 2007; Jabary Salamanca, 2010). At the same time, Israel’s policies of infrastructure disruption through bureaucracies of occupation, as well as destruction by military means, has been described as a way of “de-development” (Roy 1987, 2004) or “forced de-modernization” (Graham, 2002a, 2002b) of the Palestinian society. In spite of this, development planners rather than challenging the racialized character of infrastructure have tended to invest in Palestinian networks that ultimately accommodate colonial occupation either by consolidating uneven access and dependency on Israel –as in the case of electricity and water— or by endorsing segregation–such as roads.

#### Successful Palestinian statehood links to a lot of DA’s---regional stability, counter-terror, etc.

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\*Professor Efraim Inbar, \*\*Major General (res.) Gershon Hacohen, The Strategic Importance of Jerusalem, The Jerusalem Institute for Strategy & Security, <https://jiss.org.il/en/the-strategic-importance-of-jerusalem/> --- jake justice

Even in the context of modern warfare, the value and indispensability of territorial depth as a basic condition for defensive warfare are undeniable. General Aharon Yariv defined strategic depth as “the space between the forward-most front line at which a state can maintain military forces for its defense without impinging on another state’s sovereignty, and its vital territory.” 2 He added that gauging strategic depth needs to consider the ratio between the length of the front line and the size of the territory that must be defended. According to this definition, the Israeli territory within the narrow coastal strip lacks strategic depth and conditions for defensive warfare. The problematic ratio between the length and the width of this strip points to the operational distress in attempting to defend the coastal plain from 1967 borders. Ever since the War of Independence, the political leadership and the IDF General Staff understood that the narrow and lengthy coastal strip whose borders were the 1949 armistice lines (known as the 1967 borders) was not defensible. Hence, Prime Minister David Ben-Gurion’s national security concept was based on rapidly transferring the war into enemy territory; that is, an immediate transition to offense. If a Palestinian state is established on the basis of the 1967 borders, the coastal strip will revert to its previous status as a territory lacking the depth required for defensive warfare. According to the “Clinton Parameters,” which assume an almost complete Israeli withdrawal to the 1967 line, the border and the IDF’s forward line of deployment would again extend along the foothills of the mountains, eastern of Highway 6. This defensive space would be lengthy, depthless, and entirely vulnerable to the threat of high-trajectory fire and of surprise incursions, with no room for early warning. Over the past 20 years, despite the threat of long-range rockets, and especially after the Iraqi missiles attacks (1991), many proponents of withdrawal have argued that strategic depth is no longer relevant. They do not view territory and topographic features as important elements in designing security borders. Instead they emphasize the political dimension of peace agreements and have emptied the notion of “defensible borders” of its content.3 Yet, this view is deeply flawed. The distance determines both the warning time and the chances of intercepting a rocket. The effective range of rockets is also predicated on the depth of the territory that is held by Israel. Moreover, the threat of a ground offensive has not vanished. Both the Hizballah forces on the Lebanese border and the Hamas forces on the Gaza border pose a growing threat of ground incursions into the Israeli interior. The depth of the territory within which an army can conduct defensive warfare remains very significant for the success of a defensive campaign. Senior defense officials who favor considerable withdrawals for the implementation of a two-state paradigm admit that if a threat from the Palestinian territory develops, the IDF will again have to recur to a ground-offensive to remove the threat in a short, rapid war. These officials remind the Israeli public that in June 1967 the IDF was able to achieve a stunning victory with a lightning offensive from the 1967 borders. They completely ignore, however, the fact that those feats were performed in symmetrical warfare between standing armies, which is hardly relevant today. The current form of warfare, inspired by Hizballah’s approach, displays features nonexistent in 1967. They include: (a) a large array of missiles and rockets of all ranges that are emplaced in civilian environments and ready for immediate launch without warning time; (b) a dense defensive configuration based on villages, towns, and natural cover, and on underground facilities; and (c) a highly decentralized command and control network. Israel encountered such an enemy in the Second Lebanon War (2006) and in the three campaigns in Gaza since the disengagement (2005). These new conditions will make it very difficult for the IDF to achieve victory in a lightning offensive as in 1967. If Israeli forces have to neutralize a threat from the West Bank cities, they will encounter major difficulties in launching the mission from the coastal plain. Mobilization areas will be exposed to monitoring and to fire from the mountain slopes. Moving along hilly routes in a dense and hostile urban area will be dangerous, since the enemy will hunker down in tenacious defense, as it has in Lebanon. Controlling Jerusalem alleviates such severe defensive deficiency, as it did in 1967. In the 1967 War, the Jerusalem corridor, which served as a wedge in the midst of the mountain ridge, was the base for the main offensives to conquer the Ramallah area in the north and Hebron in the south. Controlling the Jerusalem area also made possible the forward thrust of Operation Defensive Shield in March 2002. Israeli control of the Jerusalem area refers to more than the city limits. Jerusalem must be a metropolis that includes Gush Etzion to the south; Maale Adumim and Mishor Adumim, leading out to the Dead Sea, to the east; and the settlements of the Binyamin Regional Council—Beit El, Tel Zion, Michmash, Ofra, and Givat Ze’ev—to the north. It is also very important to control the East-West arteries into the city, particularly Route 443 north of the capital and Route 375 south of the capital, to save Jerusalem from being dependent on Route 1 only. The emphasis on Greater Jerusalem as the center of gravity of the defensive system puts the potential dividing of the city in a different light. In a divided city, it would be impossible to protect the urban seam lines, crossing back and forth between the two political entities. In addition, Jerusalem’s role in the defense of the coastal plain will be seriously compromised. Greater Jerusalem serves as a main juncture between the east (toward the Jordan Valley), the south (toward Hebron), and the north (toward Ramallah and Nablus). Jerusalem as a metropolis covering a wide area is essential to controlling the Land of Israel, as elaborated below. The division of Jerusalem would revert it into a border town—a remote suburb of Gush Dan (the Greater Tel Aviv area) and no more. At the same time, Israel would lose the geographic prerequisites for controlling the central mountain ridge, as well as the Jordan Valley to the East and the Mediterranean coast to the West. The division of Jerusalem would reduce Israel to a coastal state in a narrow strip of land along the sea, a strip in which the large majority of the country’s Jewish population is concentrated. Unless the Greater Jerusalem area is controlled by Israel, that narrow coastal strip, which is dominated by the mountain ridges to the east, is not truly viable. The Key to a Defensible Border in the East Jerusalem is an important intersection that controls the south-north axis along the watershed line of the central mountain ridge. It is also located on one of the few lateral axes that make it possible to travel by vehicle from the Jordan Valley westward toward the mountain ridges and the Mediterranean. Indeed, a cursory look at the map shows clearly that Jerusalem is the only intersection on the watershed line, along the mountain ridge of the country that has a Jewish majority. In an invasion from Jordan, forces from the coastal plain, where most of the Jews and the emergency warehouses are concentrated, would have to make their way toward the Jordan Valley. They could only do so in relative safety if there was a Jewish majority in Jerusalem. From a strategic standpoint, the corridor from Jerusalem to Maale Adumim, and from there to the Jordan Valley, is of special importance. East of the city, Mishor Adumim—which still is not populated—can serve as a base for deployment under peacetime and emergency conditions. Because the urban space is not suitable for that purpose, the open lands along the east-west axis must also be under Israel’s control. Many Israeli strategists, notably Yigal Alon and Yitzhak Rabin, saw the Jordan Valley as the key strategic territory to defending the country. A glance at the map, and basic familiarity with the country’s topography, remind us that between the Jordan Valley and the coastal plain are the mountains of the West Bank, and that these slopes steeply down to the valley, forming a formidable strategic obstacle. The valley lies 250 to 400 meters below sea level, while the Samarian and Hebron-area mountains rise 1,000 meters above sea level. This means that in case of an attack from the east, an armored column must make a very steep climb of 20 kilometers, and can only do so through a very small number of passes. An army that controls the openings of these routes can block an invasion from the east. That is the strategic logic behind the Allon Plan, which also fits well with the demographic issue, as the valley has almost no Arab population. Israel’s eastern border is its most important, since it is the closest to the Jewish population concentrations. The aerial distance from the Jordan River to Jerusalem is about 20 kilometers, and to Tel Aviv about 80 kilometers. The Tel Aviv-Jerusalem-Haifa triangle, which contains the majority of Israel’s population and most of its economic infrastructure, is close to the Jordanian border, much more so than the Egyptian or even Syrian and Lebanese borders. The importance of distancing the border from the country center has grown because in recent decades the importance of Gush Dan has grown—notwithstanding expectations that developments in communication and transportation would lead to population dispersal. The design of the country’s borders for generations to come must not be determined by transient circumstances. Claims that conclude, due to technology or another, that “territory is of no importance” are both problematic and shortsighted, and hence simplistic from a strategic standpoint. Military technology can change. During the history of warfare, military technologies have changed, affecting the importance of defensive or offensive deployments; Sometimes the military technology facilitated offensive capabilities, sometimes defensive capabilities. For example, the walls and fortifications of the Middle Ages enhanced defensive capabilities and endured for about five to six centuries until another technology emerged, the cannon, which put an end to the primacy of knights’ castle walls and to the old political order. True, Israel is now having a hard time dealing with missile fire, but the large investments in antimissile technologies are already bearing fruit, as in the case of Israel’s Arrow antimissile and Iron Dome systems. Some argue that, because the Jordanian regime is not hostile to Israel, Israel need not retain the Jordan Valley. Indeed, at present, the Hashemite Kingdom has a strategic agenda similar to Israel’s, mainly because of common enemies (including the Palestinian national movement). It is also true that this regime has shown a high capability for survival. Nevertheless, there is no way to know how long the kingdom will prevail. Jordan could be destabilized domestically by Palestinian-tribal tensions or by Islamists. A complete takeover of Iraq by Iran would also not augur well for Jordan. Thus, stability in Amman is not a constant given. Similarly, the optimistic assumption that a Palestinian entity would honor its commitments over time and refrain from joining Israel’s enemies must not determine the scope of Israel’s territorial concessions. Essentially, the enhancement of Israel’s defensive, intelligence, and deterrent capabilities fostered by the current borders and by Israeli control of Greater Jerusalem is an important stabilizing factor in Israel’s relations with Arab states. These capabilities widen Israel’s narrow security margins and reduce the need for preemptive attacks upon signs of possible Arab belligerence. A military deployment with only limited deterrent capability against an attack, or with a weakened defensive capability, or both disadvantages together, makes for a precarious security situation and invites aggression. The present borders, then, are a factor for continued stability, though of course it depends on political factors as well. Since the October 1973 War, Israel has not been attacked by Arab armies, and one of the reasons is the favorable defensive lines that Israel attained in 1967. Thus, it is incumbent on us to design defensible borders for Israel, borders that will stand the test of change in military technology and of political upheavals in the Middle East. A policy that does not take account of scenarios with negative implications for Israel’s security is irresponsible from a national standpoint. Professor Yehezkel Dror often reminded us that in the Middle East there is a high probability of low-probability scenarios. It would therefore be a grave strategic error to allow a foreign presence in Jerusalem and its environs that would likely jeopardize Israeli control of the best west-east axis the country has, an axis that is vital to building a security border in the east. This axis must, of course, be as wide as possible. Counter-Terror Needs In addition to the concerns discussed above, control of Greater Jerusalem plays a role in two other related domains: intelligence and fighting terror. The altitude of the Greater Jerusalem area gives the IDF intelligence advantages in the eastward direction, but also toward the south and the north. Dividing the city would jeopardize intelligence facilities because of the possibility of their disruption. The claim that planes and satellites can offer intelligence facilities in lieu of those situated on mountains is only partially correct. Compared to a mountain, only limited intelligence-gathering means can be emplaced on planes and satellites. Furthermore, there are ways of shooting down planes and there are technologies for attacking satellites. It is much harder to topple a mountain. Israel’s control of Greater Jerusalem also provides some of the means of fighting Palestinian terror. Unfortunately, the Palestinian Authority has not met its obligation to fight terror in the territory evacuated under the Oslo agreements. Jerusalem is situated close to some of the terror hubs, constituting a point of egress for IDF soldiers and the other security forces, and offering a mainstay for vital intelligence activities. Greater Jerusalem and the area eastward to the Jordan River form a wedge between the dense Arab population to the south and north of Jerusalem. Without this wedge, the Arab concentrations to the south and north could enjoin and turn Jerusalem into a border town. Such a development, which the Palestinians would welcome, would alter the city’s strategic position as well as its economic and demographic fate. Today, Arab settlement, orchestrated by the Palestinian Authority and encouraged by the European Union, is already taking place east of Maale Adumim. Minimizing the security risks entailed by Arab demographics from the south and north of Jerusalem requires the land wedge. Israeli Control of United Jerusalem Effective control of united Jerusalem is also essential to the security of the Jerusalem residents themselves. While technical and tactical measures are important, they are subordinate to systemic considerations. A fence and similar obstacles are nothing more than a technical measure that soon turns ineffective. One can get under, through, or over such measures, with tunnels, breaches of the fence, or with ladders and other means of elevation. Not to mention high-trajectory weapons and sniping, against which the fence, or wall, provides no protection. Maintaining the effectiveness of the fence requires a large order of battle that is busy with continuous routine work along the fence. Surrounding the Arab neighborhoods of Jerusalem with fences, along the urban seam lines, requires large resources of manpower currently unavailable. The logic of fences as a technical solution characterizes Israeli thinking that is applied indiscriminately to many operational problems. The fence along the Egyptian border has indeed provided a solution to the infiltration of African immigrants. A reliance on fences as the solution, however, deserves critical consideration. It is similar to solving traffic congestion with interchanges and additional lanes. Undoubtedly such measures help; but when they are used to solve traffic congestion in city centers, they soon exhaust themselves and even worsen the problem. An alternative solution, such as closing the city centers to vehicle traffic, turns out to be a more effective, systemic, and architectural solution. Similarly, the problem of security in Jerusalem requires a systemic rather than technical response. Fences create a binary spatial separation that detracts from the flexibility in deploying force, reduces the effectiveness of the Shin Bet’s activity, and actually gives the enemy a protected space in which to get organized, like the haven that emerged in the Gaza Strip after the disengagement. Friction in a space that includes both Arabs and Jews is actually preferable in terms of the overall security equation. The separation proponents do not take into account the uncontrolled phenomena that result from a technical spatial arrangement that has not been thoroughly considered. The avoidance of friction in the border areas that fall within the Arab neighborhoods, especially within neighborhoods that have found themselves outside the security wall, is seen as weakness and boosts hopes for the Palestinian struggle. The contest over sovereignty in Jerusalem will be decided precisely there, and in the empty space that is outside of Jerusalem. Israeli control of the entirety of the area, accompanied by extensive settlement to the east, the north, and the south, will foster the conditions for imposing law, order, and security in the Arab neighborhoods of east Jerusalem as well. As long as the struggle over the open space from the Mount of Olives ridge out to the Dead Sea has not been decided, the Arab neighborhoods in the eastern part of the city will constitute a bridgehead for the overall Palestinian effort. The security issue is connected to other issues of daily life within the urban fabric: transportation, industry and employment, commerce and markets, and of course service and support facilities such as hospitals and clinics. In light of all these aspects, along with the potential for terror stemming from daily interactions at the flashpoints of all aspects of life in the urban space, any idea of dividing the city will encounter a maze of unresolvable problems. Any spatial division that aspires to hermetic security will turn Jerusalem into a space organized like a zoo: enclosures within fences, the animals inside, patrons of the zoo passing on walkways. An understanding of the motivation behind the Palestinian struggle indicates that even if the city is divided, many Palestinians will probably remain strongly motivated to perpetrate terror attacks, along with firing at Jewish neighborhoods in the city. If Jerusalem is divided, the Jewish targets will be much closer and more accessible, and the possibilities for hitting them will be abundant. Moreover, under such a spatial arrangement, the chances of thwarting terror attacks will be much lower and more difficult, while the Palestinians’ access to weapons will increase. The past two decades of fighting terror have proved that the struggle cannot be waged from “outside” but, rather, primarily from “inside,” with a continuous presence and the maintenance of operational, intelligence, and preventive access within the space itself. Over the past two years, the Jerusalem police has taken a first step in this direction by gradually increasing the presence of police officers in Arab neighborhoods, and by establishing police stations there. Political Advantages of Retaining Greater Jerusalem Continuing to rule Greater Jerusalem has positive strategic aspects. Above all, by retaining the area despite demands for the city division voiced by the Arab world and the international community, Israel demonstrates its resolve and fortitude —a crucial element in international relations and particularly in the Middle East. Indeed, the balance of power between Israel and its neighbors has been tilting in favor of the Jewish state. One indication is that there have been no wide-scale conventional wars since 1973. The lack of attempts to attack Israel in such a war is mainly due to Israel’s power and the Arabs’ weakness. Continued Israeli control of Greater Jerusalem also highlights Israel’s strong international position. The international community’s apparent displeasure over Israel’s presence in east Jerusalem has not led to any serious measures. There have, of course, been anti-Israeli UN resolutions as well as condemnations. Nevertheless, Israel continues to hold all of Jerusalem and other territories. The Arabs’ inability to change the territorial status quo through military force compels them to take the diplomatic route. The ongoing Israeli rule also creates legitimacy for making changes in the 1967 borders and for expanding the territory under Israeli sovereignty. In light of President Bush’s letter to Prime Minister Ariel Sharon of April 14, 2004, Israel claims that the United States recognizes the permanence of the so-called “settlement blocs.” Although the exact definition of these settlement blocs is unclear, and there may be further arguments with Washington about their size, this is an important achievement. The United States recognizes that there are facts on the ground that cannot be eliminated. Maale Adumim, an important part of Greater Jerusalem, is included in that category. Gush Etzion, which is south of Jerusalem, apparently is also part of these “settlement blocs.” Territorial concessions in Jerusalem will be interpreted as Israeli weakness and, inevitably, as a victory for Islam, and will encourage radical elements in the Muslim and Arab world to keep eroding the Jewish presence in Jerusalem. Precisely because the importance that Jews attribute to Jerusalem is understood by some of Israel’s foes, concessions in Jerusalem will likely be perceived as the beginning of a decline in Israel’s strength. In general, continued Israeli control of the territories, and especially of Jerusalem, contributes to the peace process. This process is built primarily on sustaining the existing power balance—with Israel strong and the Arabs weak. If Israel is weakened (a concession in Jerusalem as a clear symptom of this) and the Arab states are strengthened, then in the near future there would be no reason whatsoever for the Arabs to come to terms with the existence of the Jewish state. If they have the power and the capability to attack Israel and erase it from the map of the region—they will do so. Conclusion The struggle over Jerusalem has far-reaching implications for Israel’s security and its position in the region and the world. Jerusalem constitutes Israel’s strategic depth for the densely-populated coastal plain. Jerusalem is the main junction between the area of Judea and Samaria, separating the two areas. Its location serves for intelligence collection and for forays into the territory of the Palestinian Authority. Jerusalem is a vital link for protecting the Jordan River as Israel’s eastern security border. Only a metropolis in Greater Jerusalem will prevent the city from turning into a declining border town. Greater Jerusalem’s strategic importance formed the basis of the Alon Plan, to which Yitzhak Rabin was committed until his last day. The development of metropolitan Jerusalem under Israeli rule is, therefore, an national mission of existential significance. Victory in the struggle will be achieved both within Jerusalem and in the territory surrounding it—the Judean Desert to the east, Gush Etzion to the south, and Binyamin to the north. David Ben-Gurion’s saying from 1968 is still relevant: “Without a large and growing Jewish settlement in the Jerusalem area, to the east, north, and south—peace will not come to the City of David.”

#### There are alternate international actors that could facilitate peace as well. EU recognition solves pressure, maintains US alliance

Whitbeck 2014 – John V. Whitbeck is an international lawyer who has advised the Palestinian negotiating team in negotiations with Israel (“Diplomatic Recognitions-The Road to Peace,” The Washington Report on Middle East Affairs 33.8) bhb

Europe should not stop there. Imagine that all of the 20 European Union states which have not yet recognized the State of Palestine were to do so and that the EU were then to announce that, if Israel did not comply with international law and relevant U.N. resolutions by withdrawing fully from the occupied State of Palestine by a specified date, it would impose economic sanctions on Israel and intensify them until Israel did so. Europe is not simply Israel's principal trading partner. It is Israelis' cultural homeland, with many Israelis viewing their country as a "European villa in the jungle." It is even Israelis' sports homeland, with Israeli teams competing in European football and basketball competitions. If Europe were to adopt and pursue a firm and unified position of constructive disapproval along these lines, the writing would be indelibly on the wall and the end of the occupation and the transformation of the current two-state legality under international law into a decent two-state reality on the ground would become unavoidable, a mere question of when rather than of whether. Then, and only then, meaningful Israeli-Palestinian negotiations on the practical modalities of ending the occupation and structuring future peaceful and cooperative coexistence could begin. One may well respond that, of course, Europeans would never dream of taking such an initiative. It is true that Europe has traditionally preferred smooth and non-contentious relations with the United States and Israel, even when such subservience runs counter to its proclaimed values and interests and further fuels the multi-decade war of civilizations between the Muslim world and the West now taking shape, to applying nonviolent pressure consistent with international law to achieve peace with some measure of justice in Israel and Palestine. However, this does not mean that Europe is incapable of breaking free from the American-imposed orthodoxy that a Palestinian state can and should never exist, even on a purely legal level, without Israel's prior consent, or incapable of acting wisely and in accordance with European values and interests.

#### There are also Palestine-specific links to the ‘Pandora’s box’ DA

Rivkin and Casey 11 - Washington, D.C., lawyers who served in the Justice Department during the Reagan and George H.W. Bush administrations. Mr. Rivkin is also a senior adviser to the Foundation for Defense of Democracies. (“The Legal Case Against Palestinian Statehood,” *Wall Street Journal*, Proquest)//BB

The Palestinian Authority, by contrast, does not meet the basic characteristics of a state necessary for such recognition. These requirements have been refined through centuries of custom and practice, and were authoritatively articulated in the 1933 Montevideo Convention on the Rights and Duties of States. As that treaty provides, to be a state an entity must have (1) a permanent population, (2) a defined territory, (3) a government, and (4) the capacity to enter into relations with other states. As of today, the PA has neither a permanent population nor defined territory (both being the subject of ongoing if currently desultory negotiations), nor does it have a government with the capacity to enter into relations with other states. This pivotal requirement involves the ability to enter and keep international accords, which in turn posits that the "government" actually controls—exclusive of other sovereigns—at least some part of its population and territory. The PA does not control any part of the West Bank to the exclusion of Israeli authority, and it exercises no control at all in the Gaza Strip. The PA does not, therefore, qualify for recognition as a state and, concomitantly, it does not qualify for U.N. membership, which is open only to states. All of this is surely understood by the PA and its backers, and is also why the administration has correctly labeled this effort as a distraction—"stunt" being a less diplomatic but even more accurate term in these circumstances. What is unfortunate is that the Obama administration has failed to present the case against a Palestinian statehood resolution in legal rather than tactical terms, even though these arguments are obvious and would greatly reinforce the U.S. position, also providing a thoroughly neutral basis for many of our allies, particularly in Europe, to oppose Mr. Abbas's statehood bid. The stakes in this battle are high. The PA's effort to achieve recognition by the U.N., even if legally meaningless, is not without serious consequences. To the extent that state supporters of that measure may themselves have irredentist populations or active border disputes with their neighbors—as do Russia, China, Britain and Turkey—they will certainly store up future trouble for themselves. Traditionally, states rarely recognize (even if they may materially support) independence movements in other states. This is because granting such recognition may have very serious consequences, up to and including war. (The classic example here being France's recognition of the infant United States in 1778 and its immediate and inevitable entry into the War for Independence against Britain).

#### ‘Condition’ counterplans are another potential negative tool. A conditional offer of recognition can be used to extract concessions from Palestine

Kilcullen 14 – Senior Research Fellow in Politics and International Relations, Macquarie University (John, “Two state solution does not depend on words,” Eureka Street, <https://www.eurekastreet.com.au/article/two-state-solution-does-not-depend-on-words)//BB>

The US and Israel should welcome the opportunity that Palestinian elections will preaffsent. Instead of pausing, the US government should redouble its efforts. As is clear from their efforts to join UN agencies and other international bodies, the Palestinians want international recognition of their state. Under US law, the President by himself, without needing the concurrence of Congress, has power recognise a foreign state. President Obama should announce that as soon as certain reasonable conditions are met the US will recognise a state of Palestine and sponsor its admission to the United Nations. Australia and other countries should urge the President to make this offer and should make the same offer themselves. The conditions should be such as to encourage the Palestinians to do what is needed to give Israel a reasonable assurance of security, in the hope that the remaining points of difference would then be easier to resolve. What should the conditions be? First, that the proposed elections actually take place. Second, that the newly-elected government undertake to abide by the obligations that international law imposes on all states equally, including the obligation not to make attacks on other recognised states, including explicitly Israel. Third, that the new government produce a credible plan (credible in the judgment of the countries making the offer) for achieving control over its territory; for this they may require external assistance. No other conditions should be imposed. The Palestinians should not be asked to affirm that Israel is a Jewish state.

#### This area has strong politics links

Judis 11 – senior editor of The New Republic and a visiting scholar at the Carnegie Endowment for International Peace. (John, “Why the U.S. Should Support Palestinian Statehood at the U.N.,” *The New Republic*, <https://newrepublic.com/article/95166/israel-palestine-netanyahu-abbas-un-obama)//BB>

As far as the Palestinians’ UN bid was concerned, there are very powerful lobbies contending for the title “pro-Israel” that have opposed the Palestinians’ efforts at the UN. They include not only AIPAC, but also J-Street, which began as a bold alternative to AIPAC, but has ended up mimicking its subservience to Israeli aims. There is also strong opposition from rightwing Christian groups who support a greater Israel. The Republican Study Committee is circulating a proposal to recognize Israeli annexation of the West Bank in response to the U.N. granting membership to a Palestinian state. Republican presidential candidates (who probably could have cared less twenty years ago) are denouncing Obama for “throwing Israel under the bus” (Romney) and “appeasement” (Perry). That bears out how crazy American politics have become—and not just on debts and the deficit.

## \*\*Puerto Rico

### Notes/Background

#### Two paths – statehood or independence

**NBC News 2021,** April 15, Nicole Acevedo, “Statehood or self-determination? Tensions over Puerto Rico status rise amid opposing bills” https://www.nbcnews.com/news/latino/statehood-or-self-determination-tensions-over-puerto-rico-status-rise-n1264184

“Politics are playing a role in this process that is really unacceptable," José Fuentes, chairman of the Puerto Rico Statehood Council, said. Competing bills in Congress have reignited tensions around Puerto Rico's future territorial status and its relationship to the mainland, but a rare congressional hearing has brought a new sense of urgency among lawmakers debating whether to support statehood or a different pathway towards determining the U.S. territory's relationship to the federal government. The Committee on Natural Resources Office of Insular Affairs hosted a legislative hearing on Wednesday to discuss the competing bills in an effort to engage Congress on Puerto Rico's future — a subject many members have avoided in the past. The issue of status has long divided Puerto Ricans on the U.S. territory in large part due to how their local political party system is organized. Most people support either the pro-statehood New Progressive Party or the Popular Democratic Party, which supports the island's current commonwealth status. A smaller percentage of "independentistas" support the Puerto Rican Independence Party, which advocates for the island's independence from the U.S. Such divisions have percolated into Congress in the form of two opposing bills. Rep. Darren Soto, D-Fla., and Rep. Jenniffer González, Puerto Rico's nonvoting member of Congress and a Republican, introduced bicameral and bipartisan legislation last month offering statehood to Puerto Rico following a nonbinding referendum in November that directly asked voters whether Puerto Rico should be admitted as a state. With nearly 55 percent voter turnout, about 53 percent of Puerto Ricans who voted favored statehood while 47 percent rejected it, according to Puerto Rico's Elections Commission. Another bicameral and bipartisan bill from Rep. Nydia Velázquez, D-N.Y., and Rep. Alexandria Ocasio-Cortez, D-N.Y., proposes an inclusive self-determination process by creating a "status convention" made up of delegates elected by Puerto Rican voters who would be responsible for coming up with long-term solutions for the island's territorial status — statehood, independence, a free association or other options beyond its current territorial arrangement. “The Self-Determination Act does not impose one option on the people of Puerto Rico. Instead, it allows for a thorough discussion about the implications of each of the status option and what transitional plans would look like,” Velázquez said. “Puerto Ricans have never had the benefit of having any of this information upfront. Congress should commit itself to following through on the self-determination process.” González blasted Velázquez’s bill saying it “shamelessly ignores the will of voters in Puerto Rico.” “Letting the losing minority deny the clear choice of the majority in a free and fair vote isn’t democracy, and the United States must not take part in such an egregious act,” González said. Democrats introduce bill on Puerto Rico status in House and Senate. During the lengthy hearing, pro-statehood witnesses continued slamming the self-determination bill, arguing that the proposed process unnecessarily stretches a debate Puerto Ricans on the island have been having for over five decades and opens a pathway to debate territorial options that may not be consistent with U.S. constitutional law. Aníbal Acevedo-Vilá, former governor of Puerto Rico under the Popular Democratic Party, one of the witnesses defending the self-determination bill, said that one of the key parts of that legislation is the creation of a congressional negotiating commission. It would answer the many legal, constitutional, cultural and economic questions that will surface as Puerto Rico discusses ways to transition out of their current status. “There's a lot of things that need to be clarified by Congress before people vote,” Acevedo-Vilá said.

## \*\*Quebec

See Michigan’s Wiki.

## \*\*Republic of Lakotah

### Aff

#### The US refuses to acknowledge the Republic of Lakotah’s call for independence

Holloway 2014 – Royal Holloway, PhD University of London (“Subversive Sovereignty: Parodic Representations of Micropatrias Enclaved by the United Kingdom,” Department of Geography College of Science Royal Holloway, University of London) bhb

For the research, I will use the word enclave to mean territory claimed by ‘declared’ nations, by micropatrias, but lying within a larger territorial claim by a legitimate sovereign, hence micropatrias as enclaves. Generally, micropatrias are enclaved by sovereign nations, furthering their liminal existence. For an example of how other types of enclaves reside in liminal spaces, the Basque territory can be considered an enclave that is within territory claimed by Spain and territory claimed by France. The civil unrest, injustice towards the Basque culture, and ‘terrorist’ activity from the Basque front highlights very threatening actions and reactions between unhappy enclave and begrudging host. Another example of an enclave is the Lakota Nation in the United States, located mainly in the states of North Dakota, South Dakota, Nebraska, Wyoming, and Montana. In 2007, the Republic of Lakotah declared independence from the United States, claiming the above mentioned territory for their nation (RL 2009). In response, nothing is done by the United States. The non-response by the United States illustrates exclusionary practices in an attempt not to officially engage the Lakota. By not engaging them, by ignoring them, the US government does not inadvertently lend any legitimacy to their efforts at independence.

#### Recognizing Republic of Lakotah is international treaty law, not domestic self-determination. Equal standing in international law is key.

Sargent and Melling 2015 – Sarah Sargent is a Senior Lecturer in Law at The University of Buckingham, Graham Melling is a Senior Lecturer in Law in Lincoln Law School specialising in Public International Law (“The Exercise of External Self-Determination by Indigenous Groups: The Republic of Lakotah and the Inherent Sovereignty of American Indigenous Peoples,” Sri Lanka J. Int'l & Comp. L.) bhb

The right to exercise self-determination does not in itself mean an automatic right to secede from a state and establish a separate and independent state. The examination of the current international law position has demonstrated several important facets on the normative meaning of the principle self-determination. Firstly, identifying a group as a ‘peoples’ does not imbue them with the right to secede. Self-determination is a far more complex concept. Internal self-determination is a concept that is neither unique to nor that originated with the UN Declaration on the Rights of Indigenous Peoples. The concept of internal selfdetermination is found in other international instruments that pre-date the UNDRIP by several decades. It is not new. The ability to exercise external self-determination occurs in only limited and prescribed circumstances. International law is concerned with the maintenance and stability of states, not as providing a tool for threatening that. The ability to exercise self-determination is an exceptional circumstance and not the rule in international law.

Secondly, the question might be rightly raised then about why states had such a concern over the right to self-determination within the United Nations Declaration. Was this in fact a genuine concern borne out of ignorance of the current international law provisions on selfdetermination? This, while possible, is also perhaps disingenuous. It is difficult to fathom that the state machinery of the four states that opposed the UNDRIP were uniformly and simultaneously in ignorance of international law. Perhaps there were other reasons for the position that states took—a platform of rhetoric to resist indigenous rights of any sort as a matter of international rather than domestic law.That said, it is curious that the Republic of Lakotah chose not to reference the UNDRIP at all in its two declarations. But upon a closer inspection, the nature of the ROL claims stand in conflict and opposition to the UNDRIP. The UNDRIP says that indigenous groups lack the ability to assert sovereign status in the form of independent statehood. But that is a matter hardly settled by the UNDRIP itself. A separate analysis of international law reveals a circumscribed ability to exercise external self-determination as a means of establishing an independent state. This requires a demonstration of continuing oppression or persecution— and given the statistics cited by the ROL as to the condition of indigenous peoples of the Sioux Nations- this would not be an impossibility to prove. Does an indigenous acceptance of internal self-determination then sweep away the possibility of indigenous groups raising state abuse as a reason for ceding—in the event that a group would wish to secede from the metropolitan state? Does the acceptance of internal self-determination somehow minimise claims that might be raised about state abuse in any context other than indigenous secession?

The claims of the ROL, whilst thus far largely ignored by both the international community and the United States, highlight several important facets about the operation selfdetermination in international law. It also highlights the aim of international law to provide stability and consistency to state existence, not to be a means of de-stabilising it. It highlights the widespread misunderstanding of the exercise of self-determination as a means to secede, and also the limitations of the self-determination provisions within the UNDRIP. State unease with either internal or external self-determination is perhaps reflective of state unease with the idea of indigenous groups seeking redress of state violations in international rather than domestic forums. The decision of the Republic of Lakotah to raise its claims as matters of international, rather than domestic law, and outside of the provisions of the UNDRIP also point to the unresolved question of where indigenous claims are to be raised. The ROL position on this is unequivocal: it is to be a matter of international law on equal footing with states. Perhaps more than anything, it is this standing in international law that is something that states wish to see not proceed—that indigenous groups should never have the ability to challenge states on equal legal footing—whether the group is recognised under international law as a state or not. In trying to assess the rather murky justifications for legal positions taken and not taken, this much appears to be discernable. States would prefer to control indigenous issues and claims at a domestic level, while indigenous groups would prefer the option of international forums. States will continue to resist the idea that they are not the final arbiter of indigenous claims and status.

#### Only returning land solves. Monetary compensation fails because the land was never for sale.

LaVelle 2001 – John P. LaVelle, an enrolled member of the Santee Sioux Nation, holds the title of Dickason Professor of Law and directs the Indian Law Program at the University of New Mexico School of Law (“Rescuing Paha Sapa: Achieving Environmental Justice by Restoring the Great Grasslands and Returning the Sacred Black Hills to the Great Sioux Nation,” 5 Great Plains Nat. Resources J. 40) bhb

The Supreme Court's decision in Sioux Nation recognizing the dispossession of the Black Hills as an uncompensated taking in violation of the United States Constitution arguably comprises an important doctrinal advancement for the field of Indian law. 73 The decision prevents the United States from presuming judicial approval of any forced dispossession of Indian lands on the government's bare assertion that such dispossession constitutes an exercise of Congress's "plenary power" in Indian affairs. 74 However, because it authorized compensation strictly in the form of money rather than the return of Paha Sapa, 75 the Sioux Nation decision failed to deliver justice to the Great Sioux Nation. 76

Indeed, the decision has been viewed by Lakota, Dakota, and Nakota leaders as legitimizing the confiscation of the Black Hills and thereby compounding the original injury and endangering the survival of the Sioux tribes. William Means, executive director of the International Indian Treaty Council and citizen of the Oglala Lakota Nation, tersely condemned the decision in testimony before the Senate Select Committee on Indian Affairs: First of all, the courts [in Sioux Nation] identified the thief of the Black Hills in 1877 as the U.S. Congress. The second thing the court did was allow the thief to keep what he had stolen. The third thing the court did was allow the thief to determine the value of the land. The fourth thing they did was allow the thief to impose or attempt to impose that monetary judgment upon our people in exchange for the land. 77

Similarly, Professor Elizabeth Cook-Lynn, Crow Creek Dakota scholar and founding editor of Wicazo Sa Review, denounces federal efforts to confer monetary compensation for the taking of the Black Hills as "a tactic" deployed in "a kind of paper warfare that not only legalizes land theft but legalizes the death of the tribes." 78 Professor Cook-Lynn and others also have emphasized the superficiality and hypocrisy of efforts in South Dakota to achieve "reconciliation" with the Sioux tribes in the face of the continuing forced alienation of Paha Sapa from sovereign tribal ownership. 79 Because of a widespread realization "that if they ever accept money damages in exchange for their claim to these sacred lands, they will forfeit their cultural identity as Lakota people," the Sioux tribes have rejected Sioux Nation's "remedy" of monetary compensation for the unconstitutional taking of the sacred Black Hills. 80 As Professor Rebecca Tsosie explains, this "legendary refusal" to abandon efforts to recover Paha Sapa stems from the Sioux tribes' recognition of the Fort Laramie Treaty of 1868 as a "sacred promise" that is "fundamental to the cultural survival of the people because [it] represent[s] the linkage between land and cultural identity." 81 Similarly, Professor Frank Pommersheim observes: For the Sioux Nation, land restoration is a cornerstone cultural commitment. Economic considerations are important, but not as central. The Black Hills land is of primary importance because of its sacredness, its nexus to the cultural well being of Lakota people, and its role as a mediator in their relationship with all other living things. . . Land is inherent to Lakota people. It is their cultural centerpiece--the fulcrum of material and spiritual well being. Without it, there is neither balance nor center. The Black Hills are a central part of this "sacred text" and constitute its prophetic core[.] 82 For the Lakota, Dakota, and Nakota people, Paha Sapa is "constitutive of cultural identity," and the tribes' "symbolic refusal to acquiesce to the immoral conduct of the United States [has] fueled the Sioux people's struggle to reclaim the Black Hills and assert their sovereign rights." 83 As Professor Cook-Lynn attests, "the Sioux Oyate believe they now walk with renewed pride in themselves instead of walking around with their heads hanging in defeat and shame, which would have been their fate if they had accepted the monetary award for the Black Hills." 84

#### This topic area provides a unique opportunity to apply theories of Settler Colonialism to federal policy

Krakoff 2012 – Sarah Krakoff is Professor and Wolf-Nichol Fellow, University of Colorado Law School (“INEXTRICABLY POLITICAL: RACE, MEMBERSHIP, AND TRIBAL SOVEREIGNTY,” 87 Wash. L. Rev. 1041) bhb

Race and politics are deeply entangled by and throughout our history. The construction of racial categories has served distinct political ends for all subordinated groups. In the case of indigenous peoples, that end was their eventual erasure from the continent. The resulting eliminationist policies shaped early conceptions of tribes and have had sticky effects on all aspects of federal Indian law, including the federal government's trust relationship with tribes as well as understandings of tribal political status, tribal membership, and tribal inherent powers. For the past several decades, the federal government's policies with respect to tribes have generally supported tribal selfgovernance and self-determination. Laws affecting Indian tribes and people no longer overtly embrace the racial logic of elimination. Yet the current laws operate in a context inevitably soaked in the racialized and eliminationist policies of the past. For contemporary federal policies to reach fruition, tribes and their allies must continue to work their way out of that racial and political thicket.

Untangling the ways in which American Indian tribes have been constructed by the racial and eliminationist logic of our past is no mean feat. The first crucial step, however, is to understand the history in all of its complexity. The legal histories of the Colorado River Indian Tribes and the tribes of the Great Dakota Nation provide two different windows into that larger history. The CRIT story is one of constructing a single tribe out of many distinct peoples. The "race" of the single tribe was subordinate to the larger distinction between Indians and whites. The overriding need to clear the West for non-Indian settlement resulted in a multi-ethnic polity that had no precedence in the governing or social structures of the Mohave, Chemehuevi, Navajo, and Hopi people. The Dakota story, on the other hand, is one of scattering and concentrating peoples of various and overlapping ethnic, social, and political structures onto separate reservations. The result today is a much greater degree of affiliation between and among the Sioux Tribes than is generally appreciated.

Both of these histories are set in the larger context of the federal government's imposition of static definitions of "tribe" and "membership." Whatever membership might have meant for tribes in pre-contact times, today it is shaped by the complicated process of having traveled the route from independent people to "domestic [\*1132] dependent nation." Part of that process entailed a shift from fluid and territorially-based absorptions of new people to bureaucratized accountings that incorporated blood quantum and descent. 542 That shift was imposed on tribes by the federal government's overriding objectives, during different policy periods, of quantifying and ultimately shrinking the number of indigenous people who inconveniently occupied and had legitimate claims to land and resources.

In terms of current legal doctrine, the Mancari rule - that federal courts should not subject classifications based on tribal political status to heightened scrutiny when those classifications "can be tied rationally to the fulfillment of Congress' unique obligation toward the Indians" 543 - is probably the best courts can do. The categories "federally recognized tribe" and "tribal member" are political, even while they also include the racialized history of the federal government's treatment of Native peoples. Given that courts are unlikely to engage in the deep, contextual analysis necessary to untangle the racial from the political in ways that will reverse eliminationist policies, it is better to stick with Mancari's good-enough formulation. If courts move in the direction of scrutinizing tribes' distinctive status in today's color-blind climate, they are more likely to entrench historical discrimination against indigenous peoples than to reverse it. Thus, while courts should continue to subject racial discrimination against Indian people to heightened scrutiny, they should not reassess Mancari's approach toward federal classifications that further the unique government-to-government relationship between tribes and the federal government.

Despite the dominance of eliminationist policies toward indigenous peoples, there has always been a tensile counter-thread. As a nation, we pulled up short of severing completely the ties that American Indian tribes had to their pre-contact status as independent sovereigns. And American Indian tribes have seized each opportunity to continue as distinct peoples, exercising tribal self-governance in the shadow of the law when necessary, as well as through the convoluted forms made available through law. The legal forms of the federally recognized tribe and tribal member, and the legal doctrines assigning meaning to those forms, are a product of that complicated history of subordination and survival. The ultimate goals of Indian law today should be to overthrow the remnants of elimination in favor of indigenous survival.

#### US recognition policy toward Sioux reflects logic of elimination. Shift in policy from nation to tribal focus has enabled indigenous extinction.

Krakoff 2012 – Sarah Krakoff is Professor and Wolf-Nichol Fellow, University of Colorado Law School (“INEXTRICABLY POLITICAL: RACE, MEMBERSHIP, AND TRIBAL SOVEREIGNTY,” 87 Wash. L. Rev. 1041) bhb

Sioux history continues to unfold for the ten federally recognized Sioux tribes of North and South Dakota: Rosebud Sioux Tribe, Cheyenne River Sioux Tribe, Standing Rock Sioux Tribe, Sisseton Wahpeton Oyate of The Lake Traverse Reservation, Oglala Sioux Tribe, Lower Brule Sioux Tribe, Flandreau Santee Sioux Tribe, Yankton Sioux Reservation, Crow Creek Sioux Reservation, and the Spirit Lake Tribe. The mixed membership and shifting enrollments within some of these tribes indicate the complexities of tribal membership as an affiliation. The migration of members between tribes reflects the continuity of Indian and/or Sioux identity notwithstanding the legal boundaries established by reservations and distinct federally recognized tribes. For example, two tribes include in their enrollment statistics the number of tribal members who have relinquished their membership to join other tribes. The Crow Creek Sioux Tribe, which has a total enrollment of [\*1117] 5069 members, 1230 of whom live on the Crow Creek Reservation, reported in 2011 that 180 individuals had relinquished their Crow Creek enrollment to join other tribes. 464 The Flandreau Santee Sioux Tribe, which has 759 enrolled members and 1266 members of other tribes residing on their lands (mostly attributable to the Flandreau Indian School), reported that approximately forty of their members disenrolled to join other tribes, and 250 relinquished other tribal affiliations to join Flandreau. 465 Similar phenomena of enrollment and relinquishment are evident for the Rosebud Sioux Tribe, 466 a much larger tribe with over 21,000 enrolled members living on its reservation. 467

Given the static boundaries imposed on the Dakota people as a result of carving up their aboriginal territory into discrete reservations, it is not surprising that membership in a federally recognized tribe is, for some, not necessarily paramount to tribal identity. The degree of migration, disenrollment, and reenrollment reflects the extent to which Dakota people still identify with the larger Dakota Nation, notwithstanding the political and legal significance of membership in a particular tribe. 468 At the same time, the federally recognized tribe has become the primary site of identity for many, as well as the symbol for the persistence of separate Dakota political and cultural existence. For members of the ten federally recognized tribes that once comprised part of the Great Dakota Nation, identity (including its racial, political, and cultural aspects) derives from the history and politics that lie within current legal distinctions.

III. SETTLER COLONIALISM, THE ELIMINATIONIST AGENDA, AND THE RACIAL FORMATION OF NATIVE PEOPLES

The general history of tribal federal recognition and membership in Part I and the specific histories of the CRIT and Sioux Tribes in Part II reveal how race was constructed in the American Indian context. The concept of the inferior and disappearing tribe justified laws and policies that fixed tribes in time and space in order to diminish their separate status and claims to land. The means of achieving Indian elimination varied. In the CRIT context, the predominant approach was to consolidate distinct ethnic and linguistic groups into one tribe on one reservation. The Sioux story, by contrast, is characterized by scattering connected groups into many smaller tribes (with smaller reservations). Throughout these two histories, as well as the broader history of federal recognition, the government's role in entangling race, blood, and tribal status to achieve the ends of shrinking Indian tribes and their claims to land is evident.

In their influential work on racism in the United States, Michael Omi and Howard Winant coined the term "racial formation," which they defined as "the sociohistorical process by which racial categories are created, inhabited, transformed, and destroyed." 469 Omi and Winant posit that the initial essentialist construction of race, which ascribed inferior characteristics to groups based on allegedly biological traits, performed certain key historical functions (such as the expropriation of land and labor.) Yet once the category of race is created, and social ordering based on racism occurs, neither the category nor the social ordering disappear despite the absence of biological bases for racial distinctions. Race, though a social construct and not a biological trait, thus acquires and produces cultural meanings that continue to infuse our everyday encounters and structure aspects of our society. 470 Rather than jettison race as an archaic misconception, Omi and Winant urge that "[a] more effective starting point is the recognition that despite its uncertainties and contradictions, the concept of race continues to play a fundamental role in structuring and representing the social world." 471

Although they mention American Indians in passing, Omi and Winant do not account separately for the racial formation of indigenous peoples historically, nor do they grapple with the unique legacies of racism on [\*1119] American Indian communities and individuals. 472 Patrick Wolfe, however, has applied a similar framework when analyzing the racialization of indigenous peoples in settler-colonial societies. 473 As theorized by Wolfe, settlercolonial societies, such as Australia and the United States, are those where the colonizing people came to stay and quickly outnumbered the indigenous inhabitants. 474 Traditional colonialism, as was imposed in much of Africa and India, was characterized by small numbers of colonizers dependent on much larger numbers of native people for labor. 475 To extract value from the land, traditional colonial societies required the continued presence of their subordinated labor force. 476 By contrast, "settler colonies were not primarily established to extract surplus value from indigenous labour. Rather, they are premised on displacing indigenes from (or replacing them on) the land." 477 The racial project for indigenous peoples was therefore one of elimination: "Settler colonies were (are) premised on the elimination of native societies. The split tensing reflects a determinate feature of settler colonization. The colonizers come to stay - invasion is a structure not an event." 478

Wolfe's work on the racialization of indigenous people focuses largely on miscegenation and assimilation laws and policies. 479 The histories of federal recognition and membership composition discussed above add yet another dimension to explicating the eliminationist project: Federally recognized tribes were consolidated and concentrated from the previously un-quantified (and therefore, beyond state control) [\*1120] groups of tribally affiliated Indians. The very process of recognition reduced tribes from free and independent peoples (with potentially vast claims to land) to manageable units, which could be bargained with, reduced, and ultimately displaced. 480

The CRIT and Dakota stories contain characteristics that are generalizable, particularly when placed in the larger historical context of how tribes evolved from free and independent nations to federally recognized tribes. First, the politics that constructed federally recognized tribes included recurring pressures to shrink aboriginal claims to territory. 481 Second, justifications for shrinking territory were often couched in narratives of the tribe's waste (or non-use) of resources, with necessarily negative characterizations of Indian people. 482 Third, the fluidity with which Indian tribes defined their own members prior to European contact was necessarily compromised by the federal government's imposition on tribes of regimes of land and resource scarcity. 483 Fourth, today, federally recognized tribes nonetheless include considerable ethnic diversity among enrolled members, as well as varying kinds of political and social affiliations that extend beyond enrolled membership. 484

Folded within each history are the forms of racialization that applied to American Indians more generally. First, to justify divisions among tribes between those that were considered allies and those that were not, Indian agents and the federal government (including the courts) ascribed wild and unruly characteristics to some tribes and friendly and docile (assimilable) characteristics to others. 485 Then, as it became clear that no tribe was docile or friendly enough to justify standing in the way of non-Indian settlement, assimilation of individuals and the destruction of the tribe qua tribe became the dominant objective. 486 Thus, during the allotment era, all tribes, regardless of degree of assimilation, were deemed to have inferior qualities that were ineradicable except by [\*1121] dissolution of group status. Winnowing the number of people with tribal affiliation (through the creation of membership rolls and the inclusion of descent or blood quantum based criteria) was a way to ensure the eventual extinction of tribes themselves. By the time policies of self-determination became ascendant, all of this history was baked into what it meant to be an American Indian tribe.

For the CRIT, the overriding sense from history is that, from the federal government's perspective, all Indians in the area were fungible and ultimately disposable. The Indian Service attempted repeatedly to justify its failure to consolidate all tribes of the lower Colorado River onto one reservation with efforts to increase the CRIT population in other ways. When early attempts to locate tribes other than the Mohave and Chemehuevi failed, allotment seemed to be the best solution. When allotment efforts failed to shrink the CRIT reservation by opening it for non- Indian settlement, federal agents tried yet another strategy: relocating Navajo and Hopi tribal members who themselves were objects of failed government policies to contain and control tribes and their homelands. Throughout, federal officials referred to the waste of resources that would otherwise result if lands set aside in the 1865 statute (with subsequent additions) were home only to a paltry number of Indians. The multi-linguistic, multicultural composition of today's Colorado River Indian Tribe is the outcome of that statist project of racialized consolidation, 487 even while today CRIT itself exercises its powers of self-government and inherent sovereignty to further a living, complicated culture with ties to its several indigenous peoples.

The history of the ten federally recognized tribes in North and South Dakota reflects the eliminationist agenda in similar as well as distinct ways. For the affiliated peoples of the Great Dakota Nation, their presence throughout the upper Midwest and Great Plains seemed initially to require a global territorial solution. 488 After the Civil War, when pressure and desire to settle the western territories increased, that solution was inadequate. The subsequent breakup of the Great Sioux Nation followed the dictates of non-Indian desire for land and resources rather than any preexisting identities claimed by the many Dakota bands and affiliations. To some extent, peoples of common language, political structure, and tradition were assembled within a federally recognized tribe on a reservation having some connection to their aboriginal lands. [\*1122] But that was due more to the will and agency of the bands themselves than the design of the federal government.

Wolfe's observation that "invasion is a structure not an event," 489 applies forcefully to the CRIT and Sioux tribes today. Invasion structured the membership composition of the CRIT and Sioux tribes according to non-Indian desire for land and resources, and the political and legal consequences for the tribes persist. Internally, the CRIT and Sioux tribal governments struggle to reconcile the divergent cultures and backgrounds of their members. Externally, the tribes must defend their legal and political sovereignty (derived from their pre-contact status as independent peoples and recognized in the US constitution) even though the form it takes necessarily reflects the history of invasion.

#### Restoring Treaty boundaries gives the Sioux authority to block DAPL

Fredericks and Heibel 2018 – Carla F. Fredericks is a Director, American Indian Law Program; Associate Clinical Professor and Director, American Indian Law Clinic, University of Colorado Law School and Jesse D. Heibel is the Getches-Wyss Fellow, Getches-Wilkinson Center for Natural Resources, Energy, and the Environment; University of Colorado Law School (“STANDING ROCK, THE SIOUX TREATIES, AND THE LIMITS OF THE SUPREMACY CLAUSE,” 89 U. Colo. L. Rev. 477) bhb

Today, the Standing Rock Sioux Tribe is waging a historic battle against DAPL, a 1,168-mile-long oil and gas pipeline that will carry 570,000 barrels of crude oil daily from the Bakken region of North Dakota across four states to refineries in southern Illinois. 259 The pipeline intersects the 1851 Treaty reservation and traditional territories of the Tribes, lands to which the Tribes continue to have strong cultural, spiritual, and historical ties. 260

The abrogation and unilateral "settlement" of the treaty by the convoluted Indian claims regime and the Supreme Court in United States v. Sioux Nation has limited the Standing Rock Sioux Tribe's legal remedies against the United States for activities taking place on its treaty lands and impacting its treaty resources. Because of the fact that the pipeline path lies within the boundaries of the 1851 Treaty and on lands that contain Standing Rock's vital cultural, spiritual, and physical resources, the case shows the utter failure of the Supremacy Clause to ensure the original treaty be respected as the "supreme Law of the Land."

In June 2014, Dakota Access, the entity charged with building the pipeline, notified the Army Corps of Engineers (Army Corps) of its intent to construct DAPL underneath Lake Oahe. 261 In October of the same year, Dakota Access sought to obtain multiple authorizations needed to begin construction, including verifications that it complied with Nationwide Permit 12 under the Clean Water Act, permission under the Rivers and Harbors Act, and an easement under the Mineral and Leasing Act. 262 In December 2015, the Army Corps published and sought comment on a Draft Environmental Assessment (EA) that evaluated the environmental effects of DAPL's proposed crossing at Lake Oahe. 263

The Standing Rock Sioux Tribe submitted comments to the Draft EA that highlighted a number of concerns about the [\*518] Draft EA's inadequacy. In particular, the Tribe was concerned that it failed to consider the potential harm to the Tribe's rights resulting from the construction and operation of the pipeline, to acknowledge the proximity to the Standing Rock Reservation, and to consider environmental justice concerns. 264 The Cheyenne River Sioux Tribe submitted comments on the Draft EA expressing similar concerns. 265

#### Must be US restoration of Sioux treaty rights

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Domestic legal developments are not necessarily sufficient to protect indigenous peoples in the enjoyment of their land and resource tenure. And, of course, those domestic legal advances already achieved remain far from fully implemented and translated into reality for indigenous peoples. Nonetheless, these developments signify a clear trend in the direction of the relevant international practice, and they constitute legal obligations for state officials under domestic law and give rise to expectations of conforming behavior on the part of the international community. 342

In many ways the controversy surrounding DAPL has highlighted the insufficiencies in the United States domestic legal framework to protect tribal lands and resources. Moreover, this framework not only includes domestic legal advances discussed by Anaya and Williams, such as the consultation regime enshrined in various federal statues, executive orders, and regulations, but existing obligations and rights guaranteed in bilateral treaties with Indian tribes. 343

Thus, for Indian treaty rights to be given life and meaning in United States courts, there must be a continued shift towards the developing international norms relating to Indigenous rights, including a reexamination of the domestic framework relating to ancestral land and resource claims to [\*530] include measures of land restoration and general reconciliation. While there can be a number of ways reconciliation-based mechanisms for Native land and resource concessions could be implemented in the existing United States system, former U.N. Special Rapporteur James Anaya provided an outline for such implementation when he posited that,

Measures of reconciliation and redress should include, inter alia, initiatives to address outstanding claims of treaty violations or non-consensual takings of traditional lands to which indigenous peoples retain cultural or economic attachment, and to restore or secure indigenous peoples' capacities to maintain connections with places and sites of cultural or religious significance … . 344

Conclusion

Although the Sioux Tribes' legal actions in the fight against the DAPL are still pending, the court has, to date, denied numerous requests that would have barred construction and operation of the pipeline pending resolution of the Tribes' legal claims. The dearth of judicial protections has allowed construction to occur underneath Lake Oahe in direct opposition to the Tribes' requests and in violation of their treaty rights.

In addressing the Tribes' treaty rights implicated by DAPL, the courts have thus far failed to rule that the treaty rights alone create a legal basis to challenge the actions of the Army Corps in its approval of the project. This reading of treaty rights as cabined within judicial doctrine diminishes the status of treaty rights as law, as explicitly set forth in the Supremacy Clause.

Under the fundamental understanding of a treaty, the obligations conferred constitute contractual rights between sovereign nations that should be honored. 345

[\*531] Further, under United States v. Sioux Nation, the only remedy for violations of these rights is monetary compensation. Through the application of the Fifth Amendment Takings Clause and the "settling" of Indian claims through the Indian Claims Commission and Court of Claims, the caselaw has diminished the only constitutionally recognized claims for Indians - treaty claims - limiting Tribes' attempts to protect their lifeways, their ancestral and treaty-reserved lands and resources to the existing "consultation" and other procedural provisions in various federal statutes. 346

For Indian tribes whose cultures and sovereignty are inextricably tied to land ownership, the current constitutional doctrines create a no-win scenario for treaty tribes in situations where Congress possesses unilateral power to abrogate treaties and Indian claims are considered "settled" by the just compensation regime. Further, the struggle undertaken at Standing Rock made two things clear: first, human rights implications are inherent in the difficulties encountered by tribes to maintain rights to their ancestral homelands and resources, once expropriated; and second, the lack of a rights-based framework and attendant remedies under federal law.

The current lack of a rights-based mechanism to ensure [\*532] performance of tribal treaty obligations illustrates the fallacy of the Supremacy Clause. The situation faced by the Great Sioux Nation begs reconsideration of the deference tribal treaties are due under the text of the Constitution.

#### Lakotah Republic meets T – International

Rice 2006 – G. William Rice, Associate Professor of Law, and Co-Director, Native American Law Center, University of Tulsa College of Law (“Teaching Decolonization: Reacquisition of Indian Lands within and without the Box - An Essay,” 82 N.D. L. Rev. 811) bhb

It would seem that three of the four factors set out in the first Article of the Montevideo Convention as indicators of statehood would be accepted as retained by the Indian Nations to the present day with little, if any, controversy. Therefore, we shall deal in an admittedly summary fashion with the issues respecting population, government, and contractual capacity.As to whether the Indian Nations have a "permanent population" it is an open and notorious fact the every federally recognized Indian tribe, band, or nation, has a roll upon which is subscribed the names and identifying information regarding its permanent population, or has specific alternative methods of determining whether a given individual is a "member" or "citizen" of that Nation. 65 Although the United States has sometimes claimed unto itself the right to decide who comprises the tribal membership-most always for the purpose of deciding to whom the United States will make payment of certain debts it owes to the citizens of the Indian Nation66-it is not generally disputed that the Indian Nations have always had, and retain, the right to determine for themselves who their citizens are. 67 American law distinctly separates Indian citizens from nonIndians who are citizens pursuant to the Fourteenth Amendment of the American Constitution by virtue of being born or naturalized within the United States and subject to the jurisdiction thereof.68 That division is seen as a legal and political division-not a racial one-thus clearly contradistinguishing Indian Nations from minority groups of American citizens. 69 In a similar way, the fact that Indian Nations retain functioning governments7 0 which are effectual is not open to serious dispute. 7 ' In 199472 and again in 2000,73 Congress found that:

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations; (2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes.74 The Executive Branch has also recognized the government-to-government relationship between the United States and the Indian Nations. 75 For the United States to maintain a "government-to-government" relationship with each federally recognized tribe requires, of course, that the tribe have a government that is capable of entering into relations with other governments. Of course, the choice made by an Indian Nation to accept the protection of the United States, or any other more powerful sovereign, does nothing to diminish the capacity of the Indian Nation to enter into, and fulfill, agreements with other sovereigns. 76 Likewise, the choice of the United States to change its method of ratification of its contracts or agreements with Indian Nations in no way diminishes the capacity of Indian Nations to enter into international agreements. 77 Long after the end of the classical "treaty period," 78 Indian Nations continued to make agreements with the United States, 79 and this practice has continued to the present day. 80 In addition, Congress has recently recognized that Indian Nations retain the authority to "enter into contracts and agreements to trade freely, and seek enforcement of treaty and trade rights," and has directed the Secretary of Commerce to provide assistance to Indian Nations in doing so: (a) FINDINGS.-Congress finds that- (4) consistent with the principles of inherent tribal sovereignty and the special relationship between Indian tribes and the United States, Indian tribes retain the right to enter into contracts and agreements to trade freely, and seek enforcement of treaty and trade rights; (b) PURPOSES.-The purposes of this Act are as follows: (5) To encourage intertribal, regional, and international trade and business development in order to assist in increasing productivity and the standard of living of members of Indian tribes and improving the economic self-sufficiency of the governing bodies of Indian tribes. (6) To promote economic self-sufficiency and political selfdetermination for Indian tribes and members of Indian tribes.81

Finally, the United Nations has studied the circumstances and effect of treaties and agreements between States and Indigenous peoples (Indian Nations) and has concluded that such treaties and agreements are matters of international concern, 82 that they are enforceable according to their terms subject to any defenses recognized by International law, 83 and that they may provide a useful tool for improving relations between Indigenous peoples and member states of the United Nations. 84 In that regard, Article 37 of the Draft Declaration on the Rights of Indigenous Peoples calls on States to recognize, observe, and enforce those treaties, agreements, and other constructive arrangements, and to honor and respect those agreements. 85 The provisions of the Draft Declaration contain at least seven additional articles that require the free, prior, and informed consent of Indigenous peoples to various State actions with respect to their lands, or provide for Indigenous peoples taking action or entering into social, cultural, economic, and political relationships with others across the current borders of member States of the United Nations. 86 Thus, the international community also contemplates future treaties and agreements by Indian Nations, and that they will have international significance.

#### There is value to approaching indigenous sovereignty through the lens of treaty obligations

Tsosie 2K – Rebecca Tsosie, Professor of Law and Executive Director, Indian Legal Program, Arizona State University (“Sacred Obligations: Intercultural Justice and the Discourse of Treaty Rights,” 47 UCLA L. Rev. 1615) bhb

At this point in time, it is unclear how, if, or when we will achieve intercultural justice. The discourse of treaty rights that is being employed by Native American and Mexican American people speaks of each Treaty as a "sacred text" that represents the moral obligations of the United States to racially and culturally distinct groups that have been treated unjustly by the dominant society. Thus, under the discourse of treaty rights, both the Indian treaties and the Treaty of Guadalupe Hidalgo are being employed as instruments of intercultural justice, and claimants are seeking to establish the moral obligation of the United States to honor its treaty promises and respect the land and cultural rights of the distinct ethnic groups that it has involuntarily incorporated through conquest.

The discourse of treaty rights fits within a constitutional politics of representation that seeks to address the legacy of conquest and colonialism within the United States. The Indian treaties and the Treaty of Guadalupe Hidalgo place an obligation upon all of us to work to achieve intercultural [\*1672] justice. This can only be accomplished if we understand both the legal and moral significance of the discourse of treaty rights, and the profound and even spiritual connections between the people and the land that exist among these distinctive cultures.

### Neg

#### The neg can give back federally controlled portions of the Black Hills without giving back private property

Carlson 2013 – Kirsten Carlson, Assistant Professor, Wayne State University Law School (“Priceless Property,” 29 Ga. St. U.L. Rev. 685) bhb

In the case of the Black Hills claim, the narratives in Zitkala-Sa's American Indian Stories suggest how Sioux beliefs about the Black Hills combined with their late nineteenth century experiences encouraged the formation of their legal claims against the United States government. The Black Hills claim emerged as a legal dispute largely because the Sioux believe the Black Hills to be sacred, priceless property and feel a deep sense of cultural, spiritual, and economic loss over these lands' dispossession. As American Indian Stories shows, even ordinary Sioux perceived the loss of their land as an acute injury that needed to be rectified by the United States government, which was primarily responsible for their land's alienation. This understanding of the Sioux dispossession became the basis of the Black Hills claim.

The refusal of the Sioux Nation to accept $ 1.3 billion from the United States as compensation for the Black Hills indicates that this history of dispossession remains relevant today. 277 The Sioux people [\*725] continue to believe that the Black Hills are priceless property. 278 If the Black Hills truly are priceless property, how can the seemingly intractable dispute over them be resolved, especially in a legal system that prefers compensation to specific performance in land claims? 279

First, the legal system has to accept that the Black Hills are priceless property to the Sioux people. 280 As the narrative in Zitkala-Sa's American Indian Stories suggests, the Sioux's lived experience plays a large role in the Black Hills claim's existence. This history of the Sioux dispossession persists in their lived experience because their economic marginalization relates to their land loss and their traditional subsistence lifestyle. A one-time infusion of money, such as the acceptance of the Black Hills award, most likely will not significantly change this. Nor would accepting the money resolve the acute feelings of grievance felt by the Sioux; they would remain dispossessed of their sacred lands. 281 To be made whole requires more than compensation for the Sioux Nation.

Once the United States government realizes that compensation will never satisfactorily resolve the Sioux Nation's claim to the Black Hills, various remedial approaches can be considered. 282 The Sioux [\*726] Nation has long proposed a return of a portion of the Black Hills as the preferred remedy to their dispossession. 283 Since the 1980s, the restoration of some of the Black Hills to the Sioux Nation has been discussed as a possible remedy. 284

Senators have even proposed legislation that would authorize a land return. 285

A land transfer, returning a portion of the Black Hills to the Sioux Nation, is possible because the federal government owns significant portions of the Black Hills. 286 For this reason, issues of private or state land ownership would not complicate restoration of part of the Black Hills to the Sioux Nation. Congress could simply pass legislation transferring public domain land in western South Dakota to the Sioux Nation. Congress has transferred public lands to Indian nations before, so this solution is not new or unique. 287 For example, in 1975, the federal government transferred 185,000 acres of National Park Service lands within the Grand Canyon National Park to the Havasupai Tribe. 288

[\*727] A land return is not only possible but also the preferred legal remedy under emerging international law. 289 Treaty-based organizations have recently interpreted international law as recognizing the uniqueness of indigenous property rights. 290 For example, the Inter-American Court on Human Rights has described the unique relationship between indigenous peoples and their territories as "not merely a matter of possession and production but a material and spiritual element which they must fully enjoy, even to preserve their cultural legacy and transmit it to future generations." 291 Because of the spiritually based relationship between indigenous peoples and their ancestral territories, a growing segment of the international legal community increasingly views restitution or land restoration as an appropriate remedy when--as in the case of the Sioux Nation's claim to the Black Hills--the ancestral territories of indigenous peoples have been expropriated without their consent. 292

A transfer of a portion of the Black Hills to the Sioux Nation would comply with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), endorsed by the Obama Administration in 2010. 293 Article 28 of the UN Declaration favors land returns over compensation payments for indigenous lands confiscated, occupied, or taken without the free, prior, and informed [\*728] consent of the traditional indigenous owners. 294 While "[t]he Declaration is a non-binding instrument, meaning that [states] are not, strictly speaking, legally bound" to implement its provisions, it is an official statement by most member states of the United Nations of the rights of indigenous peoples under international law. 295 Many of the Declaration's articles on the property rights of indigenous peoples simply reinforce rights recognized and protected in other international human rights documents. 296 For example, ILO Convention No. 169 recognizes the traditional property rights of indigenous peoples 297 and proscribes the relocation of indigenous peoples from these lands except in exceptional circumstances. 298 Significantly, the ILO Convention also supports the Declaration's preferred remedy for indigenous land loss-- restitution--and a restoration of the Black Hills to the Sioux Nation. 299 Article 16(3) of [\*729] the ILO provides that if traditional lands cannot be returned, indigenous peoples should be "provided in all possible cases with lands of quality and legal status at least equal to that of the lands previously occupied by them." 300

The preference for the restitution of indigenous peoples' ancestral lands in the Declaration also reflects interpretations of indigenous property rights by treaty based human rights bodies. 301 The Inter-American Human Rights System, composed of the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights, has developed a robust jurisprudence on the land rights of indigenous peoples under international human rights law. 302 Central to this jurisprudence is the recognition of restitution as the preferred remedy for ancestral land loss. 303 The Inter-American Human Rights System "has highlighted the need for States to adopt measures aimed at restoring the rights of indigenous peoples over their ancestral territories, and it has pointed out that restitution of lands is an essential right for cultural survival and to maintain [\*730] community integrity." 304 Similarly, in its General Recommendations on Indigenous Peoples, the Committee on the Elimination of Racial Discrimination also indicated a preference for land restoration rather than compensation when it called on state parties to the International Convention on the Elimination of All Forms of Racial Discrimination to take steps to return lands and resources taken from indigenous peoples without their consent. 305 Restoration of a portion of the Black Hills to the Sioux Nation would provide an effective remedy for their alienation and comply with emerging international law, which views restitution of indigenous traditional lands as a preferred legal remedy. 306

#### There is a counterplan to improve Tribal consent laws

Bower 2018 – Elizabeth Bower Juris Doctor Candidate 2018, Vermont Law School (“STANDING TOGETHER: HOW THE FEDERAL GOVERNMENT CAN PROTECT THE TRIBAL CULTURAL RESOURCES OF THE STANDING ROCK SIOUX TRIBE,” 42 Vt. L. Rev. 605) bhb

To properly protect tribal cultural resources, the federal government must create more substantive tribal consultation requirements within its statutes. If the federal government cannot accomplish a more meaningful consultation process, it is at risk of further betraying the Native American people. 198 The Federal Trust Doctrine imposes an affirmative duty on the [\*627] federal government to protect tribal cultural resources on lands held in trust. 199 This duty thus requires the federal government to actively protect these resources from adverse effects that federal agency actions may cause. 200 To properly protect these cultural resources, the federal government needs to meaningfully and effectively consult with the tribes. "[T]he duty to consult with Indian tribes is rooted in the federal government's common law trust responsibility to tribes." 201 Thus, to fulfill its duty under the Federal Trust Doctrine, the federal government must fix its current statutory framework.

To achieve proper protection of tribal cultural resources, Congress should amend the current statutes to require tribal consent whenever a federal agency determines that its actions will affect tribal cultural resources. Some scholars have argued for a uniform consultation statute. 202 However, legislation is a slow-moving process, and it would be more effective to simply amend the existing statutory framework. Because the current statutes, as discussed above, specifically focus on protecting cultural resources, Congress could simply amend them rather than pursue the process of creating an entirely new statute. 203 The proposed amendments should incorporate the following:

(1) acknowledgment from the tribe or tribal representative that the consultation process has begun;

(2) meaningful discussion, whereby each consulting party is able to present opinions, suggestions, and mitigation alternatives; and

(3) either:

(a) tribal consent allowing the agency to go forward with its action, as adjusted to incorporate each consulting party's input; or

(b) if the agency cannot obtain tribal consent, an adjudication wherein the agency has the burden to prove to a neutral arbiter [\*628] why it was unable to obtain tribal consent, yet should be allowed to proceed.

A statutory tribal consent requirement would create several advantages, not just for the protection of tribal cultural resources, but also for the agencies. To begin with, a tribal consent requirement would encourage agencies to begin the consultation process earlier. Second, the proposed requirement would create an affirmative duty on behalf of the federal government to implement mitigation alternatives, thereby achieving its own goals, while at the same time avoiding harm to tribal cultural resources. Lastly, requiring tribal consent would allow tribes to exercise their sovereignty over matters regarding their cultural resources.

First, if Congress amends the current statutes to reflect a consent requirement within the consultation process, it would urge agencies to engage in the consultation process earlier, thereby allowing for expeditious development projects. Currently, when tribal consultation does not occur until the later stages of a project, the agency is forced to choose between keeping its deadline and adjusting its project to incorporate the tribal input. 204 Typically, the agency chooses to keep its deadline, to the detriment of tribes. 205 However, if Congress makes tribal consent a prerequisite to the project, the consultation process would have to occur earlier. This is because an agency would, theoretically, not invest time and money on a project without first obtaining the necessary approval. Thus, by requiring tribal consent within the consultation process, Congress would not only ensure early and meaningful tribal input, but also prompt development.

Second, by requiring tribal consent, Congress would aid the agency in achieving its own goals while at the same time affording tribes adequate input over their cultural resources. The consent requirement would compel the agency to consider any proposed mitigation alternatives because, without incorporating them into its project, the tribe will likely not grant its consent. This would result in mutual agreement and, in many cases, a win-win. Of course, agencies and development proponents could argue that mitigation alternatives are costly or time consuming, but a consent requirement would likely dispel both of these fears. Because implementing mitigation alternatives will increase tribal consent, there will be fewer longstanding disagreements or lawsuits. This mitigation will reduce the overall cost and time of proposed development projects. Furthermore, the alternative to obtaining tribal consent is for the agency to participate in [\*629] adjudication; this proposal allows the agency to retain its right to proceed with the project without tribal consent if it can prove to a neutral third party that it should be able to.

Third, a consent requirement within the consultation process would reinforce tribal sovereignty. Part of the federal government's duty under the Federal Trust Doctrine is to protect tribal sovereignty. 206 However, the lack of meaningful consultations leads many tribal governments to believe the federal government is not fulfilling this duty. 207 The more deference an agency gives to a tribe's decision, the more the agency respects that tribe's sovereignty. Allowing the tribe to determine a course of action that would affect its cultural resources secures that tribe's sovereignty over its cultural resources. Moreover, truly meaningful consultation allows the agency to understand how its project or action would encroach on a particular tribe's sovereignty. 208 Thus, a consent requirement would aid the federal government in fulfilling its duty to protect tribal sovereignty under the Federal Trust Doctrine.

CONCLUSION

Since the time of first European contact, Native Americans and their culture have been cast aside to make way for development projects. 209 In the case of the Standing Rock Sioux Tribe, the Tribe was unable to obtain relief against an oil and gas pipeline that threatens many of its cultural resources. 210 Often weighing the economic benefits over the tribal cultural importance, agencies choose to pursue their actions rather than mitigate the adverse effects they may have on tribal cultural resources. Though many statutes--the NHPA, NEPA, ARPA, and NAGPRA, in particular--seek to protect cultural resources, they fall short because they lack any substantive [\*630] consultation requirements. 211 As a result, many tribal cultural resources (or the environment surrounding those resources) are harmed, destroyed, or removed. 212 The federal government has an affirmative duty under the Federal Trust Doctrine to protect tribal resources, yet it is currently failing to fulfill this duty. 213 In order to correct this wrong, Congress should strengthen the consultation requirements by amending its current statutory scheme to include a tribal consent requirement within the consultation process. By doing so, Congress will not only ensure protection of tribal cultural resources, but will also ensure timely development of a project. This would respect and reinforce tribal sovereignty, as well as provide a win-win for both the federal and tribal governments involved.

If a consent requirement existed for the Standing Rock Sioux Tribe, the near guarantee of future harm to their cultural resources could have been avoided. If the Corps was required to obtain consent from the Tribe prior to issuing its permit for DAPL, the Tribe would have seen either its proposed mitigation alternatives implemented or, at the very least, had the opportunity to challenge the Corps on its reasons for not obtaining their consent. By implementing a consent requirement, Congress can ensure that future harm to tribal cultural resources is reduced. The places and objects that Native Americans hold sacred are immeasurably important to this country's history and people, and the federal government must do everything in its power to protect them.

#### Pandora DA—The plan could embolden other secessionist movements in the US

Branch 2013 – Michael P. Branch is Professor of Literature and Environment at the University of Nevada, Reno (“Rants from the Hill: Most likely to secede,” https://www.hcn.org/blogs/range/rants-from-the-hill-most-likely-to-secede) bhb

There is in fact a long tradition of secessionist movements in America, a nation itself born through secession. Though we often associate secession with the southern states that confederated against the union during the Civil War, folks all over the country have been talking about getting out ever since they got in. Texas was once a free country (though it seceded from Mexico rather than the U.S.), eight counties of western North Carolina existed briefly as the State of Franklin, Maine was born when it seceded from Massachusetts, and both Kentucky and West Virginia were formed through secession from Virginia. There have been a whole slew of 51st state proposals, from folks in Michigan’s Upper Peninsula wanting to become a state modestly named “Superior,” to Long Islanders whose inherent sense of superiority motivated them to try to avoid slumming with the rest of New York. Northern California has been trying to declare itself free of southern California since before the establishment of Rough and Ready, and has in fact never stopped trying. A number of entire states have attempted to remove themselves from the country—the usual suspects, including Vermont, Alaska, Hawaii, Texas, and California. The citizens of countless cities and counties have also followed Rough and Ready in attempting to sever themselves from the United States. And following the 2012 presidential election, secession petitions were filed from every state in the country.

Perhaps most interesting are regionalist and bioregionalist secession movements, which have been strongest in the West. In 1849, the same year Rough and Ready was founded, the Mormon church established the independent state of Deseret, which occupied most of the Great Basin. Communities around Yreka, California, have tried to leave the union to form the State of Jefferson, an effort that has been ongoing since 1941, when some independent-minded folks declared that they would attempt to secede from the U.S. “every Thursday until further notice.” Up in the Pacific Northwest advocates are attempting to form the bioregional state of Cascadia, which would comprise parts of a number of states and even British Columbia. Some Lakota people in Wyoming, Montana, Nebraska, and the Dakotas have created the Republic of Lakota to emphasize that they never chose to join the nation in the first place.

Crazy as they may sound, these attempts to live within a larger political structure while somehow escaping its constraints make a kind of sense. Conceptually, secession speaks to our urge to declare ourselves independent from systems we find inefficient, unjust, or limiting, though of course we tend to look right past the privileges and utility of social organizations. We’re all for decent roads and also against the taxes necessary to maintain them. I think it is human nature to form compacts and then rebel against their power over us. The urge to withdraw from most everything is intense out here in Silver Hills, where those of us who survive the fires, earthquakes, aridity, wind, snow, rattlers, and scorpions have implicitly declared a fairly extreme form of independence just by maintaining residence here. In fact, the stalwarts of Silver Hills recently disbanded our neighborhood association, which existed for the sole purpose of keeping the roads passable in winter. It is hard to figure the logic on that one. Maybe there is a fear of a kind of slippery slope: first they ask you to chip in for snow removal, then they come on their plows to take your guns away?

#### Not all Sioux support the formation of an independent nation

Daly 2009 – Dr John C K Daly is a Washington DC-based consultant and an adjunct scholar at the Middle East Institute (“The Palestinian Struggle and the Lakota Nation's secession from the USA,” http://www.a-w-i-p.com/index.php/2009/11/25/the-palestinian-struggle-and-the-lakota) bhb

Internal Sioux controversy

The announcement has stirred up controversy in the Sioux nation as well.

On 3 January, Rosebud Sioux Tribe President Rodney Bordeaux told Indiancountrytoday.com that the group led by Means represented "individuals acting on their own."

"They did not come to the Rosebud Sioux tribal council or our government in any way to get our support and we do not support what they've done [...] Russell made some good points. All of the treaties have not been lived up to by the federal government, but the treaties are the basis for our relationship with the federal government [∑] We're trying to recover the lands that were wrongfully taken from us, so we are going by the treaties. We need to uphold them. We do not support what Means and his group are doing and they don't have any support from any tribal government I know of. They don't speak for us."

Cheyenne River Sioux Tribe Chairman Joseph Brings Plenty echoed those sentiments: "What has been said by these individuals has been talked about from dinner table to dinner table since I was a young kid; but the thing is, these individuals are not representative of the nation I represent. I may agree, I may disagree, but they have not gone out and received the blessing of the people they say they are speaking for," the Rapid City Journal reported on 7 January.

Means responded to these sentiments, saying: "I maintained from the get-go I do not represent, nor do the free-thinking, free-seeking Lakota want to have anything to do with, the 'hang around the fort' Indians, those collaborators with the government who perpetuate our poverty, misery and our sickness - in other words, our genocide. They are part and parcel of that genocide."

#### There exists a robust debate between recognition strategies and resurgence strategies

WEBBER 16 – Senior Lecturer in the School of Politics and International Relations at Queen Mary University of London, PhD in Political Science @ University of Toronto [Jeffrey, Idle No More An Introduction to the Symposium on Glen Coulthard’s Red Skin, White Masks, Historical Materialism 24.3 (2016) 3–29, DKP]

Using the relative downtime of the subterranean period, Coulthard has reflected on his experience as a militant in Idle No More’s activities in British Columbia, drawing up a set of critical theses on Indigenous resurgence and decolonisation, in the mode of what the late French Marxist Daniel Bensaïd called ‘strategic hypotheses’. ‘Our insistence is not on a “model”,’ Bensaïd argued, but on what we have called ‘strategic hypotheses’. Models are something to be copied; they are instructions for use. A hypothesis is a guide to action that starts from past experience but is open and can be modified in the light of new experience or unexpected circumstances. Our concern therefore is not to speculate but to see what we can take from past experience, the only material at our disposal. But we always have to recognize that it is necessarily poorer than the present and the future if revolutionaries are to avoid the risk of doing what the generals are said to do – always fight the last war.7 Coulthard’s first thesis pivots on disruption, the necessity of direct action, a plea for the unauthorised Indigenous route to rebellion, an insistence that legitimate struggle is not confined to ‘official’ representatives of the Indigenous people, the channels of formal negotiation, and the parameters of the ‘rule of law’.8 One reason is efficacy. ‘I would venture to suggest’, Coulthard writes, ‘that all negotiations over the scope and content of Aboriginal peoples’ rights in the last forty years have piggybacked off the assertive direct actions – including escalated use of blockades – spearheaded by Indigenous women and other grassroots elements of our communities.’9 Another cluster of reasons to defend this assertive dynamic has to do with self-emancipation: first, the practices are directly undertaken by the subjects of colonial oppression themselves and seek to produce an immediate power effect; second, they are undertaken in a way that indicates a loosening of internalized colonialism, which is itself a precondition for any meaningful change; and third, they are prefigurative in the sense that they build the skills and social relationships (including those with the land) that are required within and among Indigenous communities to construct alternatives to the colonial relationship in the long run.10 The drivers here are self-emancipation of the oppressed, the partial overcoming of internalised colonialism in the subjectivity of Indigenous participants through struggle, and the prefiguration of radical alternatives to colonial rule in contemporary Canada. This parallels, in a particular sense, Marx’s notion of ‘revolutionary practice’, in which there is a ‘coincidence of the changing of circumstances and of human activity or self-change’.11 For Coulthard, as for Marx, in their struggle to satisfy their needs, the oppressed come increasingly to recognise their common interests and become conscious of their own social power; through their self-activity they come to see themselves as subjects capable of altering the structures of society as well as changing themselves in the process through self-organisation and self-activity from below.12 While the connection to Marx in this regard is not made by Coulthard, he does draw explicit parallels with Frantz Fanon. Coulthard’s first thesis on Indigenous resurgence and decolonisation draws on Fanon’s engagement with Nietzsche at the close of Black Skin, White Masks, in which humanity is understood simultaneously as an affirmation and a negation.13 ‘Through these actions’, Coulthard contends, ‘we physically say “no” to the degradation of our communities and to exploitation of the lands upon which we depend. But they also have ingrained within them a resounding “yes”**:** they are the affirmative enactment of another modality of being, a different way of relating to and with the world’.14Ensuring that anti-capitalism is at the core of Indigenous resurgence is the basis of Coulthard’s second thesis. ‘For Indigenous nations to live,’ he concludes, ‘capitalism must die.’15 Coulthard sees in recent Indigenous tactics like traffic- and train blockading an anti-capitalist impulse, rooted in the disruption of the sphere of circulation. Such actions ‘seek to impede or block the flow of resources currently being transported to international markets from oil and gas fields, refineries, lumber mills, mining operations, and hydroelectric facilities located on the dispossessed lands of Indigenous nations’.16 Such actions are consciously built to intensify their ‘negative impact on the economic infrastructure that is core to the colonial accumulation of capital in settlerpolitical economies like Canada’s’.17 Although Coulthard does not highlight the connection, this strategic orientation resonates in many ways with what might be labelled the turn to circulation in much of contemporary Marxist and anarchist strategic theory, particularly in the domain of historical-materialist geography.18 Another urgent concern of Coulthard’s anti-capitalist thesis is again one of socio-geography: ‘how might we begin to scale up these often localized, resurgent land-based direct actions to produce a more general transformation in the colonial economy?’19 He recognises that short of a ‘massive transformation in the political economy of contemporary settler-colonialism, any efforts to rebuild [Indigenous] nations will remain parasitic on capitalism, and thus on the perpetual exploitation of our lands and labour’.20 A project of transformation at this level inevitably requires networks of solidarity beyond the Indigenous movement: This reality demands that we continue to remain open to, if not actively seek out and establish, relations of solidarity and networks of trade and mutual aid with national and transnational communities and organizations that are also struggling against the imposed effects of globalized capital, including other Indigenous nations and national confederacies; urban Indigenous people and organizations; the labour, women’s, GBLTQ2S (gay, bisexual, lesbian, trans, queer, and two-spirit), and environmental movements; and, of course, those racial and ethnic communities that find themselves subject to their own distinct forms of economic, social, and cultural marginalization.21An anti-capitalist strategy of Indigenous liberation, then, requires broad networks of solidarity and purposeful linkages between local battles and wider scales of conflict.

#### The focus on reclaiming sovereignty/land – even if it pretends to be non-western or collective is still fundamentally commensurate with liberalist understandings of power

MANN 16 – Director of the Centre for Global Political Economy @ Simon Fraser University, [Geoff, “From Countersovereignty to Counterpossession?”, Historical Materialism 24.3 (2016) 45–61, DKP]

In this case, at least, these terms are ‘sovereignty’ and ‘possession’. They are, at least in their hegemonic legal and political senses, fundamentally liberal concepts. Even in their collective form (land held in common, collective selfgovernment or determination), they are fully commensurable with the three essentially liberal assumptions upon which the treaties that assembled much of the rest of Canada rely: first, on signatories’ status as equal nations; second, on signatories’ right to represent their constituencies in the treaty process; and third and equally important, on the meaning or content of the rights and powers alienated or acquired with the land via treaty.

Like the fact-concept ‘unceded’ itself, parsing out these assumptions like this, in the mode of ‘logic’ that modulates liberal theoretical and juridical reason, is to engage with the problem on terms entirely commensurable with (and increasingly essential to) colonialism. Even if this analysis and discourse is mobilised in opposition, that discursive commensurability is undiminished. Indeed, framing it like this makes me feel like G.A. Cohen or Will Kymlicka, left-liberals who have struggled – unsuccessfully, it must be said – to describe a non-liberal justice on purely liberal terms.7 This is the work ‘unceded’ also does. For implicit in the emphasis on the ‘unceded’ qualifier is an assertion that the treaty-form is (at least in principle) legitimate; that, if properly undertaken, those who treat enjoy some property or power allowing them to rightfully alienate and acquire territory and exercise exclusive sovereign distributional and allocative powers regarding the land. It is a claim to sovereignty, and to the sovereign right to cede or refuse to cede. In the inescapably colonial context of modern Canadian liberal capitalism, this is a powerful stance, and it is entirely unsurprising that assertions of sovereignty have become crucial to Indigenous struggles (and not just in Canada).8

But it is nonetheless true that, in the words of Taiaiake Alfred, ‘the actual history of our [settlers’ and indigenous peoples’] plural existence has been erased by the narrow fictions of a single sovereignty’. Indeed, he argues, ‘sovereignty’ has become a big part of the problem: it has ‘limited the ways [Indigenous peoples] are able to think, suggesting always a conceptual and definitional problem centered on the accommodation of indigenous peoples within a “legitimate” framework of settler state governance. . . . “[S]overeignty” is inappropriate as a political objective for indigenous peoples’.9

#### Recognition strategies maintain negative attachments to unethical institutions

WEBBER 16 – Senior Lecturer in the School of Politics and International Relations at Queen Mary University of London, PhD in Political Science @ University of Toronto [Jeffrey, Idle No More An Introduction to the Symposium on Glen Coulthard’s Red Skin, White Masks, Historical Materialism 24.3 (2016) 3–29, DKP]

If a modified version of Marx’s notion of primitive accumulation is, therefore, Coulthard’s entry-point into his study of dispossession, Fanon is his alternate pathway into the politics of recognition. In particular, according to Coulthard, Fanon’s 1952 book, Black Skin, White Masks ‘provides a strikingly perceptive answer’ to situations of colonial rule such as the type currently subjugating Indigenous peoples in Canada: in situations where colonial rule does not depend solely on the exercise of state violence, its reproduction instead rests on the ability to entice Indigenous peoples to identify, either implicitly or explicitly, with the profoundly asymmetrical and nonreciprocal forms of recognition either imposed on or granted to them by the settler state and society . . . but also over time slave populations (the colonized) tend to develop what he called ‘psycho-affective’ attachments to these master-sanctioned forms of recognition, and that this attachment is essential in maintaining the economic and political structure of master/slave (colonizer/colonized) relations themselves.67

The danger here is both subjective and objective, the internal attachment of the colonised to structurally asymmetrical relations of recognition: ‘Fanon argued that it was the interplay between the structural/objective and recognitive/subjective features of colonialism that ensured its hegemony over time’.68 Breaking subjectively and objectively with the structured domination of colonial rule involves conflict and mobilisation. Linking back to our earlier discussion of Marx’s ‘revolutionary practice’ – the simultaneous changing of selves and circumstances through struggle – for Fanon, ‘it is through struggle and conflict (and for the later Fanon, violent struggle and conflict) that imperial subjects come to be rid of the “arsenal of complexes” driven into the core of their being through the colonial process’.69 In the absence of ‘conflict and struggle the terms of recognition tend [pace Charles Taylor] to remain in the possession of those in power to bestow on their inferiors in ways that they deem appropriate’.70

#### Recognition mechanisms homogenize all claims of sovereignty with a liberal, western approach – instead, the alt posits a counter sovereignty that simultaneously challenges western conceptions of political organization while destabilizing settler subjectivity

MANN 16 – Director of the Centre for Global Political Economy @ Simon Fraser University, [Geoff, “From Countersovereignty to Counterpossession?”, Historical Materialism 24.3 (2016) 45–61, DKP]

Red Skin, White Masks does in some moments seem to endorse a much more orthodox, even Westphalian, ‘sovereign’ character to Indigenous rights and title. At one point, for example, Coulthard writes that before colonialism, Indigenous nations were ‘diverse, sovereign, and self-governing’. At others, he emphasises the settler-state’s ‘sovereignty usurpation’, describes recent resistance movements like Idle No More as a ‘full-blown defense of Indigenous land and sovereignty’, and urges Indigenous communities to assert a ‘sovereign presence on our territories’.11 I would suggest, however, that these latter instances are in fact better understood in light of Coulthard’s layered and more subtle approach to the problem constructed over the course of the full text.

From this perspective, his arguments for a ‘critically self-affirmative and self-transformative ethics of desubjectification’ are perhaps closer to those of the Mohawk legal theorist Patricia Monture, who once defined sovereignty as ‘my right to be responsible’: ‘the Aboriginal request to have our sovereignty respected is really a request to be responsible’.12 Coulthard’s efforts are, of course, embedded in centuries of resistance that have shaped the assertion of Indigenous sovereignty in the liberal-jurisprudential sense as well, i.e. as ‘concrete rights to self-government, territorial integrity, and cultural autonomy under international customary law’.13 As Audra Simpson puts it (as did Monture by refusing to swear loyalty to the Crown when she became a lawyer), however ‘compromised’ the term might be by colonial exclusion, ‘Indian sovereignty is real; it is not a moral language game or a matter to be debated in ahistorical terms. It is what they have’.14

My point here is not to maintain Indigenous sovereignty’s status as ‘the uncitable thing’, a liberal wish to erase ‘the violence of Western political organization’.15 I want to acknowledge that risk, however, while nonetheless maintaining, rather, that Coulthard’s argument against recognition, and for the material and irreducible place of land at the foundation of Indigenous modes of life (‘geopolitics’ as much as ‘biopolitics’) is also an argument that, if it does not undo, it at the very least forcefully challenges all conceptions of sovereignty as such.16 The fundamental form and content of his approach is, I believe, best captured in the following remarks concerning widespread Indigenous blockading in the late 1980s, which culminated (in the eyes of many) at Kanehsatà:ke and Kahnewà:ke (the ‘Oka Crisis’) in the Summer of 1990: If settler-state stability and authority is required to ensure ‘certainty’ over Indigenous lands and resources to create an investment climate friendly for expanded capital accumulation, then the barrage of Indigenous practices of disruptive countersovereignty that emerged with increased frequency in the 1980s was an embarrassing demonstration that Canada no longer had its shit together with respect to managing the so-called ‘Indian Problem’.17

I believe it is not sovereignty but ‘countersovereignty’ that is essential to the potential Coulthard sees in a resurgent Indigenous struggle for things that a colonial frame tends to associate first and foremost with the common sense of liberal ‘sovereignty’: land, autonomy, authority, rights and title, and selfdetermination/government (as variously invoked throughout the text).18 If I am right, then the interesting question is how a countersovereignty can articulate (in both the ‘voice’ and ‘connect’ senses) the struggles for what on the surface appear standard liberal ‘goods’, or even ‘hypergoods’ à la Charles Taylor.19 How can the fight for self-determination – for the material ‘fact’ of land itself – escape the clutches of sovereign governmentality?

## \*\*Somaliland

### Notes/Background

Source: https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland

#### Somaliland gained independence from Britain on June 26, 1960. Five days later it combined with Southern Somalia once it had won independence from Italy. The merger of the two states became the Somali Republic. People never liked this merger, the majority voted against it. Attempted coup in 1961. May 1991, Somaliland re-declares independence. Somalia is still embroiled in issues with al-Shabab.

#### 2010 Somaliland is working on democracy and had a coalition government. The election was primarily funded by Somaliland itself. In the early 90s there was a 9-month civil war of clan and political violence when the liberation movement fractured.

### Solvency

#### Recent solvency advocate

Axios 2022, March 22, “Democratic, self-governing Somaliland pleads with U.S. to recognize independence,”<https://www.axios.com/somaliland-independence-recognition-us-22d1c767-8613-4aab-84c0-6e123335c2a8.html>

Somaliland President Muse Bihi Abdi spent the past week in Washington making the case that the U.S. should become the first country to recognize his self-declared state’s independence — and he's leaving with some positive signals to show for it. Why it matters: Somaliland has governed itself for three decades but is recognized internationally and by the U.S. as part of Somalia, a position the State Department reaffirmed this week. Unlike the remainder of Somalia and most of its neighbors on the Horn of Africa, though, it's democratic and relatively secure. “We know that for the sake of international diplomacy, they will not recognize Somaliland tomorrow,” Bihi told Axios in an interview. “So the question is, below that, how to deepen engagement between the governments.” In meetings with Biden administration officials, Bihi proposed that the U.S. open a diplomatic office in the capital, Hargeisa. Six other countries including the U.K. have such offices. The conversations were “very positive” but ended without concrete commitments, Bihi said. Bihi noted in our interview that his country would be a willing security partner for the U.S. and had recently signed a cooperation agreement with Taiwan (that made Chinese officials “a little bit angry with us,” he told me). Somaliland’s democratic bona fides and location in an area where the U.S. is competing with China for influence did not go unnoticed on Capitol Hill. Rep. Michael McCaul (R-Texas), ranking member on the House Foreign Affairs Committee, which hosted Bihi, told Axios it was “urgent” that the U.S. increase its engagement with Somaliland, starting with a diplomatic presence in Hargeisa and direct development aid to the government.Such steps would counter Russian and Chinese influence, “reinforce support for Taiwan, and embolden democracy advocates worldwide,” McCaul said. Another House Republican, Scott Perry (R-Pa.), went further by introducing a bill to recognize Somaliland’s independence, though it’s unlikely to pass anytime soon. Somaliland’s independence push is opposed by the African Union, with members fearing that it could further destabilize Somalia and embolden separatists elsewhere. While the circumstances of South Sudan’s independence in 2011 were far different, the country’s trajectory since then is another source of pessimism. Bihi argues that every country on the map had to gain independence at some point, and Somaliland is no different. He says he's working to strengthen relations with every country except one: the current government in Mogadishu. "We see it as the No. 1 enemy of Somaliland,” he said, and "have absolutely no relations with them." Bihi said nine rounds of peace talks with previous Somali governments went nowhere and there is no point in future dialogue, though "we have no war with them." Waiting a polling station in Gabiley, Somaliland, during the 2021 parliamentary elections. Photo: Musfata Saeed/AFP via Getty Images “We survived the last 33 years with our own efforts,” Bihi told me. International recognition would unlock foreign aid and access to international lenders like the World Bank. Somaliland has deposits of petroleum and minerals, including gold, but lacks the expertise or capital to develop them and wants to partner with U.S. companies, he said. He also said a new port built by the UAE could make Somaliland a more attractive partner. Bihi argued that Somaliland’s severe poverty and lack of progress on recognition threaten to undermine its democracy. It’s hard to convince someone who has voted in three elections but never had a job that democracy is the right path, he said. Flashback: Somaliland was briefly independent after British colonial rule ended in 1960, joined almost immediately into a union with Italian-administered Somaliland to form Somalia, then unilaterally declared independence three decades later. Bihi notes proudly that in 33 years of self-government, the country has had eight national elections and a series of peaceful transfers of power. Those elections are imperfect and often delayed, notes Freedom House, but the pro-democracy group ranks Somaliland far above its neighbors (particularly Somalia) in terms of political rights and civil liberties. The bottom line: “Every country we meet for the past 30 years, they have the same answer for us,” Bihi said, recounting praise for Somaliland’s stability and improvements in its institutions, but reluctance to be the first country to recognize its independence. “Someday, we will find the first country," he said.

#### Another recent solvency advocate!

Gramer 2022, By Robbie Gramer, a diplomacy and national security reporter at Foreign Policy, and Mary Yang, an intern at Foreign Policy. FP subscribers can now receive alerts when new stories written by this author are published. Subscribe now | Sign in <https://foreignpolicy.com/2022/03/21/somaliland-united-states-independence-recognition/>

Somaliland Courts U.S. for Independence Recognition

MARCH 21, 2022, 4:14 PM

Top leaders from Somaliland, a semi-autonomous region in Somalia, visited Washington last week to lobby the United States to recognize the territory’s independence, touting Somaliland’s stable governance and geostrategic location that they argued could be an asset for U.S. interests in the Horn of Africa. The Biden administration made clear it had no plans to recognize Somaliland’s independence from Somalia during the visit by Somaliland’s president, Muse Bihi Abdi, and foreign minister, Essa Kayd Mohamoud. But in meetings on Capitol Hill, top U.S. lawmakers signaled that they wanted the United States to deepen ties with Somaliland, viewing the territory as a bastion of stability in an otherwise unstable region and potential bulwark against growing Chinese influence in East Africa. “Even if it takes 100 years for recognition, we will still stand for our identity, we’ll still engage with everybody, and we’ll still dream of a day where Somaliland is recognized as its own country,” Kayd told Foreign Policy in an interview. Bihi and Kayd met with senior officials in the Biden administration, as well as Republicans and Democrats in Congress, who stopped short of calling for Somaliland’s independence but who pushed for closer U.S.-Somaliland ties. U.S. officials fear that recognizing Somaliland would upend U.S. relations with the federal government in Somalia, which cooperates with the United States on counterterrorism despite having only fragile control over some parts of the country, and would open the floodgates for other semi-autonomous regions in Africa to double down on drives for independence. They also argue that a U.S. recognition of Somaliland would severely damage Washington’s relations with other partners on the continent and the African Union, which does not recognize Somaliland.“They’re doing an end run around the African Union and around their own home region trying to get Washington to give them what they can’t get locally,” said Cameron Hudson, a former U.S. diplomat and now expert on East Africa at the Atlantic Council. “That would be sort of like the African Union recognizing Puerto Rico as the 51st U.S. state before the U.S. does.”Somaliland’s Strategic Case for Independence. Lacking formal international recognition, the territory is seeking to make its mark through infrastructure deals and bilateral ties with key global powers. But Somaliland’s pitch for independence could become more attractive in the coming years. Instability and widespread unrest have rocked Sudan and South Sudan. Ethiopia continues to wage a costly war against breakaway forces from its Tigray region. Somalia is still wracked by terrorism, and the federal government has fragile control over its own territory. But Somaliland, independent experts say, stands in sharp contrast to this and remains relatively stable and secure while maintaining regular election cycles. The United States’ only permanent military base in the region is in Djibouti, neighboring Somalia on the strategically important choke point between the Red Sea and the Gulf of Aden. However, Djibouti also hosts a Chinese military base and is unnerving U.S. policymakers with deepening ties to Beijing. Another point in Somaliland’s favor, regional experts say, is its tradition of holding regular elections, in contrast with Somalia, where the government has been criticized by the United States and other countries for delaying long-planned elections. “Their idea is that there would be a democratic partner in that region that would be willing to serve as another base for the U.S. or partner in our security interests,” Hudson said. Their arguments are taking root in some policy circles within Washington. Kevin Roberts, the president of the Heritage Foundation, an influential conservative think tank, said the United States “should proudly be the first state to recognize Somaliland as an independent state” at an event with Bihi in Washington during his visit. As part of their pitch, the Somaliland officials reiterated offers to support a U.S. military footprint or bases on Somaliland soil in exchange for a recognition of independence and highlighted deepening ties between their government and Taiwan, an independently governed democracy that China views as part of its own territory. The lobbying efforts by Somaliland’s top officials offer a small window into how foreign dignitaries are working to advance their interests in Washington amid the growing great-power rivalry between the United States and China. Somaliland officials, as well as U.S. lawmakers, played up the growing ties between Somaliland and Taiwan during their visit to Washington—a trend that has angered both Somalia and China. While the United States doesn’t have formal diplomatic relations with Taiwan, as part of the long-standing “One China” policy that only recognizes Beijing’s government, the Biden administration and U.S. lawmakers are working to strengthen Washington’s informal ties with Taiwan and increase support for the dwindling handful of countries around the world that have spurned pressure from Beijing to maintain formal diplomatic relations with the island.“There are similarities in terms of values and democracy and elections and human rights between Somaliland and Taiwan,” said Kayd, when asked about the matter. “On the other hand, Somaliland is ready to engage with everyone—as long as our sovereignty is respected and as long as there [are] no strings attached to our political views.”The Somaliland officials’ visit also sheds light on the more active role Congress is playing in pushing the Biden administration to rethink traditional U.S. policy in East Africa and the careful balancing act the State Department is attempting as it responds to growing calls to engage Somaliland without recognizing the region’s independence and alienating Somalia’s federal government. The State Department’s Bureau of African Affairs tweeted on March 14 that it welcomed discussions with Bihi (though it appeared to mistakenly tag a parody Twitter account of Somaliland’s president in the tweet) on “strengthening U.S. engagement with Somaliland.” But the State Department said it was doing so “within the framework of our single Somalia policy,” an apparently new phrase meant to underscore that the United States had no plans to recognize Somaliland’s independence. U.S. lawmakers put out different signals that indicated they were much more eager to engage Somaliland—though nearly all stopped short of backing the region’s independence. “We’re here to engage both parties, both Democrats and Republicans,” Kayd said. “We are a country who has values similar to the one that America has, standing for democracy, free and fair elections, and defend[ing] our country from piracy and also from terrorists.” Sen. Jim Risch, the top Republican on the Senate Foreign Relations Committee, as well as Sens. Chris Van Hollen and Mike Rounds, the chair and ranking member respectively of the panel’s Subcommittee on Africa and Global Health Policy, introduced a bill formalizing that effort during the Somaliland delegation’s visit to Washington.The bill includes a provision that would require the State Department to report to Congress annually about the status of U.S. aid to and actions in Somaliland for the next five years—with a stipulation that the United States would do so without recognizing the region’s independence. A group of lawmakers led by Rep. Michael McCaul, the ranking Republican on the House Foreign Affairs Committee, wrote a letter to Secretary of State Antony Blinken urging the Biden administration to deepen ties with Somaliland, citing its ties with Taiwan and its potential to serve as a “counterweight” to China’s increased economic investment and military buildup in neighboring Djibouti.

### Aff

#### US-Somaliland relations hedge against Chinese-Dijbouti alliance

Joshua Meservey ‘21, 10-19-2021, "The U.S. Should Recognize Somaliland," Heritage Foundation, [https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland](https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland%20) (AF)

The region in which Djibouti and Somaliland lie is among Earth’s most strategically important. In recognition of that fact, the U.S. placed its only permanent military base in Africa in Djibouti.13 This small country the size of New Hampshire hosts Chinese, French, German, and Japanese military bases as well. The port is critical to U.S. military operations in Africa, as 90 percent of the logistics and materiel U.S. Africa Command uses in its East Africa operations flow through Djibouti port. Yet despite the U.S. presence, few other countries in the world are so under Chinese sway as Djibouti.Beijing recently built in Djibouti its only overseas military base, a hardened encampment whose quay can support a Chinese aircraft carrier.14 The Chinese government considers Djibouti an “overseas strategic strongpoint,” which scholars have defined as “foreign ports with special strategic and economic value that host terminals and commercial zones operated by Chinese firms.” Beijing’s lavish financing of Djiboutian infrastructure has made Djibouti at high risk of debt distress,15 and China is by far Djibouti’s largest trading partner.16 In 2019, trade between Djibouti and China was worth $2.2 billion. The value of Djibouti’s trade with its second-largest partner, India, was $377 million. The Chinese government financed—and Chinese companies built—sensitive Djiboutian buildings such as the foreign ministry headquarters and the People’s Palace.17 State-controlled China Merchants Port Holdings manages three of Djibouti Port’s terminals.18 In addition to being legally required, as are all Chinese companies, to cooperate with the Chinese government on sensitive activities such as intelligence collection, China Merchants Port Holdings is majority owned by China Merchants Group, a state-owned enterprise. For a description of China Merchants’ control of the Djibouti port’s terminals. It and four other Chinese companies are involved in various ways in the ownership, construction, and operation of what will be Africa’s largest free trade zone, the Djibouti International Free Trade Zone.19 Beijing’s unparalleled influence in the country has already impeded American operations20 In 2018, military-grade lasers fired from the Chinese base targeted U.S. military aircraft an unspecified number of times, in one instance causing minor injuries to two U.S. airmen. The U.S. also accused China of using drones to interfere with American planes and of trying to restrict American use of international air space in the area. —and positions China to shut down U.S. activity in the case of a confrontation between the two countries.21 The U.S. must compete in Djibouti, but a strong American presence in an independent Somaliland would be a hedge against the U.S. position continuing to deteriorate in Djibouti. Somaliland has more than 500 miles of coast on the Gulf of Aden that abuts the Indian Ocean and is directly across the water from conflict-torn Yemen, where Iranian-backed militias and an al-Qaeda affiliate operate.22 Zeila in Somaliland is about 140 miles from Aden, the capital of Yemen, and about 90 miles from the nearest point on Yemen’s coast. It is approximately 85 miles in a straight line from the heart of the Bab el-Mandeb Strait as well. Its nearest point is about 70 miles from the heart of the Bab el-Mandeb Strait—through which around 9 percent of the world’s maritime-borne petroleum and much of Europe–Asia sea trade transits.23 This strait is also part of the quickest route for the Mediterranean-based U.S. 6th Fleet and the Indian Ocean–based 5th Fleet to rendezvous during a conflict or other crisis. Somaliland is in the East Africa region that has the continent’s second-most populous country, Ethiopia, which, along with neighboring Kenya, was among Africa’s most vibrant economies in pre-pandemic times. Djibouti and Mombasa in Kenya are the only two large, modern ports serving the region, which gives Somaliland’s Berbera port an opportunity to emerge as an economic hub.

#### Taiwan-Somaliland state relations can begin

Joshua Meservey ‘21, 10-19-2021, "The U.S. Should Recognize Somaliland," Heritage Foundation, [https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland](https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland%20) (AF)

Beyond shoring up its position that Beijing is undercutting in an important region, recognizing Somaliland would help the U.S. in other ways as well. Hargeisa and Taipei established close informal relations in 2020, and subsequently exchanged representatives. An independent Somaliland would give Taiwan another country willing to have such ties with it, thereby boosting a territory that the U.S. also supports. By serving as a maritime gateway for East Africa not under Chinese influence, Somaliland could also complicate the continuity of the Belt and Road infrastructure that Beijing is building in the region.

#### Democracy Advantage

Joshua Meservey ‘21, 10-19-2021, "The U.S. Should Recognize Somaliland," Heritage Foundation, [https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland](https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland%20) (AF)

At a time when illiberal governance is advancing in parts of Africa, American recognition of Somaliland would be a way to help a prominent experiment in democracy address its shortcomings, something Washington cannot currently do fully because of constraints imposed by Mogadishu. Problems with Somaliland’s democracy have included deadly—though limited—post-election clashes and elite power struggles that have twice necessitated years-long extensions of the president’s term. Although the territory’s most recent vote was hailed as free and fair, it was 16 years overdue because of wrangling among Somaliland’s political parties. The government also arrested five opposition candidates prior to the election. Despite those challenges, Somaliland is peaceful. It has largely quelled al-Shabaab, and its border dispute with Puntland, while concerning, is localized and the occasional clashes are small-scale. The territory’s stability distinguishes it in a tumultuous region. A civil war rages in Ethiopia, Sudan is undertaking a hopeful but difficult and uncertain political transition, Eritrea is an authoritarian pariah, South Sudan could return to civil war at any moment, and a contentious election looms in Kenya, which has had violent polls in the past. Amid all this instability, Washington should be seeking out areas of calm, with Somaliland being the obvious option. The danger there that U.S. efforts will be wiped away by war or unrest is lower than in arguably any country in the region. Formalizing Somaliland independence might also focus the Mogadishu elites’ minds on the task of governing. Power struggles within southern Somalia’s political class have plunged the country into one crisis after another. The ongoing electoral process in the south is a dramatic regression from the previous (also deeply flawed) electoral process, in large part because of the elites’ inability to mediate their disputes. The specter of other federal states seeking greater autonomy could jolt Mogadishu’s elites from their absorption with political battles. There is, as well, a strain within Somali nationalism that seeks to reunite the predominantly ethnic Somali regions of northeast Kenya, Djibouti, and eastern Ethiopia with Somalia. It is a long-running source of tension in the region, and an independent Somaliland might undermine this destructive irredentism by making its realization even more unlikely than it already is. Finally, it would be an act of justice to recognize Somaliland. Millions of Somalilanders have repeatedly affirmed that they wish to live in their own independent state, and their government has consistently demonstrated its independence. The fact that the world generally views Somaliland as indistinguishable from the far more unstable and undemocratic southern Somalia denies Somaliland the benefits of the engagement it would attract on its own merits. U.S. recognition of Somaliland would partially rectify this injustice by sending a strong signal that the territory is distinct from the rest of Somalia, thereby encouraging investment and trade from the U.S. and others.

#### Recognition solves major conflict

[this person wrote a very similar article in 2018 titled: Somaliland is a beacon of democracy in an unstable region: Ali Mohamed]

Mohamed 12 - co-founder of the Horn of Africa Freedom Foundation. It is a grassroots organization, located in Lewis Center, Ohio, that advocates for the advancement of freedom and democratic values for the indigenous people of the Horn of Africa (Ali, “Why not recognize independent Somaliland?,” *PRI*, <https://www.pri.org/stories/2012-05-22/why-not-recognize-independent-somaliland>)//BB

LEWIS CENTER, Ohio — Twenty-one years ago this month, Somaliland was reborn when the tyrannical regime of Siad Barre collapsed. Since then, the people of Somaliland, which is the northern part of Somalia, have established a country built on the principles of freedom and democracy. But they still await recognition by the world community including the United States. Somaliland first won its independence from the British Empire on June 26, 1960, an event soon followed by recognition as a sovereign entity by the United Nations and 35 countries, the US among them. But then, a week later, Somaliland voluntarily entered a union with what was at the time known as Italian Somaliland, to the south, creating modern-day Somalia. This was in response to the dreams of nationalists who wanted to unite the lands in which Somalis lived in the Horn of Africa region. The hope that union would lead the Somalis into a free and democratic nation never materialized. Instead, the brutal military regime of Siad Barre took power from a nascent civilian government in 1969. Barre was a tyrant, described by some as in the mold of former Iraqi leader Saddam Hussein, who held power for 21 years through military force, money from foreign donors and by manipulating the region's clan system. Barre declared the majority of northern Somalis enemies of the state. They had legitimate grievances about his misrule, and the way in which the union between former British Somaliland and former Italian Somaliland was handled in 1960. Consequently, a political disenfranchisement and ruthless military campaign was unleashed against the civilian population. An insurrection followed and eventually, in 1991, the military regime collapsed. Since then Somalia has been mired in chaos and violence. But Somaliland has succeeded in establishing a functioning government, with a constitution, defined borders and a flag. It is governed along democratic lines with pluralistic political institutions. In May 2001, its independence was supported in a referendum by more than 90 percent of the population. Two presidential elections took place with a peaceful transfer of power; one in 2003 and another in 2010. This summer, nine political parties are competing in local elections. Despite its achievements, no country in the world has yet recognized Somaliland’s independence. The US State Department and the African Union each cling to the fiction that Somaliland is part of the failed state of Somalia. It would have made sense to award Somaliland the diplomatic recognition it deserves. Its brief history of freedom and democracy stand in stark contrast to the terrorism, reign of warlords and piracy that is rife in Somalia, where US President Barack Obama and the UN are expending vast resources to fund African troops, which are propping up the corrupt transitional Somali government. The argument against Somaliland’s independence comes from the African Union (AU), which has been tough on Somaliland for creating an independent democratic state. There is understandable paranoia about accepting new states with shifting borders inherited from colonial powers in Africa. The AU’s argument to deny Somaliland sovereignty is not valid, however, because it has had defined colonial borders that were established at the time of independence. The irony is that US State Department diplomats, for political reasons, endorsed the position of the African Union in order to appease other African leaders and to get their military support for America’s counter-terrorism efforts in Somalia. For the last two decades, the international community has tried through outside military intervention and massive aid to reconstitute Somalia. These interventions have ended in catastrophic failure. The United Nations is also arguing that recognizing Somaliland might hinder the UN-sponsored peace and reconciliation efforts for Somalia. Among these efforts is the US-backed “road map” for Somalia, which projects forming a new government at the end of the “transition” in mid-August. Most Somalis have no faith in the “road map” process, which seeks to reinforce and legitimize the nominal Somali government even though Somalia remains ravaged by violence and self-interested neighbors. The world regards Somalia as a basket case, but Somaliland is not and deserves better. Recognizing independent Somaliland would have positive consequences, not just for Somalia, but also for the whole Horn of Africa region. Indeed, Somaliland is contributing the international community's efforts to combat piracy that plagues the Gulf of Aden and the Indian Ocean. Keeping the status quo in Somalia would only prolong the human suffering there and spread radicalism and chaos that could engulf the region. In this scenario, diplomatic recognition for Somaliland would be unjustly denied and would further delay opportunity for investment, trade and economic growth. Obama should do the right thing and fulfill the aspirations of 3.5 million people of Somaliland to have an independent and sovereign state.

#### Russia SOI advantage

Rubin 18 - resident scholar at the American Enterprise Institute and a former Pentagon official (Michael, “The US needs to recognize Somaliland before Russia does,” <https://www.washingtonexaminer.com/opinion/the-us-needs-to-recognize-somaliland-before-russia-does)//BB>

Russia is keen to open a naval base in strategically important Somaliland.

When most Americans think about Somalia, they picture Black Hawk Down, pirates, starving kids, al Qaeda, and urban chaos. More than 148 million Americans (almost half of the U.S. population) were born after Somalia’s last stable government collapsed in 1991. But for Somalis living in the northern region of Somaliland, the chaotic perception of their situation has always been false. Somaliland has for more than a quarter century been de facto independent. Long ignored by policymakers, however, it may soon find itself to be the latest geopolitical battlefield between the United States and Russia. Somaliland’s colonial origins Somalia is not an artificial country — Somalis have a distinct language and culture — but the Somalia of today is a colonial construct. In Europe and even in 19th century America, the strategic importance of the Horn of Africa was clear. Long before Winston Churchill (as a young admiralty officer) converted the British Navy to oil, they relied on wind and coal. To keep ships supplied, the British needed coaling and supply stations. This was one reason why, in January 1839, the British East India Company landed marines in Aden and why the United Kingdom would keep the city and the territory surrounding it for almost 130 years. In 1888, the British also established “British Somaliland,” a colony across the Red Sea and along the Somali coast on the Gulf of Aden. Not to be outdone, six years later, the French seized a small territory across the Bab el-Mandab, one of the world’s greatest maritime strategic chokepoints adjacent to British Somaliland, naming it French Somaliland, and granting it independence in 1977 as Djibouti. The scramble for Africa was on, and the Italians also got in on the game, seizing much of Somalia's Indian Ocean coast in the first decades of the 20th century. Colonial powers may have divided Somali clans and tribes across arbitrary boundaries but, in reality, Somalis had long been divided even before the arrival of imperial powers. British Somaliland became, as with many African colonies, its own institutional unit, which slowly assumed a unique identity at odds with its neighbors. The British faced a Dervish uprising, which they brutally suppressed. That event not only set the experience of British Somalilanders apart from other Somali colonies, but it also created a distinct nationalist narrative. Language also mattered. While the French imposed the French language on Djibouti and Italian became the administrative language of Somalia, and the second language of many Somalis there, English grew in importance throughout British Somaliland, as did Arabic, due to the territory’s proximity to Yemen and what today is Saudi Arabia. In August 1940, Italian fascist forces invaded British Somaliland and overwhelmed the small British garrison there. Still, the Italians held the territory for less than a year before the British reconquered it. In 1960, however, both the British and Italians agreed to grant independence to their respective Somali territories. British Somaliland was for five days its own independent republic, before merging with what had been Italian Somaliland (and later the "Trust Territory of Somaliland under Italian administration”) to become the Somali Republic, or Somalia. The two units had an uneasy relationship over subsequent decades. In 1991, when the Somali government collapsed, the former British Somaliland declared its independence. For the past 27 years, it has functioned as an independent state even without formal international recognition. Somaliland deserves independence The point of this history lesson? Somaliland has been separate from Somalia far longer than it has been part of Somalia. In many ways, it is like Taiwan, which China claims as its own even though the period of direct Chinese rule over Taiwan was surprisingly short — decades rather than centuries. Like Taiwan, Somaliland has developed its own political culture distinct from its larger neighbor. Freedom House, for example, ranks Somaliland as partly free, a better ranking than Somalia, which is not free. Somaliland has had its ups and downs, but it has remained politically stable and secure. It has its own currency, runs its own cellphone network, and is accessible by direct, regularly scheduled passenger flights from the United Arab Emirates and Ethiopia. It has never allowed its territory to become a safe haven for pirates, as the autonomous Somali Puntland region did, nor did it become a safe haven for al Qaeda affiliates, as the remainder of Somalia has. Unlike in Somalia proper, where most businessmen and aid workers must live behind blast walls at the international airport, Westerners are safe in Somaliland. Somaliland has long done the right thing, but why should Washington care? Successive U.S. administrations have been content to ignore Somaliland’s independence, hiding behind the logic that they do not want to descend the slippery slope of revising colonial borders, never mind Eritrea’s secession from Ethiopia or South Sudan’s independence from Sudan. Even if the United States did not want to act on moral principle of recognizing Somaliland’s right to self-determination, recent events make recognition of Somaliland a national interest. Don’t cede Somaliland to Russian influence Under President Vladimir Putin, Russia has been on a rebound not only as a regional power, but with aspiration also to be a global one as well. While the United States has always approached diplomacy as means to find win-win solutions to global problems, Putin’s perspective is more Manichaean: for Russia to win, the United States must lose. Russia doubled down on President Bashar Assad in Syria not because he loved Assad’s chemical weapons use or human rights violations, but rather to prevent the United States from making any gains there. In addition, of course, in the port city of Tartous, Syria hosted Russia’s only military base outside of the confines of the former Soviet Union. Now Russia may be making a play for Somaliland: While the Somaliland government is playing coy, local media reported this past spring that Russia was seeking to build a small naval base and air station in the Somaliland port city of Zeila in exchange for recognition. For Somaliland, that would be a good deal, but for the United States it would be a self-inflicted strategic wound, coinciding as it does with Russian efforts to flip Egypt, which resents what it perceives to be congressional and State Department hostility toward it. There is ample evidence, now recognized by both Democrats and Republicans, that Russia is hostile and a growing threat. Certainly, that is a fact recognized by both the U.S. Navy and Air Force as they are forced to confront Russian probes and activities. Granting Russia a new logistical base off the coast of Africa would only further Russian reach. It is true that no one wants a new Cold War. It is equally true, however, that no one wanted the old one. But reality is what it is, and sometimes the hostility of adversaries cannot be wished away. What can be done, however, is to contain them before it is too late.

#### Terror advantage

Pijovic 14 – PhD Candidate @ ANU (Nikola, “To Be or Not to Be: Rethinking the Possible Repercussions of Somaliland’s International Statehood Recognition,” *African Studies Quarterly*, 14.4)//BB

Without Recognition Somaliland Might Worsen

Connected to this question of development and foreign funding is the argument that if Somaliland does not receive international recognition, the economic situation in the country might deteriorate. Youth unemployment in Somaliland is already a serious problem. One Somaliland politician noted that between 60 and 70 percent of an increasingly globalized, youthful population is unemployed, with more than half of the youth without opportunities to go further in their studies or find a job; a situation he characterizes as “a time-bomb.” 81 This is where the potential for religious radicalization and crime comes in. If Somaliland’s youths do not see a chance for prosperity by legitimate means, they might resolve to activities that endanger their communities, the state, and by extension, the region. Moreover, local government officials and politicians should not be the only ones worried about youth unemployment in Somaliland. As one prominent Somaliland businessman stated “a lack of jobs goes hand in hand with a lack of hope, which creates terrorism and gets us back to square one. The West cannot worry about terrorism and then not recognise Somaliland.” 82

#### Horn stability advantage

Jeffrey 16 - currently serves as the United States Special Representative for Syria Engagement and the Special Envoy for the Global Coalition to Defeat ISIL (James, “Why Somaliland now needs international recognition,” *Ref World*, <https://www.refworld.org/docid/578e41554.html)//BB>

In mid-April a boat capsized crossing the Mediterranean killing up to 500 migrants, a large proportion of whom most international media reported as being Somali. But in Hargeisa, the capital of Somaliland, local media noted how many who died were actually Somalilanders. Since 1991, and its proclamation of independence following a civil war that resulted in about 50,000 deaths, Somaliland has existed as a de facto independent nation separate from Somalia, albeit one legally unrecognised by the international community. As a result, cut off from international assistance, Somaliland has had to help itself. It successfully rebuilt its economy and infrastructure, shattered by the rebellion that forced much of its population into Ethiopian refugee camps. Now Hargeisa is a bustling city of about 800,000 people, and about to experience the traditional summer return of diaspora Somalilanders from around the world, wanting to enjoy – or experience for the first time – their resurgent homeland. But Somaliland’s apparent success against the odds remains highly vulnerable. Its economy is fragile. A recent trend has seen Hargeisa’s streets inundated with an upsurge of second-hand taxis – cars bought by parents for children to dissuade them from tahriib, the local term for the dangerous and illegal migration to Europe. These cabs have even become known as hooyo ha tahriibin, which translates roughly as “my son, do not tahriib”. “Why are they leaving? Unemployment,” Abdillahi Duhe, a former foreign minister of Somaliland, told IRIN. “Now is a very important time. We’ve passed the stage of recovery. We have peace. But many hindrances remain.” Crowds of men on the streets sipping sweet Somali tea and chewing the stimulant plant khat throughout the day testify to a chronic unemployment rate of about 75 percent, leading to another concern in a volatile part of the world. “Young men are a ready-made pool of rudderless youth from which militant extremists with an agenda can recruit,” said Rakiya Omaar, a lawyer who also chairs the Horizon Institute, a consultancy firm that works on strengthening the capacity and self-reliance of institutions in Somaliland. Doing the right thing With non-statehood depriving the country of direct large-scale international support and multilateral lending, the government operates on a tiny budget of about $250 million. About 60 percent of that is spent on the police and security forces to maintain what it views as its main argument for recognition: continuing peace and stability. “We are doing all the right things that the West preaches about, but we continue to get nothing for it,” said Osman Abdillahi, minister for Somaliland’s Ministry of Information, Culture and National Guidance. “This is a resilient country that depends on each other – we’re not after a hand-out but a hand up.” Somaliland has largely survived on its diaspora sending money home – estimated at about $1 billion annually. That helps fuel a proactive private sector, which sells prodigious quantities of livestock to Arab countries and is largely credited with rebuilding the country from scratch after the civil war. While Somalia remains mired in a seemingly irreconcilable civil conflict, Somaliland has quietly emerged as a relative beacon of peace, democracy, and good governance. The contrast between a self-reliant north and aid-dependent south couldn't be starker. But, increasingly, Somalilanders acknowledge the country needs far more international investment to survive. And there’s the rub: options remain limited while the country is treated by most of the world as a mischievous breakaway state. “About 70 percent of the population are younger than 30, and they have no future without recognition,” said Jama Musse Jama, a former mathematics professor who gave up his life in Italy to return to Somaliland and run the Redsea Cultural Foundation, which offers cultural and artistic opportunities for Hargeisa’s youth. “The world can’t close its eyes,” said Musse. “It should deal with Somaliland.” Somalilanders believe recognition would bring a raft of benefits. The government, for starters, would finally have legitimacy to borrow international money to enhance basic services such as electricity, gas, water, and rubbish collection, and to fund state schools, universities, and hospitals needed around the country. Pressures It might also be able to better tackle crises such as the drought that has hit the Horn of Africa, and which in the north of the Somalia region encompassing Somaliland has left an estimated 4.6 million people – nearly 40 percent of the population – needing humanitarian assistance. In addition to such internal challenges, external pressures are weighing in. There are reports of the increasing encroachment of Wahhabism, a far more fundamental version of Islam than traditionally practiced in Somaliland. Against such a background, some worry that the patience and stoicism of Somalilanders will wane. Beneath the overwhelming friendliness of Somalilanders – especially to visiting foreigners – there are already hints of tensions and dissatisfaction. During this year’s voter registration for the forthcoming 2017 national election, turnout was lower than expected. “There are people saying we have been democratic for 25 years but that has not produced any results, so there are no benefits to elections,” explained 34-year-old businessman Abdirizak Ahmed at a registration centre in Hargeisa. “Other countries that are not democratic are supported by the international community, whereas Somaliland has got nowhere. So some people have lost interest in the electoral process.” Despite Somaliland’s international isolation, it is very much a part of the Horn of Africa, and of the region’s fortunes. “To refuse formal recognition to Somaliland amounts to punishing those who have been peaceful: a very bad sign for the stability in the Horn,” said Robert Wiren, a French journalist who has written about the region for the last 18 years, and in 2014 published ‘Somaliland, pays en quarantaine’ (Somaliland, a country under quarantine).

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#### China DA

Joshua Meservey ‘21, 10-19-2021, "The U.S. Should Recognize Somaliland," Heritage Foundation, [https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland](https://www.heritage.org/global-politics/report/the-us-should-recognize-somaliland%20) (AF)

Beijing might try to isolate the new country. As previously noted, American recognition of Hargeisa would provide indirect diplomatic support to Taiwan. The Chinese government could lean on countries with which it has significant influence, such as Ethiopia, Kenya, and the United Arab Emirates, to pressure Somaliland to dial down its relationship with Taiwan. Even if Beijing took this tack, however, it should not change the U.S.’s calculation. A pressure campaign by the Chinese government would only drive Somaliland closer to Washington. The U.S. should also have a plan for economic and diplomatic exchange with Hargeisa before formal recognition, thereby helping the new country weather possible pressure. Somaliland resisted such blandishments previously because Hargeisa likely calculated that spurning Beijing would win American favor. This problem complicates all of the U.S.’s relationships with African countries, and Washington would have to meet it the same way it must meet it elsewhere: by making the benefits of a strong partnership compelling enough that Hargeisa would wish to maintain it no matter what Beijing does. Being the first to recognize Somaliland would also give the U.S. a head start on building enduring ties that would withstand a Chinese challenge. It could be difficult for Hargeisa to demur if Beijing offered to not use its veto at the U.N. Security Council to block U.N. recognition of Somaliland independence in exchange for Somaliland spurning Taiwan. Ultimately, it would be up to Taipei to make the case to Hargeisa for why its diplomatic opening should continue, while the U.S.’s priority is its own interests in Somaliland. Russia could try to use Somaliland independence to validate its claims that regions in Europe—such as South Ossetia and Abkhazia in Georgia and the so-called Luhansk People’s Republic and the Donetsk People’s Republic in Ukraine—deserve independence. These regions, however, are not analogous to Somaliland because none of them have as many of the prerequisites of statehood as Somaliland has. They were also illegally invaded and occupied by a foreign country—Russia—that continues to dominate them, whereas the Somaliland government is the final authority within its borders. The greater danger is that the Chinese government would try to degrade Somaliland’s relationship with Taiwan and the U.S. by wooing its leadership with lavish aid packages or personal inducements, as it has done with many other African governments. Somaliland resisted such blandishments previouslySouth Island (New Zealand)

#### Recognition isn’t key

Joy ‘21 - Joy graduated from the University of Washington in 2021, earning a M.A. in International Studies from the Jackson School. Her thesis concerned the issue of unrecognized state sovereignty, and asked how Taiwan’s model could or could not be used in the case of Somaliland

Somaliland and Taiwan, Unrecognized Sovereignty and Patron-Client State Relations

<https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/48171/Joy_washington_0250O_23640.pdf?sequence=1> (MF)

First and foremost, there is a lack of urgency on the issue of Somaliland’s sovereignty, or even on Somaliland itself, sovereign or not. Somalia is in no position to make demands on Somaliland nor to offensively force its return. Somaliland is not embroiled in any type of violent conflict which might capture international attention or provoke a leap in action by states tracking the Somaliland situation. No acute threat exists to cause leadership within Somaliland to place sovereignty as tip top priority, instead, the goal of sovereignty will be advanced alongside other goals. Secondly, and this is directly tied to the lack of urgency in Somaliland, there are no oppositional powers interested in Somaliland. American patronage of Taiwan was born from the bipolar division of power during the Cold War. The US needed to retain Taiwan for itself against a united China and Soviet Union. The fact that the US had an opponent, that there was an alternative option to American power and patronage, forced the US to act. It’s the same dynamic for Africa and Cold War non-alignment, or for checkbook diplomacy between Taiwan and China: there needs to be an oppositional alternative for there to be an impetus for states to act as patron. Thirdly, the advantage that Somaliland offers as a client state, its geographic location on a strategic coast, is unrelated to the issue of sovereignty. Whether or not Somaliland is a recognized, independent, sovereign state hardly impacts its ability to provide a coastline and its accompanying benefits. In contrast, the advantage that Taiwan offered was its denial to China and the communist system. Taiwan needed to be fortified, built up, and secured to be able to stand on its own and not fall to Communism, Taiwan’s state formation and consolidation was a goal in and of itself for the patron. Somaliland’s benefits are more related to transportation, market access, port usage, and military positioning. These goals can be reached whether Somaliland is sovereign or not. Additionally, neighboring Eritrea and Djibouti could offer much of the same benefit without outside governments needing to deal with the issue of sovereignty.

#### Non-recognition is the best route to peace and stability

Pegg 17 – PhD, Professor @ IUPUI (Scott, “Twenty Years of de facto State Studies: Progress, Problems, and Prospects,” *Oxford Research Encyclopedia of Politics*, DOI: 10.1093/acrefore/9780190228637.013.516)//BB

Although many aspects of de facto state-building such as presidentially dominated political systems and excessively high levels of security spending are not typically seen as best practices, the de facto state literature is increasingly reporting that nonrecognition and some of the things that come with it such as limited external engagement and foreign assistance can be beneficial for state-building. Obviously, those de facto states dependent on external patrons such as Abkhazia (Russia), Nagorno-Karabakh (Armenia), and the TRNC (Turkey) do receive substantial external assistance and are subject to the significant external intervention into their internal affairs that can come with it. Thus, this argument that nonrecognition affords de facto states significant freedom in their state-building choices is advanced most frequently in terms of Somaliland (Bradbury, 2008; Eubank, 2012; Phillips, 2016; Richards, 2014; Richards & Smith, 2015). Eubank (2012) argues that the lack of external assistance provided to Somaliland forced its leaders to depend on locally generated revenues. In his view, “revenue bargaining forced Somaliland’s central government to accept institutional arrangements that provided safeguards against the possible rise of a predatory state” (Eubank, 2012, p. 477). Importantly, continued dependence on local revenues “provided Somaliland citizens with an ongoing mechanism for enforcing these arrangements,” thus minimizing the possibility of the government deviating significantly from the constitutional order in place since 2001 (Eubank, 2012, p. 477). Walls (2009) also highlights these benefits, while noting that this was “as much a necessity imposed by a situation in which willing donors were in short supply as it was one of principle” (pp. 386–387). The high degree of flexibility that Somaliland enjoyed during the initial decades of its statebuilding project stands in marked contrast to the externally dominated top-down approach pursued in southern Somalia (Hagmann & Hoehne, 2009; Leonard & Samantar, 2011; Menkhaus, 2006/2007). Phillips (2016, p. 639) maintains that in contrast to many postconflict countries “targeted by international state-building initiatives, the political settlement that limited large-scale violence in Somaliland evolved without explicit externally driven expectations, schedules or technical indicators of success.” Richards and Smith (2015, p. 1722) emphasize that “This relative flexibility is possible because of, not in spite of, non-recognition.”

#### Don’t recognize, just send liaisons

Rubin 2019 – Michael Rubin is a resident scholar at the American Enterprise Institute. (“Somaliland – key to winning America’s longest war,” http://www.aei.org/publication/somaliland-key-to-winning-americas-longest-war/) bhb

Somaliland’s security priorities correspond with those of the United States: It seeks to deny its territory to Al-Shabaab and other terrorist groups and, to date, have been successful, despite the hostility of terrain along their border with Somalia. Sweden recently donated three boats for Somaliland coast guard, which they now use to patrol the coast to deter weapons smuggling from Yemen. Local officials brag there has not been a single instance of piracy launched from Somaliland’s territory, even though Puntland, the Somali region adjacent to Somaliland, became its epicenter. While both Somaliland political and military authorities told me over the course of a week’s visit that they would welcome any U.S. assistance, their top priority is merely a liaison to help coordinate anti-Shabaab, anti-weapons smuggling, and anti-piracy efforts. U.S. policy, however, has been to shun Somaliland to augment the fiction of Somali unity. “The U.S. response to the challenges in Somalia has been to work with the Federal Government and the Federal Member state administrations, in coordination with the African Union, the United Nations, and other partners working toward a common goal: to support Somali-led efforts to stabilize and rebuild their country along democratic and federal lines,” a November 2017 AFRICOM public affairs article states. The problem is that while Somaliland is a federal Somali state, in theory, it is not one in practice. Authorities in Mogadishu appointed a parliament in 2012, seven years after Somaliland elected theirs. Those appointed to represent Somaliland do not live in the region, nor do they have popular legitimacy or the ability to influence events on the ground. The State Department and UN defer to the African Union which is loath to draw new borders in Africa. That diplomatic debate might be valid (though Somalilanders note their borders are well defined by treaties dating back more than a century when the British established a protectorate and confirmed in 1960 when more than 30 countries recognized Somaliland’s independence), but there is no reason why that debate must come at the expense of vital U.S. national interests. Turkey, Ethiopia, Djibouti, and Kenya maintain consulates in Hargeisa, Somaliland’s capital. Denmark has an office, and Kenya will soon open theirs. The Spanish navy has conducted exercises with Somaliland’s coast guard, and the United Arab Emirates has leased a base in Berbera, where U.S. forces once operated during the Cold War. None of these countries nor the African Union interpret their involvement as undermining broader diplomatic policies or bestowing formal recognition of its independence. Nor is the U.S. refusal to liaise with Somaliland consistent with other corollary trouble spots. The United States no longer recognizes Taiwan, but it maintains ties to the strategic island through the American Institute in Taiwan. Prior to Operation Iraqi Freedom, the CIA and U.S. Special Forces established links to Iraqi Kurds, even though Washington did not formally recognize their government. Both the CIA and U.S. military also have trained and conducted liaison functions with Palestinian security services despite the lack of formal recognition of Palestinian statehood. Most recently, U.S. forces partnered with Syrian Kurds to combat a common enemy. Arguably, Somalia—rather than Afghanistan—is America’s longest war. While National Security Advisor John Bolton on December 13, 2018 said that “countering the threat from Radical Islamic Terrorism and violent conflict” remains a vital pillar of the Trump administration’s Africa policy, the failure even to coordinate with those controlling key territory most successful again Al-Shaabab, pirates, and weapons smugglers suggests that, while the Pentagon is willing to spend money, AFRICOM is not prepared to win.

#### Somaliland links to the Pandora DA – spills over to Western Sahara

Felter 2018 – Claire Felter covers Africa, global health, and development, as well as edits the Daily News Brief. Before joining CFR, she was a news writer at Bustle and a fellow at the Pulitzer Center on Crisis Reporting. She holds a bachelor’s degree in international relations and Africana studies from Tufts University and master’s degree in journalism from Boston University. (“Somaliland: The Horn of Africa’s Breakaway State,” https://www.cfr.org/backgrounder/somaliland-horn-africas-breakaway-state) bhb

Many countries have encouraged the breakaway state’s elections and economic development, but none have recognized Somaliland. Some experts say the African Union would have to be the first to do so. “The United States and the UN and all of their allies have worked hard to try to build up the AU and position it as a moral authority,” says Bruton. The bloc, however, fears that formal recognition would embolden other secessionist movements on the continent, such as Nigeria’s Biafra or Morocco’s Western Sahara, to demand the same. Since the creation of a continental bloc in 1963, there have only been two widely recognized border changes in Africa: Eritrea’s split from Ethiopia in 1993 and South Sudan’s independence in 2011.

#### Western Sahara on the brink of conflict

Spencer 2016 – Claire Spencer, PhD, Former Senior Research Fellow, Middle East and North Africa Programme & Second Century Initiative (“Western Sahara: The Forgotten Conflict at Risk of Re-escalation,” https://www.chathamhouse.org/expert/comment/western-sahara-forgotten-conflict-risk-re-escalation#) bhb

The Western Sahara conflict has eluded resolution for so long that the principles underlying United Nations-led efforts to seek an enduring outcome have become muddied almost to the point of cancelling each other out.

Forty-one years since its inception, diplomatic language rather than arms has become the medium for the continuation of the dispute. The annual highlight is the renewal of the UN Security Council’s peacekeeping and monitoring mission to the region at the end of April, which in the words of the US permanent representative to the UN, Samantha Power, was particularly 'challenging and contentious' this year.

For many, this is the forgotten conflict that pitches the defence of the right of self-determination of the Sahrawi people against the de facto restoration of Morocco’s sovereign control over territory formerly subject to a colonial-era Spanish protectorate. There is no obvious meeting point between these positions without a creative compromise, and the urgency of finding one has been mitigated by the absence of armed struggle since a ceasefire was implemented in 1991.

In the changing climate of the region, however, a return to violence cannot be ruled out indefinitely. In the Sahel and West African regions to the south of Western Sahara, Boko Haram has extended its reach from Nigeria to Cameroon, while Al-Qaeda-linked groups have attacked hotels and tourist resorts in Mali, Burkina Faso and Cote d'Ivoire since late 2015. The growing competition between the ISIS networks now based in Libya and the region’s Al-Qaeda affiliates intensify the risk that transnational terrorist groups will seek to exploit the divisions at the heart of this conflict for their own ends.

#### Recognition creates immediate challenges for Somalia’s government

Amble 14 – Managing Editor of War on the Rocks. A former United States Army officer, he has been featured in print and broadcast media in the U.S. and Canada (John, https://warontherocks.com/2014/04/fixing-somalilands-recognition-problem/)//BB

This will almost certainly be a central pillar of Somaliland’s nascent lobbying strategy in Washington. Even so, however, recognition by the United States and other prominent members of the international community remains a distant goal unlikely to be met. But perhaps it shouldn’t be. It would be premature to advocate for immediate recognition. There are pitfalls associated with such a policy, to be sure, not least of which is that it would create one more political challenge for Somalia’s government at a time when it is only now beginning to show any signs that it is capable of dealing with those already on its plate. But it is equally foolish to blindly refuse to consider recognition based on logic that is inconsistent and unproven at best.

#### This is an aff advocate summarizing the neg args

Schraeder 6 - professor in the Department of Political Science at Loyola University Chicago. He writes on African politics and U.S. Africa policy. (Peter, “Why the United States Should Recognize Somaliland’s Independence,” *CSIS*, https://www.csis.org/analysis/why-united-states-should-recognize-somaliland%E2%80%99s-independence)//BB

The critiques of the pro-independence position are numerous, but don’t stand up to close examination. One strand of thought is that Somaliland is not economically viable. This position is reminiscent of claims made by Europeans during the 1950s with respect to their African colonies, with the aim of delaying independence throughout Africa. In any case, the argument is belied by Somaliland’s creation of a highly self-sufficient, well-functioning economy even though it has no access to the economic benefits that would come with statehood, such as access to loans from international financial institutions. A second critique, typically offered by African policymakers, is that recognition of Somaliland will “open a pandora’s box” of secessionist claims throughout Africa. However, as in the case of Eritrea, which gained independence from Ethiopia in 1993, the Somaliland case does not call into question the African mantra of the “inviolability of frontiers” inherited at independence. The north-south union followed the independence and recognition of both the British and Italian Somali territories, and its dissolution therefore would constitute a unique case of returning to the boundaries inherited from the colonial era. Others, especially those connected to UN efforts throughout the Horn of Africa, argue that recognition will derail the UN-sponsored “building blocks” approach to national reconciliation that includes the reconstitution of a central government in Mogadishu. This approach, however, has been an utter failure, as witnessed by the short-lived Transitional National Government (TNG) and its replacement by a Transitional Federal Government (TFG), the authority of which extends little beyond the town of Baidoa. What authority it has is largely due to the intervention of Ethiopian troops opposed to the further expansion of the Islamic Courts. It is time to recognize that the UN-sponsored “building blocks” cannot be stacked together to create a reunified central authority in Mogadishu. A fourth critique claims that the “time is not right” for recognition because it will further intensify the widening crisis between the Islamic Courts and the TFG, and between their respective regional and international supporters. This argument has been heard repeatedly in the last fifteen years whenever efforts at reconstructing a unified central government were thought to be on the “verge of success.” Success has proved elusive over all this time, however, and it is now clear that southern Somalia will remain in crisis regardless of what is done with respect to Somaliland recognition. The most dire prediction of some Somali watchers is that the Islamic Courts movement will emerge victorious in the current conflict, assert its control over all Somali territories outside of Somaliland, and then threaten open warfare with Somaliland to bring it back into the Somali fold. If this should happen, it will likely be too late for the United States or others to intervene in a timely and effective manner to prevent Somaliland’s absorption into an Islamist Somalia. This reality makes recognition all the more urgent. One of the more nuanced critiques of recognition is that loyalty to Somaliland in its eastern districts of Sanaag and Sool is contested, especially among the Warsengeli and Dhulbahante clans, and that any movement toward independence would potentially require the redrawing of Somaliland’s eastern boundary – which the leadership in Hargeisa (Somaliland’s capital) is unwilling to entertain. It is important to reiterate that Somaliland’s current boundaries are those of the original British Somaliland Protectorate created in 1884 and the independent country recognized by the international community beginning on June 26, 1960, and therefore have a solid legal basis under international law. The 2001 referendum provided an unequivocal popular basis for the independence claim. One way of resolving this issue, as was done with Eritrea in May 1993, would be to hold a territory-wide, UN-sponsored and internationally monitored popular referendum on independence that would be binding. If, as would be expected, pro-independence forces prevailed, those unwilling to live under Somaliland rule would have to make hard decisions about whether to continue living in Somaliland. . A final critique involves the concept of “African solutions for African problems.” Proponents contend that the United States should wait for African countries led by the AU to first recognize Somaliland. This approach is the topic of a thought-provoking International Crisis Group report, “Somaliland: Time for African Union Leadership,” published in May 2006, and was publicly endorsed by Assistant Secretary of State for African Affairs Jendayi Frazer in a presentation on November 17, 2006 at the annual meeting of the African Studies Association. Although Frazer’s statement that the United States would recognize Somaliland if the AU acted first was welcomed by specialists on Somaliland, it is unclear when or if a AU recognition process will actually unfold. The encouragement of African action should not become the basis for inaction on the part of the United States.

## \*\*South Island (New Zealand)

### Notes/Background

Official recognition from: No one

<https://www.newshub.co.nz/home/new-zealand/2020/06/south-island-independence-movement-publishes-manifesto-says-it-is-time-it-became-its-own-country.html>

<http://southislandmovement.com/book-our-southern-island/>

https://nzhistory.govt.nz/politics/treaty/the-treaty-in-brief

#### Independence movements in the past have been quelled by moving the capital. Capital moved to a southern part of the northern island in

#### Major independence push ended in the 1870s as far as real efforts went, ran a party from 1999 to 2002

#### Now efforts looks like trying to become a federated state

#### Generally there is a split in the nation, the south island is more export focused

#### Majority of logging, sheep, beef, wine, aluminum and dairy are all primarily exported from the south as opposed to the north.

#### Majority of funds from NZ govt and tax $ go to the north island,

#### They have a 72 billion gdp according to the NZ govt (that would make the South Island the 73rd largest economy in the world. But in the top 20 per capita, number 19,)

#### To be recognised as a legitimate Nation, a new country must have the following four attributes:

#### 1: A defined territory, that would be: The South Island.

#### 2: A permanent population: 1,155,400 (2019)

#### It is missing

#### 3: A Government. (Plan fiats a revolution setting up a south Island government)

#### 4: The capacity to enter into relations with other states. (Solved by aff)

#### The Lionshare of their exports already go to the US, UK, and AUS so if the US recognizes them it is mostly solved for as well as their economy being ok.

**Advantages Massive energy upswing**

**They currently produce 166 billion cubic feet of Natural gas, 15 million barrels of oil and 1.5 million barrels of LPG**

**“experts believe that with the massive fields in and around our island there is upwards of 40 trillion cubic feet of natural gas and around 30 billion$ a year of oil”**

**(with just the oil they become the 64th largest economy and enter top 15 gdp)**

**Set Col:**

**DA: NZ currently incredibly popular in, and around the world real potential backlash from their close ties notably AUS and GBR**

**UK: from** <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/new-zealand-united-kingdom-free-trade-agreement/new-zealand-united-kingdom-free-trade-agreement-overview-2/>

On 28 February 2022 (1 March NZT) New Zealand signed a high quality, comprehensive free trade agreement with the United Kingdom, one of the world's largest economies and an important, long-standing partner.

New Zealand enjoys a uniquely close bond with the UK. The NZ-UK FTA will further strengthen our relationship by creating stronger trade and investment ties between our countries.

The UK is a crucial market for some of our key exports, with two-way goods and services trade worth NZ$6 billion pre-COVID.

This FTA will provide New Zealand exporters with more favourable access to the UK market, helping to build our trade back up to pre-COVID levels and beyond.

**The UK loses some of the 6 billion NZ$ either way**

**Potential Maori da: The Maori have a bunch of protections in NZ law that they might not have in an anglo south New Zealand. Not a big enough population of SNZ to demand its own govt or dominate the new southern govt. The** Treaty of Waitangi exception, which is cross-applied to every deal done by the Govt of NZ allows NZ to prefer the Maori over whoever the treaty is done with.

**Climate change using all the energy and getting them also causes mass climate change.**

## \*\*Taiwan

### Aff

#### There are several ways to officially recognize Taiwan through Resolution 2578

Hale 21 - Erin Hale, Aljazeera, 10-25-2021, "Taiwan taps on United Nations’ door, 50 years after departure", Aljazeera, https://www.aljazeera.com/news/2021/10/25/chinas-un-seat-50-years-on 4-13-2022 (HH)

The “Resolution on Admitting Peking,” also known as Resolution 2758, called for member states to “restore” the rights of the People’s Republic of China in Beijing as the “only lawful representatives of China to the United Nations.” After years of trying at the behest of Chinese ally Albania, the resolution finally passed in the General Assembly. Since then, Resolution 2758 has become one of the most defining documents in the modern history of Taiwan. But while it once concerned UN representation, it has now been broadly interpreted to support China’s claims to Taiwan and isolate the democracy internationally, said Margaret Lewis, a professor at Seton Hall University Law School in the United States whose research focuses on China and Taiwan. “The PRC government has, as a practical matter, been effective in blocking Taiwan’s participation in UN-affiliated entities, but this is not dictated by Resolution 2758: the resolution is about representation, not participation. Meaningful engagement by Taiwan in UN-affiliated entities is consistent with the letter and spirit of Resolution 2758,” Lewis said. Today, Taiwan only has 15 diplomatic allies left, whittled down from 22 since the pro-Taiwan President Tsai Ing-wen was elected in 2016. She was returned to power in a landslide four years later. Tsai’s presidency has also coincided with Taiwan losing its observer status at UN-affiliated bodies like the World Health Assembly (WHA) – the governing body of the World Health Organization. It has similarly been excluded from the International Civil Aviation Organisation since 2013, due in part to pressure from Beijing to remove any hint that Taiwan might not be a province of China. Competing claims Despite this broad interpretation of Resolution 2758, it does not in fact refer explicitly to either “Taiwan” or the “Republic of China.” Instead, it calls for the UN to “expel forthwith the representatives of Chiang Kai-shek,” a reference to the ROC’s paramount leader who ruled in China and then Taiwan from 1928 until his death in 1976. But personal rule by the Chiang family and Taiwan’s draconian martial law period ended more than 30 years ago. Since its democratic transition in the 1990s, the vast majority of Taiwan’s citizens see themselves as “Taiwanese” – members of a de facto independent state and not Chinese exiles, according to regular polling. A key difference between Taiwan now and when it lost its seat is that in practice it is also no longer claiming to represent territorial China, said Julian Ku, a professor in constitutional law at Hofstra University in New York. “That’s the big difference that’s from the world in 1971 when the ROC did claim it was going to be the legitimate government for all of China,” said Ku. “It’s hard to remember the world in that context – but that’s also why there was very little sympathy for ROC at that time because it seemed like they were making implausibly ridiculous claims and excluding one billion people from the UN.”

#### US solvency advocate

Ibrahim ’20. Azeem Ibrahim, 5-9-2020, "The United States Should Recognize Taiwan as an Independent Nation," National Interest, <https://nationalinterest.org/blog/buzz/united-states-should-recognize-taiwan-independent-nation-152611> (AF)

We are suffering as much as we are as a consequence of our own choice to close our ears to Taiwan’s warnings. We did so because we chose to elevate another convenient perception of the powers that be above reality: as much as it may frustrate China, and as much as other countries may dread raising the ire of Beijing over the issue, the fact of the matter is that Taiwan just is an independent country. If we had acknowledged the fact, if Taiwan had already been accepted as a normal independent member of the UN system and of the WHO as it fully deserves to be, their warnings would have been heard, and the course of this pandemic could have been very different indeed. What is strange about the international status of Taiwan is that it is also one of the wealthiest countries in the world, it has one of the most successful democracies in the region, and could easily stand on its own as a country, but for the quirks of history that tie it to the mainland. In past decades many citizens warmed towards Beijing due to the increasing economic ties and opportunities that linked the two countries, but that was before the hardline nationalist administration of Xi Jinping came to power in China and started flexing its muscles against its neighbours. Certainly before the uprising in Hong Kong over the past year. More recently, even some of the more Sinophile citizens of the island have recoiled from Beijing’s ham-fisted approach to countries in its orbit, and recognise that China represents a mortal threat to their democracy. Of course, Beijing will lash against anyone who asks for, or recognises Taiwanese independence. But the United States is not (yet) constrained by any threat of Chinese backlash. As recognition of our mistakes, as correction for past errors, and in gratitude for showing the world the best way on how to handle such a pandemic, the United States should now, at long last, formally acknowledge Taiwanese reality: the United States should unilaterally recognise Taiwan as an independent country.

#### Silicon Conductor chips

Reuters 21 - Yimou Lee, Norihiko Shirouzu and David Lague, Reuters, 12-27-2021, "Taiwan chip industry emerges as battlefront in U.S.-China showdown", Reuters, https://www.reuters.com/investigates/special-report/taiwan-china-chips/ 4-13-2022 (HH)

In a later statement, the ministry played down the silicon-shield theory. “Rather than saying that the chip industry is Taiwan’s ‘Silicon Shield,’” the statement said, “it is more appropriate to say that Taiwan has an important position in the global supply chain.” The danger for Taiwan is that TSMC’s fabs, as the chip fabrication plants are known, are right in the line of fire. The foundries are located on the narrow plain along Taiwan’s west coast facing China, some 130 kilometers away at the nearest point. Most are close to so-called red beaches, considered by military strategists as likely landing sites for a Chinese invasion. TSMC’s headquarters and surrounding cluster of fabs at Hsinchu in northwest Taiwan are just 12 kilometers from the coast. The industry’s vulnerability was on display in July last year, when Taiwan mobilized thousands of troops to fight off a simulated Chinese attack on the west coast industrial city of Taichung, home to TSMC’s Gigafab 15, one of the foundries that make cutting-edge chips. In the counter-invasion exercise, “enemy” paratroopers dropped on Ching Chuan Kang air base and captured the control tower, just nine minutes’ drive from Gigafab 15. Off the coast, a virtual Chinese invasion flotilla steamed towards the city’s beaches. Fighting enveloped Taichung as Taiwanese troops and tanks counterattacked to regain control of the air base; commanders called in airstrikes, missiles and artillery, using live ammunition to pound the “invasion fleet.” The invasion was repulsed. In mocking the exercise scenario, reports in China’s state-controlled media reinforced the potential for destruction: Waves of missile strikes would destroy the island’s forces before a Chinese landing, they said. China’s defense ministry and the Taiwan Affairs Office didn’t respond to questions for this story. Asked about the threat to the island’s fabrication plants, the Taiwan economy ministry said that in “the past 50 years, China has never given up trying to use force to control Taiwan, but its aim is not the semiconductor industry.” Taiwan, it added, had the ability to “face and manage this risk.” TSMC did not answer specific questions about the exposure of its foundries. In a statement, it emphasized that the chip industry is global and relies on design, raw materials, equipment and other services from several regions and many specialized companies. “Therefore, rather than one company or one region, global collaboration is vital for semiconductor industry success,” the company said. AMERICAN ANXIETY As China ratchets up its military intimidation of Taiwan, Washington is signaling anxiety over U.S. chip dependency. “The big concern in Washington is the possibility of Beijing gaining control of Taiwan's semiconductor capacity,” said Martijn Rasser, a former senior intelligence officer and analyst at the U.S. Central Intelligence Agency. “It would be a devastating blow for the American economy and the ability of the U.S. military to field its (weapon) platforms,” said Rasser, now a senior fellow at the Center for a New American Security.

#### Recognition of Taiwan would facilitate enduring cross-strait peace and stability

Hsiao 11 - J.D. and certificate from the Law and Technology Institute at the Catholic University of America’s Columbus School of Law, senior research fellow at the Project 2049 Institute. (Russell, “Time to Recognize Taiwan,” *The Diplomat*, <https://thediplomat.com/2011/12/time-to-recognize-taiwan/>)// BB

Support in Washington for the idea of abandoning Taiwan is a mistake. The United States should recognize it.

The chorus of opinion leaders and pundits in the United States calling for Washington’s “abandonment” of Taiwan is getting louder, a symptom of a growing, but false, perception in the U.S. that China holds the key to all of Washington’s problems. This isn’t only a dangerous misreading of Beijing’s intentions, but also reflects a lack of public understanding about Taiwan’s sovereign status. Unification — by force if necessary — with Taiwan is a top priority for Beijing. Yet, although relations between Taipei and Beijing have thawed in recent years under President Ma Ying-jeou’s administration, Chinese military capabilities and missile deployments across the Strait have not only increased with growing sophistication and lethality, but Beijing’s military ambitions have extended beyond the Strait. The arguments coming from the abandon-Taiwan camp were taken to a new low by a New York Times op-ed piece last month titled “To Save Our Economy, Ditch Taiwan.” In the article, the author expresses the hope that if the U.S. were to “give up” Taiwan, Beijing would accommodate Washington’s interests — to the point that Beijing would write off $1.14 trillion of Washington’s debt and halt its support for Iran, North Korea, Syria and Pakistan. The writer’s argument depends on his assumption that the current cross-strait “status quo” is unsustainable. In other words, Taiwan’s absorption by China is inevitable and therefore the U.S. should ditch Taiwan. His assertion misses an important fact: Taiwan, under its existing constitutional framework, exists as an independent, sovereign state. The absence of official diplomatic relations does not negate this objective reality. If Washington were to revoke the terms of the Taiwan Relations Act, the U.S. would essentially be condoning the absorption of one state by another state. However, neither the Chinese Nationalist Party (KMT) nor the Democratic Progressive Party would ever subjugate the Republic of China/Taiwan to Chinese Communist Party rule. The partisan political environment in Taipei doesn’t serve Taiwan’s national interests when political parties vilify their opponents’ position to the extreme. However, partisan bickering is a facet of every multiparty democracy. And the U.S., of all places, should understand how democracies work. Moreover, if Beijing wants to genuinely engage in political dialogue with Taiwan, then it should do so with dignity by first accepting that it is engaging another sovereign government. This is the only way to build cross-strait political trust. As Washington moves to re-establish its presence and develop comprehensive ties with the Asia-Pacific region, the need for clarity on Taiwan’s sovereignty will become an important factor for perceptions of the United States’ staying power in the region. U.S. Assistant Secretary of State Kurt Campbell stated at a House of Representatives hearing earlier this year that how the United States manages the U.S.-Taiwan relationship “will have a great impact on the way our partners view us across the Asia-Pacific region.” Ambiguity from Washington over Taiwan’s sovereignty would only embolden Beijing’s claims. If some are proposing the “abandonment” of Taiwan, then an equally radical solution should be on the table. To clear any doubt about U.S. commitment to the Asia-Pacific and check Beijing’s wanderlust, Washington should recognize that Taiwan, under its existing constitutional framework, is an independent, sovereign state. This would be a bold move by Washington that would help create the conditions for negotiations on equal footing and facilitate enduring peace and stability across the Taiwan Strait and the Asia-Pacific region.

#### US should break ‘one China’ by recognizing Taiwan

Yang 2017 (Jianli Yang, 4-5-2017, Ph.D. Political Economy, Harvard University, founder and president of Initiatives for China / Citizen Power for China "Why President Trump Should Break the ‘One China’ Spell," National Review, <https://www.nationalreview.com/2017/04/one-china-policy-trump-should-reform-it/> LAO)

Most American experts on China argue that this policy has worked well because it has helped maintain the regional peace. But I believe that the One China policy is seriously flawed and should be reviewed and modified. This policy has helped Beijing fundamentally shift the power balance in its favor, resulting in the creation of an authoritarian behemoth that impinges on the right of the Taiwanese people to self-determination and that poses a severe threat to both regional and global peace. Beijing has demanded the recognition of One China as a prerequisite for entering into diplomatic relations and joining international organizations, and it has successfully excluded Taiwan from the current international system. This is unfair to the people of Taiwan. The ROC has always been an outstanding member of the international community. It made enormous sacrifices during World War II and great contributions to the Asian economic take-off. Even in the wake of America’s abandonment of Taiwan and Beijing’s relentless pressure, the ROC has peacefully transformed itself into a democratic country and become a beacon of freedom in Asia. By contrast, since the Communist regime in Beijing first entered the international community under the One China policy, it has taken advantage of American markets, capital, and technology to rise to its position as an evil empire. Instead of respecting international law and order, as Kissinger assured us it would, Beijing has sought to reshape the international order in ways that ensure the PRC’s dominance. The CCP brutally cracks down on any dissent by its citizens and also undermines international peace and stability by bullying countries in the region, including Taiwan. Worse, the regime even boasts about its capability to nuke America. Standing up for democracy has long been a core element of American foreign policy, not only because the U.S. has a moral obligation to support democratic countries that share the same values but also because such support will make America and the world more secure. The One China policy forced on Washington by Beijing has not been adjusted to take into account the ROC’s democratic governance. At the same time, an underlying assumption of the policy, namely, political reform and peaceful transition, has not materialized. In short, the policy is out of date and not in the long-term best interest of the U.S., and it should be updated accordingly. America’s difficulty in refining the ambiguous One China policy has over time allowed Beijing to hijack and distort the term. For example, the U.S. only acknowledged Beijing’s One China position in the 1972 first joint communiqué of the PRC and the U.S., without expressly accepting it. But in the 1979 joint communiqué of the PRC and the U.S., the U.S. recognized Beijing as the sole legitimate government of China, and further, in these nations’ third joint communiqué, in 1982, the U.S. was pushed to admit that it had no intention of pursuing a policy of “two Chinas” or “one China, one Taiwan.” President Clinton went to so far as to state that the U.S. would not support Taiwan’s independence. Presidents Bush and Obama also took a similar position. Today, the PRC and America have, in practice, recognized of the One China policy as legitimate. Step by step, Beijing has fully cast its One China spell on the U.S. The grave danger caused by the United States’ ambiguous, often self-contradictory statements and practice regarding One China is that they fail to draw a red line to guarantee Taiwan’s security in a legally binding agreement; this could offer an opportunity for Beijing to invade the island in the future. The U.S. did not secure Beijing’s commitment to abandon the use of force against Taiwan. In 2005, the Communist regime passed the so-called anti-secession law, explicitly stipulating that it will use force against Taiwan’s “independence provocation.” But that term’s meaning remains totally subject to the regime’s interpretation. Today, more than a thousand missiles are pointing at the island across the Taiwan Strait, but Beijing considers it a serious “provocation” if the ROC even mentions THAAD as a possible means of defending itself from a potential attack Even if the One China policy was justified 40 years ago, the geopolitical conditions calling for it no longer exist: The Soviet Union collapsed long ago, and the new Moscow has formed a strategic alliance with Beijing; Vietnam now sides with the U.S. in opposing China’s aggressive behavior in the South China Sea, and the PRC has become a formidable power challenging America’s global leadership. I believe the best way to break the One China spell is for the U.S. to refuse to accept Beijing’s sovereignty over Taiwan and to formally recognize the ROC as a legitimate government by signing an agreement with it. The agreement should incorporate the updated and expanded components in the Taiwan Relations Act and President Reagan’s “Six Assurances” to reflect Taiwan’s democracy and America’s commitment to its defense. Such strategic and moral clarity will deter Beijing’s aggression and achieve peace through strength in the region.

#### The US should recognize Taiwan as a sovereign nation to successfully promote democracy in Asia

Yoho 18 – representative from FL (Ted, “Recognize Taiwan as the country it truly is,” https://yoho.house.gov/media-center/blog/recognize-taiwan-as-the-country-it-truly-is)//BB

A high-ranking member of the Chinese Communist Party (CCP) visited my office for a friendly discussion about the numerous difficulties in US-China relations. We talked about a number of issues — some of them very difficult — but even in that informal setting, Taiwan was a non-negotiable “core interest” of the party, with no place in the discussion. The US should no longer accept these terms when talking to China. If we accept the false narrative that Taiwan is somehow “off-limits,” we are implicitly accepting the party’s lie that Taiwan’s status is a domestic matter, and we are contributing to Taiwan’s marginalization. It is time that the US, China and the rest of the world treat Taiwan as Taiwan deserves to be treated. Taiwan exists today as a sovereign state, a status it has earned through the mandate of its people, its democratic institutions and its stewardship of personal freedoms and human rights. Taiwan is a state and treating this fact as if it is off-limits in international affairs is simply a refusal to acknowledge reality. The facts are self-evident: China’s authoritarian government, dominated by the CCP, has never ruled Taiwan. Today, Taiwan is a flourishing democracy with its own economy, education system, military, sovereign borders, political parties, national anthem and flag. Taiwan is one of the US’ largest trading partners, a leader in high-tech manufacturing and a model contributor to the international community, with an especially distinguished record in public health crises. With overwhelming bipartisan consensus, the US Congress passed the veto-proof Taiwan Relations Act to defend Taiwan from invasion and to protect its de facto sovereignty — creating a 40-year alliance relationship in all but name. The CCP tries to obscure this reality, because Taiwan’s existence is a threat to the party’s hold on power. The party stokes grievances against former colonial powers to shore up its legitimacy. Admitting the independent success of a place once ruled by Imperial Japan would undercut the party’s false version of modern Chinese history, in which the party saved China from colonial abuse. Taiwan is living proof that freedom and prosperity are not mutually exclusive — putting the lie to the false choice that the party imposes on the 1.3 billion people of China. The CCP is afraid of free-thinking people with the freedom of expression, freedom of thought, freedom to choose their leaders and freedom to succeed. Because of this fear, China has bullied the world into believing that Taiwan is not a country but some other undefined thing. However, the truth is right in front of our eyes and it is time the world began treating Taiwan as it deserves. I told the visiting CCP official that, as an American citizen, I view Taiwan as an independent country and believe that most US citizens and members of our government feel the same way. The US Congress will stand firm with Taiwan. We will honor our defensive military supply commitment and will work toward achieving full diplomatic relations with Taiwan. Next year marks the 40th anniversary of the Taiwan Relations Act. In the ensuing decades, Taiwan has risen from a backwater controlled by an authoritarian, exiled military regime to become a model democracy. After 40 years, it is time we updated our policy — making it consistent with present-day reality would be a good place to start. Taiwan is a nation, and it is time to embrace and recognize this fact.

#### Taiwan politics and cross-strait peace advantage

Rich 9 – PhD, Professor of Political Science @ WKU (Tim, “Status for Sale,” *Issues and Studies*, 45.4)//BB

One may question why the ROC would spend such exorbitant amounts considering how little it seems to get in return. Diplomatic recognition is domestically popular in Taiwan and thus electorally advantageous for Taiwanese politicians, despite the fact that most Taiwanese are unlikely to be able to name one country recognizing the ROC. Equally significant is the importance Taipei has placed on recognition within the cross-Strait conflict. Recognition is crucial to Taiwan's national security, not only to prevent further isolation but to deny the PRC the ability to swallow Taiwan without international objection, 64 while making forced unification more difficult. At best, Taipei's efforts can be seen as preventing an even greater shift toward Beijing. Furthermore, one should not overlook the UN psyche which pervades Taiwanese politics. Membership in the UN is a clear mark of external legitimacy. In 1971 General Assembly Resolution 2758 revoked the ROC's credentials as the sole representative of China, transferring them to the PRC, thus threatening Taiwan's extemal sovereignty by motivating others to switch diplomatic recognition. Nor can Taiwan easily return to the UN as the Security Council must approve all accessions. Although some suggest that seating both the ROC and PRC would still have been 66 possible after 1971 the ROC's decision to walk out instead of being seated as a separate country prevented accommodation like that in the 67 German and Korean cases. Diplomatic recognition also assists Taiwan in maintaining an international presence in formal institutions. From 1993 to 2008 the ROC used its few allies to annually support re-entry into the UN, seen as its only hope after the 1995 offer of one billion dollars to the United Nations in exchange for membership was rejected. In addition to attempting to enter under vari- ous names ("Republic ofChina on Taiwan," "Republic of China (Taiwan), " and most recently simply "Taiwan"), the ROC has also attempted entry as a "non-member entity" similar to Palestine, all to no avail. Countries may be sympathetic to Taiwan; however, none with relations with the PRC has supported this measure (see table 4). In fact, only about half of the coun- tlies recognizing the ROC have supported the yearly proposal, while more non-recognizing countries have often spoken in opposition. 68 Taiwan also used its allies to propose a UN working group on Taiwan's status in 2000 and a debate on Taiwan in 2005, 69 signifying that the Taiwan issue is not resolved. 70 While it is not impossible that a deal may be brokered to allow Taiwan into the UN, 71 these actions allow Taiwan to prevent further erosion of its diplomatic space.

#### Every new recognition matters, and even one can be extremely meaningful

Grossman 3-20-2019 – senior defense analyst at the nonprofit, nonpartisan RAND Corporation. He formerly served as the daily intelligence briefer to the Assistant Secretary of Defense for Asian and Pacific Security Affairs at the Pentagon. This piece is based on research recently presented at “Monitoring the Cross-Strait Balance: Taiwan’s Defense and Security,” a workshop hosted by the Shorenstein Asia-Pacific Research Center at Stanford University. (Derek, “The Pushback Plan: How Taiwan Can Win Diplomatically Against China,” *National Interest*, <https://nationalinterest.org/feature/pushback-plan-how-taiwan-can-win-diplomatically-against-china-48322?page=0%2C1>)//BB

So where does this leave Taiwan? Unfortunately, it is virtually inevitable that Taipei will lose additional diplomatic allies unless a cross-Strait agreement is reached on the 1992 Consensus. But it is perhaps equally inevitable that Taiwan will convince at least one or more states to recognize Taiwan over China—without falling back into the unwinnable trap of dollar diplomacy. Such a development would be enormously symbolic in that it would help counter the narrative that Taiwan sovereignty is doomed. It would also boost morale in Taiwan and could convince other nations to follow suit. Such a scenario might prompt Chinese leaders to reconsider whether the diplomatic component of their pressure campaign is yielding the desired end state, giving Taiwan a temporary reprieve from the recognition rivalry.

#### Liminal status quo is not sustainable

Koopman 16 – Senior Notes Editor, Cardozo Journal of Conflict Resolution; B.S. 2012, Carnegie Mellon University, J.D. Candidate 2017, The Benjamin N. Cardozo School of Law (Kristine, “TAIWAN'S PATH TO INDEPENDENCE: RESOLVING THE "ONE CHINA" DISPUTE,” 18 Cardozo J. Conflict Resol. 221, Lexis)//BB

C. Taiwan's Status on an International Level

Even though Taiwan is not officially recognized as an independent state by many countries or international organizations, most countries and international organizations concede that on some level, Taiwan is a separate entity from China. 1. Taiwan in the Eyes of Foreign Countries Taiwan's biggest allies do not admit to Taiwan's sovereignty, but rather maintain unofficial diplomatic relations with Taiwan. The United States, Taiwan's strongest ally, has publicly noted that it does not recognize Taiwan to be an independent state; however, it also does not support China's claim to Taiwanese territory. 85 After President Jimmy Carter terminated the Sino-American Mutual Defense Treaty, which had established official diplomatic relations with Taiwan, Congress passed the Taiwan Relations Act in 1979. 86 The Act authorized de facto diplomatic relations with Taiwan and gave special recognition to the American Institute of Taiwan, recognizing [\*235] it as a de facto embassy. 87 Further, the Taiwan Relations Act obligates the United States to aid in defending Taiwan against any attacks or invasions, specifically from China. 88 A possible deterrence for members of the international community voicing support for Taiwan's independence is that China has repeatedly threatened foreign countries with economic sanctions or military consequences if they help or recognize Taiwan. For example, in 2010, the Obama administration decided to engage in a $ 6.4 billion arms deal with Taiwan, to which the Chinese government responded by suspending military exchanges with the United States because the arms package "constituted a gross intervention into Chinese internal affairs." 89 Similarly, the United Kingdom does not actively support Taiwan's independence or China's claim. Instead, the government has repeatedly stated that "the future of Taiwan [should] be decided peacefully by the peoples of both sides of the Strait." 90 Therefore, as demonstrated, many countries, like the United States and the United Kingdom, are hesitant to support Taiwan's claim of independence because of political and economic pressure from China. 91 2. Taiwan's Membership in International Organizations Many international organizations recognize Taiwan as a separate entity from China to some extent, but refuse to acknowledge Taiwan as its own state due to pressure from the Chinese government. Both Taiwan and China are members of multiple international organizations, but Taiwan is consistently listed as a member under "Chinese Taipei," different from China, which is recognized as "China, People's Republic of." 92 However, there are some international organizations, such as the United Nations, which refuse to even admit Taiwan as a member state. Taiwan has applied fifteen times to the United Nations for membership, and has been [\*236] denied each and every time. 93 In 2007, the most recent attempt, President Chen applied to the United Nations as "Taiwan" rather than "Republic of China." 94 The United Nations denied Taiwan's application citing to United Nations General Assembly Resolution 2758 ("U.N. Resolution 2758"), which recognized the People's Republic of China as the official representative of China to the United Nations, removing the Republic of China (Taiwan) from among its members. 95 United Nations Secretary-General Ban Ki-moon went even further to state that U.N. Resolution 2758 stipulated that Taiwan was a province of China; 96 however, that referenced resolution does not actually resolve the issue with Taiwan's political status, much less mention Taiwan at all. 97 Even in international beauty pageants, Taiwan continues to be a victim of China's pressure. In the Miss Earth 2015 beauty pageant, the Taiwanese contestant, Ting Wen-yin, was removed from the competition because she refused to wear a sash that read "Miss Chinese Taipei," and instead requested the sash read "Miss Taiwan ROC." 98 Prior to the competition, Ting Wen-yin was told that she would be wearing the "Miss Chinese Taipei" sash, to which she responded, "I told them 30,000 times that Taiwan is Taiwan. I was born in Taiwan, my sash now says Taiwan, I represent Taiwan, and I'm going to use the name of Taiwan in appearing at this pageant." 99 3. Taiwan and China Current Relations China has often responded to Taiwan's democratic aspirations with threats. In 1995 and 1996, it fired missiles over the Taiwan Strait in response to President Lee's increasingly vocal support for [\*237] a stronger Taiwanese identity. 100 Additionally, during President Chen's terms, Chinese officials and state media frequently denounced his pro-independence line, 101 and in 2005, China passed an anti-secession law that called for the use of force in the event of a formal declaration of Taiwan's independence. 102 On November 7, 2015, President Ma and Chinese President Xi Jinping met in Singapore to discuss the future of the relationship between their two countries. 103 It was the first meeting between the Chinese and Taiwanese heads of state since 1949. 104 Many western countries applauded the meeting, commenting that it was "a step in the right direction" to improving cross-strait relations. 105 However, the meeting did not produce any agreements between the two countries other than maintaining the status quo and working towards maintaining a peaceful relationship. 106 The lack of results from the meeting left Taiwanese pro-independence groups speculating that the meeting was merely an attempt to bolster pro-reunification sentiments in Taiwan because of the then-upcoming Taiwanese presidential elections, and also to serve as a warning to the Democratic Progressive Party of the consequences of pursuing independence. 107 Since President Tsai was sworn in as president in [\*238] May 2016, she has been cautious when discussing Taiwan-China relations. Although Chinese officials have indicated that they want President Tsai to formally accept the 1992 Consensus, she has not endorsed the Consensus. 108 As a result, China has suspended diplomatic communications with Taiwan. 109 The most recent Taiwanese presidential, legislative, and local election results are the result of a shift in the Taiwanese national identity. According to a series of surveys conducted by the Center for the Study of Elections at the National Chengchi University, the Taiwanese national identity underwent a dramatic transformation in the last decade. 110 In 2008, 43.7% of the Taiwanese population identified as only Taiwanese, while 44.7% identified as both Taiwanese and Chinese, and 3.5% identified as Chinese. 111 In 2014, there was a significant increase in those that identified themselves as only Taiwanese, with 60.6% of the people identifying as Taiwanese, while the remaining 32.5% identified as both Taiwanese and Chinese, and 2.5% identified as Chinese. 112 The Taiwan-China dispute can only be resolved through reunification or a declaration of independence and, with the current movement for a stronger Taiwanese national identity and Taiwanese independence, the current status quo between China and Taiwan will no longer suffice. 113

#### Democracy and international institutions advantage

Sherman 18 - HEARING BEFORE THE SUBCOMMITTEE ON ASIA AND THE PACIFIC OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTEENTH CONGRESS SECOND SESSION, Lexis

I am very concerned that China has tried to keep Taiwan out of international organizations. We should be helping Taiwan gain membership to the World Health Organization, the International Civil Aviation Organization, the U.N. Climate Change Convention, and INTERPOL. Taiwan’s vital contributions to the work of these organizations would make the world a healthier and safer place. In support of such efforts, I joined as an original co-sponsor to the chairman’s bill seeking to give Taiwan observer status to the World Health Assembly. Criminals and diseases benefit by excluding Taiwan from organizations designed to combat crime and disease. And it is hard to think that Beijing would work tirelessly to try to support disease and crime, yet that is what they are doing by preventing Taiwan from being an efficient member of these international organizations. I support the Global Cooperation and Training Initiative through which Taiwanese expertise helps developing countries in areas such as health, the digital divide, gender development and humanitarian assistance. As to defense and economics, in accordance with the Taiwan Relations Act and the Six Assurances we should maintain our arms sales that support Taiwan’s legitimate defense needs. Such sales also do create jobs here in the United States and help maintain our defense industry. And we need to seek an increase in Taiwanese investment of the United States and U.S. exports to Taiwan of goods and services. Currently, we export $26 billion in goods and $12 billion in services. What is at stake here is our dedication to democracy. Taiwan tied several other Asian countries for the highest democracy score in an international rating from Freedom House and I would say Taiwan does pose a threat to China. That threat is one of example. When the people of mainland China see that a country sharing the same language can benefit from democracy, can benefit from the rule of law and a truly free and vibrant economy, then that is a threat not only to China but to all of the oppressive regimes around the world. So I look forward to deepening our relationship with Taiwan and dismissing the silliness that prevents Taiwan from participating with the United States and with the rest of the world. I yield back.

#### Recognition key

Yoho 18 - HEARING BEFORE THE SUBCOMMITTEE ON ASIA AND THE PACIFIC OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTEENTH CONGRESS SECOND SESSION, Lexis

Mr. YOHO. I appreciate that and I appreciate your work and you showing up on your busy schedule. But I think the Taiwan Travel Act is a historic piece of legislation that sets a tone for a new era in our relationship with Taiwan and around the world. Mr. Stokes, you were talking about a fundamental policy review that should be addressed. And, you know, you have heard it twice here, a country, Taiwan is a country, and when I was over there we were talking about that. You know, what do you call an entity that has a flag and their own military if not a country and a democracy. And I know that is taboo to say that or take a phone call from President Tsai congratulating our President. If we can’t say those things in the open, I think we are in a very dangerous situation in the world. And I think it is time to revisit this. If we look at Taiwan, it was recognized as such, a country from 1949 to ’71, and ’71 to ’72 there was this cloud of vagueness, what are we? We are going to recognize you as such, but we are not going to call you that. We are going to recognize you as part of this other entity over here, China, and we are where we are at today. And as I shared with you earlier, in Robert Gates’ book, Duty, back in the mid-2000s, probably 2012, 2013, we had the arms sales going back and forth with China, or with Taiwan for all those years, 1979, I believe it was, and nobody complained overtly. But as China was getting stronger they raised a lot of angst and didn’t like our arms sales to Taiwan. And our negotiator said, well, what is your problem? We have been doing this for a long time. And the Chinese admiral says yes, I know, but back then we were weak. We are strong now. And I think that is a very clear message of the intention and especially if we move forward. And the Chinese Communist Party and Mr. Xi have an insatiable thirst for power and domination and, as we know, history has shown from time and time again, this is to be a very dangerous situation when people have that hunger for domination and for power. And what I see is China is threatened by the success of Taiwan’s democracy. They are insecure and they are frightened that their Communist ideologies cannot compete with freedom and that is what we have that they so much don’t like because it threatens their form of government. What I have come to see is people and businesses do business with those that they know, like, and trust. And if China doesn’t honor its word and agreements as in the transfer of Hong Kong in 1996 from Great Britain to China, where China agreed not to interfere in the governing of Hong Kong for 50 years, yet it has, or China ignoring the court arbitration in The Hague stating that they, The Hague, they stated that China has no claim on the East Sea, and then, finally, Xi Jinping blatantly lied to President Obama stating that they would never weaponize the reclaimed islands of Spratly and Paracel Islands in the East Sea, yet they have; so then my question that comes up and other people I have talked to, then why would anyone do business in the business world with a company, or in this situation with a country, that lies, or they don’t like a country? They either lie or their government doesn’t honor their word or the word of international law.

#### Answer to the condition CP --- using Taiwan as leverage is bad

Ma 18 – Senior Director, BowerGroupAsia Nonresident Fellow, the National Bureau of Asian Research (Tiffany, “"Reinforcing the U.S.-Taiwan Relationship",” Testimony before the House Committee on Foreign Affairs Subcommittee on Asia and the Pacific, Lexis)//BB

China's increased coercion against Taiwan has led some observers to debate the costs, if not question the value, of U.S. support for Taiwan. To be sure, viewing U.S. support for Taiwan as a provocation to China is an internalization of Beijing's position, one designed to restrain the United States' own calculus towards Taiwan. Rather, if we put the United States and its interests first on the basis of longstanding policies, stakes in the region, and value that we ascribe to friends and allies-the question to ask is: why wouldn't we reinforce our relationship with Taiwan? In a similar vein, this logic dispels the benefits of using Taiwan as a bargaining chip. Concessions to China on Taiwan, in the hopes of reciprocal gains on North Korea or trade issues, do not guarantee favorable outcomes. On the contrary, the United States would certainly stand to lose a close trade and security partner, as well as risk its credibility. Developments in the Taiwan Strait are closely watched by other US allies and friends as they represent a test of American commitments in the region. Anything short of demonstrating US resolve in the face of China's attempts to force unification-much less failing to uphold US commitments to Taiwan or using Taiwan as a pawn-sets dangerous precedents that undermine long term US. position in the region. Similarly, Taiwan is not a tool for the US to use to manage relations with China. Playing the "Taiwan card" to force Beijing's hand would put Taipei in a more precarious position in the midst of U.S.-China competition, not to mention undermine the fundamental tenets of the US.- Taiwan relationship.

#### This specific area has a potential I-law advantage as well

Jones 2017 (Brian Christopher Jones, Lecturer in Law at the University of Dundee, 8-12-2017, "Taiwan: a derogation of international law?," East Asia Forum, <https://www.eastasiaforum.org/2017/08/12/taiwan-a-derogation-of-international-law/> LAO)

What does international law do if it does not protect peaceful, democratic countries committed to human rights? The demand for this kind of protection was the reason that the United Nations and the Council of Europe were originally formed. Friendly relations among nations, self-determination of peoples, and universal peace are bedrock principles of the UN, which pledges to be ‘a centre for harmonizing the actions of nations in the attainment of these common ends’. But these laudable aims now seem adrift. Nowhere is this more evident than when considering Taiwan. After almost 30 years of democracy in Taiwan it is now time to ask a difficult question: why does the country remain so vulnerable, and unprotected by the international legal community? As Taiwan becomes increasingly democratic, allies are deserting them. The most recent to do so was Panama, a long-standing ally that was ‘seduced’ by China through a number of mouth-watering loans and infrastructure projects. Panama’s president rationalised the switch by suggesting that President Tsai’s election to office ended the ‘cross-Strait truce’. This incident will not be the last — China is pressuring more Taiwanese allies abroad to change the way they deal with Taiwan. And it seems Taiwan has few options to protect itself. If international law must not be judged on the Herculean task of protecting states, it is also designed to protect vulnerable individuals. Here, too, it is struggling. Recently, China charged Taiwanese human rights activist Lee Ming-cheh with ‘subverting state power’. This is the first time a Taiwanese national has been charged in this way. Lee has virtually no avenues for international protection — even though China was a signatory to the International Covenant on Civil and Political Rights in 1998, they have still not ratified it. Many fear that Lee will not receive a fair trial in China and is likely to be convicted, similar to the Chinese human rights lawyers involved in a 2015 crackdown by the Chinese government. And what can be said for the institutions of international law? Their support for Taiwan is also lacking. Most recently, the World Health Organisation (WHO) failed to invite Taiwan to this year’s World Health Assembly (WHA), at which Taiwan has acted as an observer every year since 2009. In September 2016, the International Civil Aviation Organisation did the same thing. For the time being, Taiwan can forget about formal recognition from the UN —it is even shut out of UN ancillary organisations. But it seems clear that Taiwan does not seek membership to such organisations as a crutch for promoting their sovereignty; the country genuinely believes that they have something to offer international discussions on public health, aviation safety, and other issues. Some may respond to these developments by contending that if China’s ability to deal with its own sovereignty disputes is not protected, then the Taiwan Strait — and East Asia more generally — will become more volatile. A worldwide non-interventionist strategy has been readily accepted in response to China’s increasingly hostile actions towards Taiwan. But what comes of international non-intervention? The tension in East Asia — and especially across the Taiwan Strait — arises not because Taiwan is attempting to continually assert its sovereignty under a new government, but because China is allowed to run amok. Recall that it is Taiwan, not China, that has pledged for a peaceful resolution to the cross-Strait situation. And yet, Taiwan could go some way to helping itself by tweaking its own ‘One China’ policy. Currently the Taiwanese government still claims that the Republic of China (ROC) represents all of China. Thus countries like Panama increasingly have little choice but to recognise China’s version of a more coherent ‘One China’ policy, as Taiwan’s sovereignty claim is regarded as increasingly irrelevant in the geopolitical sphere. Taiwan could either acknowledge that its ‘ROC’ title is meant as a representation of Taiwanese sovereignty, or drop the ‘ROC’ portion of the title completely — the latter, from China’s perspective, may amount to an act of succession or a declaration of war. At any rate, it would be better if Taiwan focused on Taiwanese sovereignty, and stopped referring to themselves as the ‘free China’. If the international legal community has no way to sanction economically powerful countries that do not abide by international law principles, and conversely has no way to protect countries or individuals that do abide by those principles, then it is time to reform the mechanisms of international law.

#### And, there is a strong answer to the ‘accommodate China’ counterplan

Tucker 11 – Professor of History at Georgetown University and at the Edmund A. Walsh School of Foreign Service (Nancy, w/ Bonnie Glaser, “Should the United States Abandon Taiwan?,” *Washington Quarterly*, 34.4)

Relying on the sacrifice of Taiwan to fulfill Chinese ambitions ignores more than intentions, it also overlooks internal dynamics in China. Beijing confronts constant domestic turmoil. Corruption, income inequality, and environmental degradation have tarnished the accomplishments of the government and party. Fears among the leadership concerning mounting social unrest, spurred by the Jasmine Revolutions in the Middle East, produced harsh restrictions of the media and the Internet along with the imprisonment of artists, underground church members, protesting peasants, lawyers, and human rights activists. Regaining Taiwan is unlikely to provide a broad and enduring balance to internal unhappiness. Beijing also confronts militant nationalism which, though fostered by the government, is still difficult to control. Any suspicion that authorities are not adequately safeguarding Chinese interests and securing international respect could threaten regime stability. Accordingly, a U.S. sacrifice of Taiwan, while gratifying, could not thoroughly slake a continuing need for Beijing to demonstrate its power. Indeed, the sacrifice might promote new appetites and necessitate fresh efforts to satisfy that need. Accommodating China’s demands on Taiwan, moreover, would not necessarily cause Beijing to be more pliable on other matters of importance to the United States. Beijing’s positions on issues such as Korea and Iran are shaped by China’s national interests and are not taken as favors to Washington. Beijing’s determination to preserve stability in its close neighbor and ally North Korea would continue to prevent China from increasing pressure on Pyongyang to give up nuclear weapons. Resolving China’s Taiwan problem would also not mean greater cooperation in preventing Iran from going nuclear given Beijing’s almost universal opposition to muscular sanctions, its growing energy needs, and desire to promote Chinese influence in the Middle East.

#### Losing Taiwan, even if peacefully, collapses all alliances

Friedberg 11 – PhD @ Harvard, Professor of Politics and International Affairs at Princeton University (Aaron, “A Contest for Supremacy: China, America, and the Struggle for Mastery in Asia,” p. 177)

While they are generally careful not to appear to endorse such views themselves, Chinese writers are aware that some foreign observers believe the "loss" of Taiwan would have significant strategic implications for the United States. If Washington is seen to have abandoned Taiwan, even if unification is achieved without bloodshed, others will lose faith in its security guarantees, America's alliances and strategic partnerships will wither, and its foothold on "the eastern extremity of the Eurasian con- tinent" will eventually be lost. In time, Washington will find that it has been "gradually excluded from East Asia."57

#### Deterrence

Blanchard 3/4 - Ben Blanchard, Reuters, 3-4-2022, "U.S. should recognise Taiwan, former top diplomat Pompeo says", Reuters, https://www.reuters.com/world/asia-pacific/us-should-recognise-taiwan-former-top-diplomat-pompeo-says-2022-03-04/ 4-13-2022 (HH)

The United States should formally recognise Taiwan as a country, former Secretary of State Mike Pompeo said on Friday during a speech in Taipei, drawing a stern rebuke from China for his "babbling nonsense". "The United States government should immediately take necessary and long overdue steps to do the right and obvious thing: that is to offer the Republic of China, Taiwan, America's diplomatic recognition as a free and sovereign country," Pompeo said in a speech organised by a Taiwan think tank. Washington ended formal diplomatic relations with Taiwan in 1979 when it recognised the People's Republic of China. While Taiwan's official name is the Republic of China, politicians often add "Taiwan" in their public comments. "While the United States should continue to engage with the People's Republic of China as a sovereign government, America's diplomatic recognition of the 23 million freedom-loving Taiwanese people and its legal, democratically-elected government can no longer be ignored, avoided, or treated as secondary," Pompeo said. The comments by Pompeo, considered a possible contender for the Republican presidential nomination in 2024, cross a sensitive red line for China, which claims Taiwan as its own territory and has never renounced the use of force to bring it under Chinese control. "Pompeo is a former politician whose credibility has long gone bankrupt. Such a person's babbling nonsense will have no success," said Chinese Foreign Ministry spokesperson Wang Wenbin. China says Taiwan is the most important and sensitive issue in its relations with Washington. The Biden administration has declined to comment on Pompeo's visit to Taipei, and a spokesperson for the State Department, asked to comment on his call for Washington to recognise Taiwan, replied: "As a general practice, we do not comment on the travel or comments of a private citizen." China placed sanctions on Pompeo when he left office at the end of the Trump presidency last year, angered by his repeated criticism of the country, especially its ruling Communist Party, and support for Chinese-claimed Taiwan. He met Taiwan President Tsai Ing-wen on Thursday, who bestowed a presidential honour on him. read more China put sanctions on "lying and cheating" Pompeo and 27 other top Trump-era officials as President Joe Biden took office in January 2021. Donald Trump's administration gave strong backing to Taiwan, despite the lack of formal diplomatic ties, including high-profile arms sales and visits by top U.S. officials to Taipei. China has stepped up its military and diplomatic pressure against Taiwan over the past two years, seeking to force the island to accept its sovereignty. Taiwan's democratically-elected government says it wants peace but will defend itself if attacked, and that only the island's people have the right to decide their future. Pompeo said after Beijing's "brutally successful takeover of Hong Kong," Chinese President Xi Jinping feels more powerful and "won't be satisfied stopping at Hong Kong". "Taking over Taiwan, a necessary mission, is not only to boost Xi's egomaniacal claim of greatness, but indeed to solidify it," Pompeo said. The United States should formally recognise Taiwan as a country, former Secretary of State Mike Pompeo said on Friday during a speech in Taipei, drawing a stern rebuke from China for his "babbling nonsense".

#### Disease

Ibrahim 20 - Azeem Ibrahim, Director at the Center for Global Policy in Washington, DC., National Interest, 5-9-2020, "The United States Should Recognize Taiwan as an Independent Nation", National Interest, https://nationalinterest.org/blog/buzz/united-states-should-recognize-taiwan-independent-nation-152611 4-13-2022 (HH)

The first country in the world to face the facts around the virus and went on to implement one of the most effective responses to the virus was Taiwan. Taiwan registered the first case on January 21, one of the first countries to do so outside of China—at a time when most countries had not even registered the virus as a potential threat on their political horizons. Over three months later, and in a medium-sized country of nearly 24 million people, Taiwan has only registered 429 infections and 6 deaths (at the time of writing). How did Taiwan achieve such an astonishing success? The country had at least two things going for it. The first is that it has had the experience of Sars two decades ago, so like South Korea and Japan had the knowhow and the infrastructure to cope well with an epidemic of this kind. The second advantage is political: led by a pro-independence government which has come under sustained pressure from Beijing in recent years, Taiwan knows to instinctively distrust narratives coming out of Beijing. It also has some one million citizens working on the mainland, giving the Taiwanese government some useful channels of communication with people and with the realities of inland China. So when the initial reports from doctors in Hubei province emerged about a potential new viral respiratory disease, Taiwan was one of the first countries to know about it. As it has since emerged, it has also tried to pass on what it has learned, as well as the fact that the Chinese authorities were deliberately withholding relevant information and suppressing the doctors’ reports, to the World Health Organisation (WHO) as early as December. Unfortunately, Taiwan is excluded from the WHO, and not recognised as an independent country in any aspect of the UN system, as a consequence of Chinese pressure. So their attempts to raise the alarm were not listened to. It may have been inevitable that Chinese citizens in Hubei province would suffer the consequences of their local officials choosing to cover up the emergence of the virus in the early days, but it was not inevitable that the rest of us would also suffer the consequences of Beijing’s economy with truth.

#### Democracy

Yu-Jie Chen 22 - Yu-Jie Chen, Australian Foreign Affairs, 2-1-2022, "Freedom cry: The view from Taiwan", Australian Foreign Affairs, https://search.informit.org/doi/abs/10.3316/informit.306413544777417 4-15-2022 (HH)

What do we talk about when we talk about Taiwan? In international policy discussions, Taiwan is often described as a "question", a "problem" or, even more melodramatically, "trouble". In such narratives, Taiwan is seen as needing to be dealt with, and the agency of the island's 23.4 million people is sidelined, if not overlooked. Therefore, the title of this issue - The Taiwan Choice - is refreshing, assuming that it also includes Taiwan's own choice. After all, as other countries are debating what decisions they should make about Taiwan, Taiwanese people will be making their own decisions as well, for themselves.

#### This is just the abstract, but it introduces the point.

Richard C. Bush 21 - Richard C. Bush, Brookings, 1-22-2021, "Taiwan’s democracy and the China challenge", Brookings, https://www.brookings.edu/articles/taiwans-democracy-and-the-china-challenge/ 4-13-2022 (HH)

Taiwan has gotten high marks when it comes to holding clean elections and protecting political rights. The public strongly supports democracy in principle and by and large approves the island’s system in practice. When it comes to performance, however, the political system does not do so well. This is partly because of a set of structural factors. Selecting the president and legislature on a majoritarian basis fosters a degree of polarization and complicates the crafting of policy compromises. Periodically, social and political forces seek to circumvent the institutions of representative government (via mass protests, for example). They can block what they oppose but are unable to solve the problems that provoked their action in the first place. Another reason is that the issues to be addressed are not easy. Taiwan’s economy is maturing; young people lack employment opportunities; the population is aging; and the birth rate is very low. The most challenging issue is China and its ambitions regarding Taiwan. So, the stakes for Taiwan’s democracy are high. A failure to perform well would be a tragedy.

### Neg

#### Recognition collapses US-China relations

Goldstein 18 – PhD, Professor of Government, Emeritus at Smith College and Fairbank Center Associate (Steven, “Recognizing Taiwan’s Sovereignty? The U.S. Response to China’s Diplomatic Pressure,” *Medium*, <https://medium.com/fairbank-center/recognizing-taiwans-sovereignty-how-is-the-u-s-responding-to-china-s-diplomatic-affront-54785cbc9338)//BB>

Still, even though American administrations have pushed the boundaries of relations with — -and support for — Taiwan, they have carefully avoided any suggestion of support for its government’s claim of independence and sovereign status. To cross that red line would be an explicit rejection of the fundamentals of China’s claim to Taiwan that would shake the foundation of Sino-American relations. The analysis in this article suggests that, in its recent reaction to El Salvador’s change in diplomatic partners, the United States has moved perilously close to that line. The first suggestion of this came in an unusual August 23 statement by the White House that criticized El Salvador for having acted in a way that affected “the economic health and security of the entire American region” by its “government’s receptiveness to Chinese apparent interference in the domestic politics of a Western hemisphere country.” This was said to be a matter of “grave concern” to the United States that would result in a “re-evaluation” of its relations with El Salvador. The statement cautioned others regarding the dangers of economic ties with China and pledged that “[t]he United States will continue to oppose China’s destabilization of the cross-strait relationship and political interference in the Western Hemisphere.” This statement was unlike the State Department spokesperson’s anodyne statement about the importance of peace and stability in the Taiwan Strait made in response Panama’s switch to relations with China in June of 2017. In it she dismissed any threat to American interests in the area, characterizing the change as “an internal matter between the Government of Taiwan and Panama.” So, in roughly a year, the American posture on the diplomatic competition between Taiwan and China had moved from a narrow assessment of its impact on stability in cross-strait relations to a much wider depiction reminiscent of the Monroe Doctrine. In this depiction the United States indicated a willingness to intervene officially in matters beyond the strait area that affected relations between China and Taiwan. And on September 11, it was apparent that intervention might constitute more than a statement, when American envoys to the Dominican Republic, El Salvador and Panama were recalled to Washington for “consultations related to the recent decisions to no longer recognize Taiwan.” At the same time in the Congress, Taiwan’s supporters rallied to support the island. Legislation was proposed that would “restrict U.S. funding to El Salvador” in order to “send a direct message to Taiwan’s allies that the United States will use every tool to support Taiwan’s standing on the international stage and will stand up to China’s bullying tactics across the world.” In early September, legislation introduced into the Senate called for the State Department to report on “actions taken by the United States to affirm and strengthen Taiwan’s international alliances around the world.” It proposed rewarding countries that maintained diplomatic or unofficial relations with Taiwan while penalizing those who would downgrade relations. One instance does not, necessarily, represent a change in policy. Still, it is useful to inquire, first, whether Washington’s reaction to Chinese recognition of El Salvador is consistent with broader trends in United States China policy and secondly, whether it represents a change in American policy toward the cross-strait relations. To answer the first question: the reaction described above is consistent with the direction American China policy was taking during the summer of 2018. Sino-American relations under President Trump continued on the downward trend that had begun in the last days of the Obama administration. With China identified as a “revisionist” power and a “competitor” challenging “American power, influence, and interests,” Sino-American disputes arose on issues ranging from trade to security in the South China Sea. Consistent with this trend were Washington’s recent efforts at “strengthening alliances and building new partnerships in the area” in response to Beijing’s involvement in Latin America. This direction was aggressively promoted by Secretary of Defense James Mattis who toured the area the summer of 2018 warning of Chinese economic and military ambitions and proposing that the United States National Guard link up with South American military. In contrast to this trend, after the December, 2016 phone call between Trump and Tsai, the cross-strait issue did not figure prominently in the worsening Sino-American relationship — at least as far as the Executive Branch was concerned. In Congress, Taiwan’s supporters promoted legislation consistent with the overall “hardening” of China policy. However, the legislation was not a radical departure from past initiatives regarding arms sales, military cooperation and visits. Thus, it is not surprising that the Trump administration’s reaction to El Salvador’s actions was far more vigorous than reactions to earlier defections by the island’s partners. This was consistent with the growing concern regarding the direction of Chinese foreign policy, in general and toward Latin America, in particular. Yet, the content of the response was neither consistent with earlier responses to the mainland’s attraction of Taiwan’s diplomatic partners nor the United States “One China Policy.” Earlier the focus had been on the impact on stability in the Taiwan Strait area. Now, “political interference in the Western Hemisphere” was linked to cross-strait relations, implying that American interests in these relations were not limited to its impact in East Asia. Moreover, implicit in the White House statement and the explanation of the recall of diplomats to Washington was that one of those interests is that Taiwan’s remaining formal diplomatic ties — especially in the Western Hemisphere — be maintained. This was made explicit in the proposed Congressional legislation which not only promoted the existing American support for Taiwan’s “unofficial relations,” but added support for “official relations” to “strengthen Taiwan’s international alliances.” The problem here is that Taiwan’s “official relations” are based on the Republic of China being considered a sovereign state — a fact denied by both the United States and China. Indeed, this denial of Taiwan sovereign state status is not only one of the few areas of agreement between the two, it is an important pillar supporting Sino-American relations. Since normalization in 1979, it has allowed the United States to balance the provision of essential support for Taiwan with some acknowledgement of Chinese sensitivities. Although this balance has never really satisfied China, upsetting it by acknowledging Taiwan’s sovereign status would be catastrophic for Sino-American relations and threaten the American interest in the security of Taiwan.

#### Leads to a shooting war

Ku 17 – Professor of Constitutional Law at Hofstra University School of Law. He is a co-founder of Opinio Juris, the leading blog on international law. (Julian, “President Trump Can Legally End the One China Policy and Station U.S. Troops in Taiwan,” *Lawfare*, <https://www.lawfareblog.com/president-trump-can-legally-end-one-china-policy-and-station-us-troops-taiwan>)//BB

In a manner that is both exciting and disquieting, the new U.S. administration seems serious about rethinking almost everything in U.S.-China relationship: trade, investment, the South China Sea, and, especially, the One China policy. President-elect Trump has repeatedly told the media that “everything” is on the table, including the “One China” policy. Trump is not (at least on this issue) making a misstatement. This looks a like a real policy shift by the new president, and one that would represent the biggest change in US-China policy since President Nixon’s historic 1972 visit. In this brief post, I will avoid discussion of the wisdom of such a shift (I will simply note that discussions during my recent trip to China suggest to me that the Chinese will not take such a shift well). But I want to focus here on the legality, both domestic and international, of U.S. abandonment of the One China policy in favor of some form of increased support or even recognition of Taiwan. My unsurprising conclusion: Neither U.S. nor international law prevents President Trump from abandoning the One China policy, recognizing Taiwan as a separate country, and even stationing U.S. troops and military assets there. Put another way, China should probably take President-elect Trump’s threats on “One China” seriously because he has all of the legal authority he needs to carry out this seismic policy shift. Under U.S. law, President Trump has complete constitutional discretion over whether to recognize a foreign government, and even whether to recognize a foreign government’s territorial and sovereign claims. The U.S. Supreme Court confirmed that Congress cannot restrict this power in the 2015 decision Zivotofsky v. Kerry. In that decision, the Court held that the President has the “exclusive” power to withhold recognition of Jerusalem as Israel’s capital, and that this power even extends to refusing to print passports with the designation of “Jerusalem, Israel.” The holding of Zivotofsky was not particularly controversial and would plainly govern any attempt to challenge a decision by President Trump to extend US recognition to the Republic of China (Taiwan’s formal legal name). Similarly, the President has broad powers as Commander in Chief to direct the movement of U.S. troops and military assets as he sees fit. These powers may not be quite a “exclusive” as his recognition power, but they are close. In any event, there seems little doubt that the President could legally agree to a basing agreement with Taiwan of the type proposed by former U.S. U.N. Ambassador John Bolton in today’s WSJ. It is not clear if the President could give a defense guarantee without a treaty, but he could certainly place the troops there and order them to defend Taiwan in case of Chinese armed attack. Under international law, the question of recognizing Taiwan is a little trickier. To be sure, the U.S. could simply join (or re-join) the dwindling number of states that recognize Taiwan. This would not violate the international law of statehood (such as it is) since Taiwan has all of the characteristics of a state under the Montevideo Convention. The main international legal obstacle to U.S. recognition of Taiwan and basing military troops there is that the U.S. has sort-of promised China it wouldn’t do either of these things. In the 1972 Shanghai Communique that launched the re-establishment of U.S.-China relations, the U.S. “acknowledged that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position.” To be sure, as John Bolton argued in his op-ed, the first sentence merely “acknowledges” a position that the Chinese in Taiwan probably do not agree with today. But the second sentence is more troubling. If the U.S. does not “challenge” the One China position, doesn’t that mean the U.S. accepts it? It is certainly a plausible reading of this language. This position seems even stronger if one reads the 1982 Joint Communique, which states that the U.S. “has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan.” And then it is followed by subsequent administrations’ statements openly opposing Taiwanese independence. Similarly, the U.S. went on in the Shanghai Communique to “affirm[] the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes.” It did, in fact, remove all U.S. military forces before U.S. normalization of diplomatic relations in 1979. I think a fair reading of these various “communiques” is that the U.S. promised that it would follow a policy of “One China” and withhold recognition of Taiwan as a separate country. It also (less clearly) agreed to work to remove all of its military forces from Taiwan, although it did not make such a promise never to put them back. Still, in my view, none of these promises are legally binding under international law. At various times Chinese leaders and government spokesmen have referred to these communiques as binding international agreements. I think most lawyers, however, would treat these joint statements as nonbinding “political commitments” that merely express diplomatic intentions but do not represent a formal agreement under international law. Most such joint statements with lots of nonbinding language involving future “intentions” for “progressive reduction” and “acknowledging” facts would not be seen as legally binding international agreements. In any event, it is clear that the President has broad authority under U.S. law to withdraw from even binding international legal commitments. He certainly would have no problem withdrawing from binding ones like the Three U.S.-China Communiques. I don’t think the Taiwan Relations Act requires him to do so, but it certainly suggests Congress does not want to stop the President from supporting Taiwan. U.S.-China policy has always depended on the interests of the two countries in maintaining strong relations and cooperation despite sensitive questions like Taiwan. The legal framework for this relationship is surprisingly thin, however, and any new U.S. president is always empowered to completely change it should he choose to. A shift along the lines outlined by Trump or Bolton may be unwise, and it could even lead to a shooting war, but it is one of the many important powers President-elect Trump will assume on January 20. China should be prepared.

#### Staying just short of recognition is the best way to maintain cross-strait stability

Williams 98 – JD, Assistant Professor of Law and International Relations, American University; Executive Director, The Public International Law and Policy Group (Paul, Creating International Space for Taiwan: The Law and Politics of Recognition, *32 New Eng. L. Rev. 801*, Lexis)//BB

This morning we have had the opportunity to engage in a lively debate about the current status of Taiwan. Is it an independent state? Is it an entity with an international legal personality entitling it to a certain degree of international space? Or is it an integral political unit of China? To better understand the political and legal choices facing Taiwan, one must conceive of Taiwan as being perpetually poised on the cusp of independence. Notably, Taiwan is not teetering on the cusp of independence, but it is securely poised just before that last step necessary to actualize its independence. Taiwan has come to be poised on the cusp of independence as a result of the international community's "one China but not now" policy. The Chinese government is comfortable with this policy as it acknowledges that Taiwan is not formally independent, while for the Taiwanese government it is also currently acceptable as it permits Taiwan to exercise a certain degree of international space. The United States and the European Union member states, as well, are comfortable with this interim arrangement as it prevents the issue of the permanent status of Taiwan from detracting from other foreign policy initiatives with respect to both China and Taiwan. The task of this presentation is to analyze the potential legal and political reaction to an attempt by Taiwan to move its current status over the cusp and into the realm of independence, or an alternative attempt by China to back down Taiwan into a one China with the one system policy. The movement of the status of Taiwan could occur in a number of ways. There was some discussion this morning about the military capability of China to forcibly re-integrate Taiwan into its political system, and there has been much discussion of the ability of [\*802] Taiwan to continue to expand its international space and maybe court, and request independence from other states. There has also been discussed the option of pursuing the so called Hong Kong model where there would be a one country with two systems. I will not address this latter option, only to note that if this approach were taken, it would substantially pull back Taiwan from the cusp of independence and it might then take a significant amount of time to re-establish the status quo if Taiwan found this arrangement unacceptable. The question we now turn to is, assuming that Taiwan has exercised its rights under the very confusing and vague international law doctrine of self-determination, what legal rules would govern a request by Taiwan for recognition by the international community? For precedent we must look to the requests of recognition from the recently dissolved states of the former Soviet Union, Yugoslavia, and Czechoslovakia. Bearing in mind, which few international lawyers tend to do, that the rules of the modern law of state recognition, which has been established as a result of these three dissolutions, are guiding parameters, there are a handful of basic rules and maybe some guidelines that indicate how the United States government and the member states of the European Union might react if Taiwan were to assert its independence either upon its own volition, or subsequent to a military incursion by China. The first observation is that the United States has taken what can be called the "traditional approach-plus" position, in that it follows a modified declarative view of recognition. According to the policy of the United States, if a state meets the criteria of recognition, which are that it posses a territory and a population that is subject to the control of a government which is the sovereign, the United States will consider that entity to meet the first threshold for recognition and is therefore entitled to the rights and privileges of a state. Importantly, however, the United States does not consider itself obligated to formally recognize that entity as a state. For example, the United States refused to announce formal recognition of Macedonia for over one and a half years, but it did recognize that Macedonia occupied international space. As such, it was entitled to qualify for bilateral aid, General System of Preferences Trade benefits, and was even subject to trade sanctions by the United States government. The "plus" part of the United States policy on recognition, is that the United States must consider a state to be viable before it will agree to announcing formal recognition. The viability criteria became most apparent when the United States considered the recognition of Bosnia and Herzegovina. Bosnia was subject to territorial aggression from Serbia and Montenegro to the extent that over seventy percent of its territory [\*803] was occupied by these hostile forces combined with domestic Serbs opposed to Bosnian independence. In addition, the central government of Bosnia was quite weak, and was unable to exercise any control over the seventy percent of the territory under the control of those forces hostile to its very existence. The United States originally concluded that Bosnia did not qualify as a viable state and was thus not entitled to recognition. Notably, this criteria does not currently apply to Taiwan. However, it might become relevant if Taiwan becomes engaged in some act of military conflict with China, and a significant portion of Taiwanese territory is occupied by Chinese forces, or if there is a significant dissolution of the Taiwanese government. If Taiwan were to seek recognition from the United States under these circumstances the United States would seek to determine whether it considered Taiwan to be viable. And if not, then it might consider itself legally prohibited from recognizing Taiwan. Interestingly, however, in the case of Bosnia, the United States eventually determined that its recognition of Bosnia would create a more viable Bosnia and therefore it could recognize Bosnia on the basis that this recognition would promote the attainment of the "plus" criteria. The United States might employ the same logic with any potential recognition of Taiwan. The European Union approach to recognition is slightly more complicated. The European Union has adopted the constitutive approach, which holds that an entity is not a state, whether that entity be Georgia, Ukraine, Bosnia, or Croatia until the European Union formally recognizes that entity as a state. And not only must a state meet the four legal criteria plus viability, they must also meet an additional set of political criteria. The European Union approach is thus appropriately referred to as earned recognition. With the successor states of the Soviet Union, the European Union applied an additional seven criteria, and with the case of the successor states of the former Yugoslavia it applied twelve criteria, including the commitment to institute market reforms, protect human rights, and promote democracy. Although Taiwan meets many of the criteria articulated by the European Union, the European Union would likely feel free to create any additional criteria it believed to be relevant. Moreover, unlike the United States, the member states of the European Union are very reluctant to afford an entity any of the rights and obligations pertinent to statehood until that entity has been formally recognized by the European Union. And before the European Union will recognize a state, it generally requires that state to seek recognition from the European Union, which then might refer the request to an arbitration commission, which [\*804] after considering the request would fashion a recommendation as to whether the entity should be recognized as a state or not. The result is a significant time lag for recognition by the European Union. Another significant element of the United States and European Union's approach to recognition is that they require the consent of the central government authority before recognizing a constituent entity of that state. This element was particularly important in the case of the American and European recognition of Ukraine, and the European recognition of the Baltic states. In these cases it was considered an affront to the territorial integrity of the USSR to recognize as independent its constituent entities. In the case of Taiwan, the United States or European Union might determine that recognition of Taiwan would constitute an infringement of China's territorial integrity. Notably, however, in the case of the dissolution of the former Yugoslavia, the European Union sought the consent of the people of the constituent entities rather than the center of political power. In the case of Bosnia in particular, they required that Bosnia hold a referendum before it would consider granting Bosnia recognition as a state. Taiwan might be able to successfully rely upon this precedent to assert that any declaration of independence would not be an affront to the territorial integrity of China, so long as it was supported by a public referendum in Taiwan. To best preserve its interests, Taiwan may wish to seek to create some degree of international space, which would keep it just below the cusp of independence while permitting it to engage in a one China, but two international legal personalities type of arrangement. Here it might be useful to examine some of the arrangements between Russia and its constituent entities which permit the constituent entities to conduct diplomatic relations, enter into economic treaties, maintain independent trade relationships, and adopt certain types of security treaties while technically remaining part of the Russian Federation. These arrangements have permitted certain Russian republics to engage in economic and foreign policy relations with other states as well as a limited level of diplomatic relations without formally negating Russian sovereignty or affecting its territorial integrity. Such an arrangement would bring us full circle back to this morning's discussion where it was noted that Taiwan's and China's mutual interest lie in promoting stability without causing an affront to either entity's sense of sovereignty. If such stability can be achieved within a creative evolution of the concept of sovereignty, without having to bring the issue within the legal and political thicket of recognition, then this would likely be the most profitable means of moving forward.

#### Recognition doesn’t change the squo

Joy ‘21 - Joy graduated from the University of Washington in 2021, earning a M.A. in International Studies from the Jackson School. Her thesis concerned the issue of unrecognized state sovereignty, and asked how Taiwan’s model could or could not be used in the case of Somaliland

Somaliland and Taiwan, Unrecognized Sovereignty and Patron-Client State Relations

<https://digital.lib.washington.edu/researchworks/bitstream/handle/1773/48171/Joy_washington_0250O_23640.pdf?sequence=1> (MF)

The last included definition of the patron-client state relationship is in line with the above: “patron-cliency can be characterized as being voluntarily entered, asymmetrical dyads which are marked by a strong element of affectivity. Through the most important aspect of this type of relationship is the level of client compliance with patron policies, the dyads are usually mutually beneficial due to their inherent reciprocal nature.”101 Carney offers an additional dimension in emphasizing that affectivity plays a large part in this relationship; rather than simply an instrumental relationship, there is a bond of affinity or loyalty to the relationship. 102 Carney uses the term “compliance” to describe the exchange taking place between the two states. Rather than progress towards goals, or a tradeoff between two resources, the relationship described here is client compliance to known or stated patrons expectations. It is clear that this framework applies to the US-Taiwan relationship. At the time of relationship initiation, Taiwan, or more accurately the regime which was occupying Taiwan, was very much insecure and in a hostile environment. As the losing party of a civil war which had literally fled upon defeat, they were in the loser’s corner and uncertain of what punishment laid in the future. The US acted as savior during times of high precarity. And as for the US, Taiwan fit a number of patron goals. Ideologically, Taiwan, eventually, bat for the team of market capitalism and democracy. Strategically, denial of Taiwan to China was beneficial, as was forming it into a prized defensive base in American military calculations.

## \*\*Tibet

### Aff

#### Tibetan Indigeneity is an aff advantage area

Emily T. Yeh 7 - Emily T. Yeh, Taylor & Francis, 2007, "Tibetan Indigeneity: Translations, Resemblances, and Uptake", Taylor & Francis, https://www.taylorfrancis.com/chapters/edit/10.4324/9781003085690-4/tibetan-indigeneity-translations-resemblances-uptake-emily-yeh 4-15-2022 (HH)

Tibetans in Tibet live with the ideology of multiculturalism but also, simultaneously, repeated state denunciations of “national splittism”. Tibetan claims and representations about environmental stewardship and ecological wisdom resonate strongly with other indigenous formations. The “tribal allegory” of Tibetan ecological wisdom and deep connection to nature has been an available narrative for Tibetans in exile since the 1980s, and has more recently emerged in China as well. Assertions of Tibetans’ natural ecofriendliness are an indispensable element of both the Tibetan government in exile and the transnational Tibet Movement’s representations of Tibetanness. Toni Huber’s genealogy of the Green Tibetan in exile shows that representations of Tibetans as naturally ecofriendly only began to be produced after 1985. China’s political isolation severely curtailed contact between Tibetans inside Tibet and the refugee community for more than two decades after 1959. The burgeoning popularity of Tibetan religion among the Han is also of particular state concern.

#### Potential environment advantage

Tempa Gyaltsen Zamlha 19 - Tempa Gyaltsen Zamlha, head of the Environmental and the Development Desk of the Tibet Policy Institute, No Publication, 4-5-2019, "China’s 60 Years of Environmental Destruction in Tibet – Tibet Policy Institute", No Publication, https://tibetpolicy.net/chinas-60-years-of-environmental-destruction-in-tibet/ 4-20-2022 (HH)

The paper “Democratic Reform in Tibet – Sixty Years On,” was released on March 27, 2019 to mark the 60th year of Chinese occupation of the Tibetan plateau and suppression of Tibetan people. With a blatant display of colonial arrogance, the paper includes a brief chapter on Tibet’s ecology, it says: “In old Tibet, with an extremely underdeveloped economy, people could only adapt to the natural environment – they used whatever they could exploit from nature.” This out-rightly undermines Tibet’s glorious history and gives no credit for Tibetan people’s environmental conservation efforts for thousands of years. In fact, it was Tibetan people’s belief in the sacredness of its natural environment coupled with their profound wisdom and skill to co-exist harmoniously with its surrounding environment that has helped in the conservation of the world’s highest plateau until the Chinese occupation in 1959. According to a response to a whitepaper on Tibet’s ecology issued by the Central Tibetan Administration (CTA) in December 2018, it states “Historically, Tibetans have protected and respected their environment and have not only successfully adapted to the ever-changing climatic conditions of the plateau but also prospered there as a powerful civilization”. Numerous scientific studies in recent years have affirmed the positive role of Tibetan people’s cultural beliefs in the sacredness of important ecological sites in environmental conservation. According to Tibetan historical records, environmental conservation efforts were carried out on a large scale as early as during the glorious Shang Shung period. The conservation efforts were further strengthened in the 7th century during the reign of King Songtsen Gompo, the 33rd emperor of Tibet. He issued edicts that reprimanded his subjects from harming and killing of animals. The founder of the Phagmodrupa Dynasty in Tibet, Tai Situ Changchub Gyaltsen (1302-1364), enforced an ingenious policy of planting 200,000 trees annually and appointed a forest officer to protect the newly-planted trees. Similarly, successive rulers in Tibet such as the 5th Dalai Lama and the 13th Dalai Lama issued strict prohibitions on hunting and felling of trees at important ecological sites. But as People’s Liberation Army’s (PLA) marched into Tibet from three separate Sino -Tibet border fronts in 1950s, Tibet begins to witness unprecedented scale of environmental destruction across the plateau. This paper will briefly focus on three environmental issues in Tibet to give a quick glimpse into 60 years of China’s environmental destruction in Tibet.

#### Political Recognition is key

Stokes 19 - Dashanne Stokes, University of Pittsburgh, Taylor &amp; Francis, 5-3-2019, "Political opportunities and the quest for political recognition in Tibet, Taiwan, and Palestine", Taylor & Francis, https://www.tandfonline.com/doi/abs/10.1080/03906701.2019.1609751 4-15-2022 (HH)

This paper introduces a political opportunity approach to conceptualizing the political recognition of states in the international system. The usefulness of the approach is demonstrated through a comparative analysis of the historical trajectories of Tibet, Taiwan, and Palestine in their attempts to become recognized as nation-states. I argue that political opportunities, alignment of interests, timing, and external patronage created political recognition outcomes observed for entities like Tibet, Taiwan, and Palestine. Recognition outcomes took multiple forms and included opportunities for recognition as well as whether or not a state government recognized these entities as independent states. More broadly, I argue that recognition outcomes for the cases in question are shaped by a larger political structure that I describe as the ‘opportunity structure for recognition.’

#### Political recognition key to self-determination

Sloane 02- Robert D. Sloane, Emory International Law Review, Spring 2002, "The Changing Face Of Recognition InInternational Law: A Case Study Of Tibet", Emory International Law Review, https://heinonline.org/HOL/Page?collection=journals&amp;handle=hein.journals/emint16&amp;type=Text&amp;id=113 4-15-2022 (HH)

The United States recognizes the Tibet Autonomous Region (TAR)-hereinafter referred to as "Tibet"-to be part of the People's Republic of China. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and protection of its people's fundamental human rights continue to be of concern. -U.S. Department of State' INTRODUCTION The above quotation appears in the chapter of the U.S. Department of State's annual Country Reports on Human Rights Practices that reviews the People's Republic of China (PRC). Its two sentences stand in a strange relationship to one another: the first affirms that Tibet is a "part of' China;2 the second, however, acknowledges that Tibetans \* Law Clerk, Hon. Robert D. Sack, U.S. Court of Appeals for the Second Circuit; J.D. Yale Law School, 2000. From 2000 to 2001, the author worked, under the auspices of Yale Law School's Robert L. Bernstein Fellowship in International Human Rights, for the Tibet Justice Center (formerly the International Committee of Lawyers for Tibet); he presently serves as a member of the Board of Directors. The views expressed here, however, are personal and do not necessarily represent those of the Tibet Justice Center. The author acknowledges with gratitude the invaluable comments and suggestions of W. Michael Reisman, Gregory H. Fox, and Elizabeth Brundige. 1 U.S. Dep't of State, 2000 Country Reports on Human Rights Practices (U.S. Gov't Printing Office, Feb. 25, 2001). 2 It also corroborates China's official position that the Tibet Autonomous Region (TAR), the central region of the geographic Tibetan plateau that corresponds roughly to the former Tibetan provinces of "0" and "Tsang" is Tibet. See INTERNATIONAL COMMISSION OF JURISTS, TIBET: HUMAN RIGHTS AND THE RULE OF LAW 49 (1997) [hereinafter INT'L COMM'N OF JURISTS]. China incorporated the eastern regions of Tibet, the former Tibetan provinces of Amdo and Kham, into the present Chinese provinces of Qinghai, Gansu, Yunnan, and Sichuan. Id. See also TIBET INFORMATION NETWORK & HUMAN RIGHTS WATCH/ASIA, CUTTING OFF THE SERPENT'S HEAD, TIGHTENING CONTROL IN TIBET 1994-1995 1 & n.1 (1996) (noting that Hugh Richardson, the last British representative to Tibet, described EMORY INTERNATIONAL LAW REVIEW are not Chinese. Put differently, while the U.S. State Department recognizes Tibet as part of the Chinese state (the PRC), it at the same time recognizes that Tibetans are not now-and never have been-a subset of the Chinese people. This difference is critical. At least since World War II, the decline of imperial empires, and decolonization, the theoretical bedrock of governmental legitimacy has resided in the self-determination of peoples. Yet governmental practices of recognition have not always followed suit. In principle, states should recognize exclusively legitimate governments, those that exercise authority on the basis of democratic institutions that effectuate their peoples right to self-determination; in practice, states more often recognize governments as a matter of political expedience or to further their diplomatic and economic agenda. But recognition no longer remains the exclusive province of sovereign states. Today, the international stage includes a number of non-state, quasi-state, and transnational actors that exert varying degrees of influence over "ethnographic Tibet" as encompassing all of the TAR, as well as the Tibetaninhabited regions of the neighboring Chinese provinces of Qinghai, Sichuan, Gansu, and Yunnan). ' International Covenant on Civil and Political Rights, adopted by the General Assembly Dec. 16, 1966, art. 1, 993 U.N.T.S. 171 (entered into force Mar. 23, 1976) [hereinafter ICCPRI; International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly Dec. 16, 1976, art. 1, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976) [hereinafter ICESCR]; Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations, G.A. Res. 2625, U.N. GAOR, 25th Sess., Supp. No. 28, at 123, U.N. Doc. A/8028 (1970) ("[A]ll peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the [U.N.] Charter."). The meaning of the "self-determination of peoples" forms the subject of longstanding debate. E.g., Gregory H. Fox, Self-Determination in the Post-Cold War Era: A New Internal Focus?, 16 MICH. J. INT'L L. 733, 736-56 (1995) (reviewing competing conceptions of the "self' entitled to determination); see also Ved P. Nanda, SelfDetermination Under International Law: Validity of Claims to Secede, 13 CASE W. RES. J. INT'L L. 257 (1981); Lung-chu Chen, Self-Determination as a Human Right, in TOWARD WORLD ORDER AND HUMAN DIGNITY 198 (W. Michael Reisman & Burns H. Weston eds., 1976). 108 [Vol. 16 A CASE STUDY OF TIBET recognition practices; for example, international institutions and organizations, such as the European Parliament and the Organization of American States; nongovernmental organizations, such as Human Rights Watch, the Unrepresented Peoples and Nations Organization, and the International Commission of Jurists; and, not least, the United Nations, which is not a single actor but a blanket label subsuming multiple organs and institutions, many of which issue judgments, resolutions, and declarations of recognition. Moreover, because most modern democracies manifest a separation of powers-dispersing legislative, executive, and judicial authority-these institutions, too, do not always agree with one another. Conflicting recognition judgments therefore can sometimes arise within a state. Tibet is a case in point. The State Department recognizes Tibet as "part of' China.4 Congress disagrees: Tibet is a sovereign state under illegal foreign occupation. Its "true representatives.., continue to be His Holiness the Dalai Lama and the Tibetan Government-in-Exile." Inevitably, non-state decisions (and conflicting decisions within a state) to recognize, or withhold recognition from, another putative state or government do not always conform to the more expedient determinations of sovereigns. Broadly speaking, for analytic purposes, we might distinguish three forms of recognition: first, political recognition, the formal acts by which one sovereign recognizes another's claim to statehood or legitimate governance;' second, legal recognition, a judgment of U.S. Dep't of State, supra note 1. S. Res. 169, 104th Cong. (1995). See also Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, Pub. L. No. 103-236, Title V, § 536, 108 Stat. 481 (1994) ("Congress has determined that Tibet is an occupied sovereign country under international law."); Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, Pub. L. No. 102-138, Title III, §355, 105 Stat. 647 (1991) (expressing the view of Congress that "Tibet, including those areas incorporated into the Chinese provinces of Sichuan, Yunnan, Gansu and Qinghai, is an occupied country under the established principles of international law"). 6 While some dispute its utility, it is commonplace to draw a distinction between the recognition of states and that of governments. I intend both here, though I 20021 EMORY INTERNATIONAL LAW REVIEW recognition based on some set of reasonably objective legal criteria;7 and third, civil recognition, the force of popular moral opinion, as expressed by civil society through its representative institutions, both governmental and nongovernmental. An unjustly denied claim to legal recognition often, but not always, animates civil recognition. These forms of recognition can, and frequently do, overlap, but sometimes they do not. The resulting conflict need not present a problem. Realistically, a sovereign's conduct of foreign relations at times demands political recognition absent either or both legal and civil recognition. Few today, for example, seriously advocate withdrawing recognition from the present Chinese government, even though its one-party dictatorship makes an ongoing mockery of the right of China's 1.3 billion citizens to any genuine form of democracy or self-determination. But it remains desirable, to the extent practicable, for sovereigns to conform political judgments of recognition to principled judgments of legitimacy. This encourages the gradual internalization of democratic norms of governance and respect for international human rights! The problem with failing to distinguish political recognition from recognition based on legal and civil legitimacy is that, over time, the former begins to obscure the latter. Political recognition distinguish the traditional criteria for each below. See Part I. infra. ' See JOHN DUGARD, RECOGNITION AND THE UNITED NATIONS 45 (1987). Thomas D. Grant suggests that in modern international law the distinction between "recognition conceived as a legal act and recognition conceived as a political act" is one of two critical "axes" along which the "critical tension in recognition law is concentrated .... " THOMAS D. GRANT, THE RECOGNITION OF STATES: LAW AND PRACTICE IN DEBATE AND EVOLUTION, at xx (1999). 8 See generally Harold Hongju Koh, Why Do Nations Obey International Law?, 106 YALE L.J. 2599, 2603 (1997) (arguing that nations obey, not merely conform their behavior to, international law in large measure because of a gradual evolutionary process "of interaction, interpretation, and internalization of international norms") (reviewing ABRAM CHAYES & ANTONIA HANDLER CHAYES, THE NEW SOVEREIGNTY: COMPLIANCE WITH INTERNATIONAL REGULATORY AGREEMENTS (1995) and THOMAS M. FRANCK, FAIRNESS IN INTERNATIONAL LAW AND INSTITUTIONS (1995)). 110 [Vol. 16 A CASE STUDY OF TIBET confers a venire of legitimacy on governments and states. To be sure, foreign relations may always require acts that imply sovereign recognition of illegitimate governments and states. But in the long term, formal political recognition tends to reinforce civil-and ultimately even legalperceptions of legitimacy. To conflate these forms of recognition can therefore perpetuate manifest injustices. This Article explores this phenomenon through the case of Tibet, a paradigmatic example. Tibet possesses legitimate claims to both statehood and a government based upon an act of self-determination by the Tibetan people. The international community's practices toward Tibet exemplify certain nascent changes in recognition practices, but at the same time, they also concededly underscore the extent to which recognition remains a quintessential political act.9 Tibet's history, however, shows that the failure to distinguish different forms of recognition can at times generate injustices greater than the needs of political expedience.

### Neg

#### Quasi-illegality good

Wilson & Mcconnell 14 – Alice Wilson Fiona Mcconnell, Wilson from Durham University’s Social Anthropology department McConnell from Human Geography, University of Oxford, United Kingdom, No Publication, 6-16-2014, "Constructing legitimacy without legality in long term exile: Comparing Western Sahara and Tibet", No Publication, https://www.sciencedirect.com/science/article/pii/S0016718514002425 4-15-2022 (HH)

While scholars agree that political legitimacy, or the legitimacy to rule, is sought by governing authorities, the concept itself is often considered to be problematically vague. This article explores how the very ambiguity of the concept of legitimacy may make it ‘good to think with’. Calling into question two problematic assumptions in discussions of legitimacy—whether legitimacy is the prerogative of state authorities, and whether legality is a necessary basis from which to make claims for legitimacy—this article uses the cases of two exiled governing authorities, for Western Sahara and Tibet, to examine how legitimate government can be produced in the absence of full legality as a recognised sovereign state. Attending to similarities and differences between these governments-in-exile we trace the sources of political legitimacy in each case and the techniques through which legitimacy is constructed in exile. Key to this has been the enactment of forms of rational-legal authority, including the establishment of state-like bureaucracies, the provision of services to their diasporic populations and aspirations to develop democratic structures. With the latter presented as a strategy both of securing internal legitimacy and of being seen to adhere to international norms of ‘good governance’, legitimacy in these cases emerges not so much as an achieved status, but as a set of techniques of government. We conclude by reflecting on how liminality – both territorially in terms of displacement and legally in terms of lack of full recognition – can counter-intuitively provide creative grounds for producing legitimacy.

## \*\*Transnistria

### Aff

#### Solvency advocate -- US should support President Sandu

Modesitt and Turner ’20. Savannah Modesitt, Paisley Turner, 12-10-2020, "Institute for the Study of War," Institute for the Study of War, <https://www.understandingwar.org/backgrounder/new-moldovan-president-presents-opportunity-limit-kremlin-suzerainty-moldova> (AF)

Sandu’s election presents the United States with new and unexpected opportunities in Moldova to develop democratic institutions, assist the country’s integration with Europe, and push back against Russian influence in Eastern Europe and the Balkans. Sandu intends to strengthen Moldova’s economy by enhancing working relationships with the United States and forming new relationships with Ukraine and Romania.[28] Moldova is one of the top three recipients of the United States Agency for International Development’s (USAID) economic aid in Europe.[29] Sandu intends to build on Moldova's existing status as a member of NATO’s Partnership for Peace program and seeks to join the EU.[30] While Moldova will not be joining NATO anytime soon, Sandu can take steps to increase the Moldovan military’s alignment with NATO standards to increase cooperation. The United States should politically support Sandu in these efforts and increase aid for projects aimed at economic growth, poverty reduction, and anti-corruption reforms to seize the opportunity Sandu presents to reverse the Kremlin’s dangerous gains in 2019 and to balance against the Kremlin’s efforts to influence Moldova through the pro-Kremlin faction in Parliament.

#### Solvency -- Transdniestria is ripe for engagement

Carnegie Europe ’18. Carnegie Europe, 12-3-2018, "Transdniestria: “My Head Is in Russia, My Legs Walk to Europe”," [https://carnegieeurope.eu/2018/12/03/transdniestria-my-head-is-in-russia-my-legs-walk-to-europe-pub-77843 ///](https://carnegieeurope.eu/2018/12/03/transdniestria-my-head-is-in-russia-my-legs-walk-to-europe-pub-77843%20///) Adhishree

Through its trading relationship, the EU has a foot in the door of Transdniestria. This could lead to more sustained involvement in other sectors, such as environment, education, and healthcare. Currently, the international presence on the ground is still limited, and there is no EU office in Tiraspol. The public is still suspicious about the EU. Ten politics students at Transdniestrian State University in March 2018 made this clear in conversation. None of the ten had traveled to EU countries. They did not feel the influence of the EU in their lives. They were curious—several of them said they were keen to visit the rest of Europe—but also cautious. Some of the students raised the issue of gay marriage as proof that they did not subscribe to “European values”—a strong indication that they had been influenced by Russian media. Through its trading relationship, the EU has a foot in the door of Transdniestria. This could lead to more sustained involvement in other sectors. EU engagement with Transdniestria has thus far been ad hoc and guided by political concerns in the parent state, Moldova, and caution about the negotiations. As incremental progress has been made, the time is now ripe to offer more sustained engagement, which will affect more people in society than the relatively small number who benefit directly from the Package of Eight agreements. The EU could offer to scale up this kind of agreement to whole institutions in Transdniestria, which need overhauling. One obvious beneficiary of assistance could be the poorly resourced and old-fashioned university in Tiraspol and its 3,000 students. This would require an even closer working relationship between international actors, the de facto authorities, and the government in Chișinău. That is an ambitious goal in the current Moldovan political climate—but it might stimulate new political debate in Moldova on an issue that has slipped down the agenda. It would also give Chișinău more leverage on issues of concern there, such as detentions and arrests of citizens from the right bank. This would be a challenge for the EU, which would need a more proactive approach beyond quiet diplomacy. Yet it is a next logical step in continuing the positive dynamic in the Transdniestria settlement process.

#### Transnistria operates outside of the law

Beyer ’10. Transnistria: In Search of a Settlement for Moldova’s Breakaway Region, John Beyer, St Antony's International Review , Vol. 6, No. 1, Secession, Sovereignty, and the Quest for Legitimacy (May 2010), pp. 165-187. [https://www.jstor.org/stable/10.2307/26227075](https://www.jstor.org/stable/10.2307/26227075%20) (AF)

Another factor is blocking change: Business interests are the most important internal factor in prolonging the crisis. The group around President Igor Smirnov, leader of the unrecognized region since 1991, enjoys its status as the political leadership, but also derives benefits from the current economic and fiscal arrangements.31 Transnistria is a territory effectively beyond international law. For business people with the right connections in both Transnistria and Moldova proper, the status quo provides a convenient operating environment where Moldovan regulation and taxes can be avoided. Such “entrepreneurs” do not want political change that may upset current arrangements: Crony capitalism could be triumphing over other differences. A top Moldovan politicians’ scrap-metal business sells mainly to a steel mill in Transdniestra. The son of another has a chain of fast-food restaurants which operates in the separatists’ capital, Tiraspol.32 Soviet policy from the 1930s built up industry in Transnistria rather than in Moldova proper, placing the assets away from any possible invasion from the West.33 There were major plants producing steel, machine tools, and light industry, together with power stations. Some of these plants have been accused of producing arms for illegal export. While they have the capability, there is no published hard evidence of manufacture in recent years.34 Smuggling has instead revolved around non-military products such as cars and foodstuffs.35 The core of these companies—the Moldovan Metallurgical Factory, the Pribor Gas Turbine Plant, Moldovkabel, the Kvint Distillery, and Tirotex Textiles—have become thriving businesses, exporting not just to the former Soviet area but increasingly also to Europe.

#### US needs to engage in Eurasia

Stronski ’20. Paul Stronski, 9-16-2020, "There Goes the Neighborhood: The Limits of Russian Integration in Eurasia," Carnegie Endowment for International Peace, [https://carnegieendowment.org/2020/09/16/there-goes-neighborhood-limits-of-russian-integration-in-eurasia-pub-82693](https://carnegieendowment.org/2020/09/16/there-goes-neighborhood-limits-of-russian-integration-in-eurasia-pub-82693%20) (AF)

The United States should remain engaged in Eurasia and develop tailored strategies for engaging with Russia’s neighbors, while remaining aware that some are more able to engage in a constructive partnership with the West than others, based on their dependence on Moscow. The United States should recognize that Russian malign activities and influence are one source of instability in Eurasia. State fragility is another. The United States should pursue strategies that prioritize working with allies and partners to help Eurasian states deal successfully with both challenges.

#### Ukraine advantage

Beyer ’10. Transnistria: In Search of a Settlement for Moldova’s Breakaway Region, John Beyer, St Antony's International Review , Vol. 6, No. 1, Secession, Sovereignty, and the Quest for Legitimacy (May 2010), pp. 165-187. [https://www.jstor.org/stable/10.2307/26227075](https://www.jstor.org/stable/10.2307/26227075%20) (AF)

Apart from Moldova, the Ukraine is the only country which shares a border with Transnistria. Due to its strategic interest in having stable neighbours and secure borders, Ukraine can be expected to be concerned about this unrecognized region, not least because nearly a third of Transnistrians are Ukrainian-speaking. Ukraine would never recognize an independent Transnistria, as this might threaten the status of the Crimea, where Russian-speakers look towards Moscow as much as towards Kiev.89 Ukraine is—along with Russia—one of the two guarantor states in the “5+2” format. When Yushchenko, on a wave of “Orange” power, became president after elections in December 2004, one of his major foreign policy initiatives was to propose a settlement plan for Transnistria. However, as disagreements inside the Orange coalition became more marked in the run-up to parliamentary elections in March 2006, efforts on the plan lost momentum.90

#### Solvency -- affirming the right to secession

Borgen ’15. Law, Rhetoric, Strategy: Russia and Self-Determination Before and After Crimea, Christopher J. Borgen, Vol. 91 INT’L L. STUD. 216 (2015). <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1262&context=ils>. Published by the Stockton Center for the Study of International Law. (AF)

[Footnote 28] 28. A 1996 U.S. Institute of Peace/U.S. State Department Policy Planning Staff

Roundtable stated that:

The United States should . . . make absolutely clear that secession has not been universally recognized as an international right. It may choose, on the basis of other interests, tosupport the secessionist claims of a self-determination movement, but not because thegroup is exercising its right to secession, since no such right exists in international law. Atthe same time, an absolute rejection of secession in every case is unsound, because theUnited States should not be willing to tolerate another state’s repression or genocide inthe name of territorial integrity. Secession can be a legitimate aim of some selfdetermination movements, particularly in response to gross and systematic violations ofhuman rights and when the entity is potentially politically and economically viable.

#### Implications of secession on i-law

Borgen ’06. LEGAL STUDIES RESEARCH PAPER SERIES. PAPER #06-0045. JULY 2006. THAWING A FROZEN CONFLICT: LEGAL ASPECTS OF THE SEPARATIST CRISIS IN MOLDOVA A REPORT FROM THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK. Christopher J. Borgen. EMAIL COMMENTS TO: [borgenc@stjohns.edu](mailto:borgenc@stjohns.edu). ST. JOHN’S UNIVERSITY SCHOOL OF LAW. http://ssrn.com/abstract=920151

Issues of self-determination and secession are normally within the purview of domestic law. Classic international law maintains that “[a]lthough a rebellion will involve a breach of the law of the state concerned, no breach of international law occurs through the mere fact of a rebel regime attempting to overthrow the government of the state or to secede from the state.”114 If such attempts to secede impinge upon the peace and security of the international system, the U.N. Security Council may declare it illegal, as in the cases of Rhodesia or the attempted secession of Katanga province from the Congo.115 Illegality thus refers to municipal illegality at the domestic level or, at the international level, to foreign intervention or a threat to international peace and security.116 State practice has evolved, though, so that self-determination, properly understood, does not allow the redrawing of boundaries. During the Yugoslav War, the Conference on Yugoslavia Arbitration Commission, better known as the “Badinter Commission,” established by the European Community found that the exercise of self-determination “must not involve changes to existing frontiers at the time of independence (uti possidetis juris) except where the states concerned agree otherwise.”117 This is reiterated in Opinion 3, which notes that uti possidetis has become recognized as a “general principle” of international law.118 The Helsinki Final Act also provided for inviolability of borders, although it does allow for border changes if through peaceful means and based on an agreement.119 Other treaties or declarations that include an explicit or implicit affirmation of uti possidetis include:120 the Vienna Convention on Diplomatic Relations;121 the Vienna Convention on the Law of Treaties, (1969);122 the Vienna Convention on the Succession of States in Respect of Treaties (1978);123 the Constitutive Act of the African Union124 the UN General Assembly Resolution 1514 (XV);125 declaration of the UN World Conference on Human Rights in 1993.126

## \*\*Western Sahara

### Notes/Background

#### History: Western Sahara is currently part of Morocco. POLISARIO, the dominant political organization in

Western Sahara, had declared the establishment of the Saharuie Arab Democratic Republic (SADR). The Polisario front has entered 27 years of frozen conflict with the moroccon government after 16 years of outright conflict and a UN-monitored ceasefire in 1991.

Currently SADR has a government in exile in algeria, recognized by 41 UN member states. The US was neutral on the issue of recognition until 2020 when we oficially recognized Morccan control over the territory.

### Aff

#### Decolonization ground:

<https://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=4496&context=honors_theses>

#### International recognition is key, risk of conflict escalating, meets montevideo convention:

It has been argued that the SADR meets all of the Montevideo Convention conditions as: first, it rules over the Tindouf refugee camps where most of the indigenous Sahrawi population is claimed to live; second, it controls, through the Polisario Front, one fourth of the land of Western Sahara proper, the so-called “liberated territory,” where the SADR’s “temporary” capital is officially located; third, it has its own state-like governmental administration; and fourth, it maintains—or has maintained—international relations with around 80 states (Pinto Leite Reference Pinto Leite2015, 370). However, the reality is that the fulfillment of each of these conditions is only partial and qualified. The UN continues to consider Western Sahara a non-self-governing territory, while the SADR’s primarily extraterritorial nature makes it resemble more of a state-in-exile. Other elements affecting its statehood at the center of the debate are the relationship between ethnic and national identity—or the question of who is a Sahrawi—and the SADR’s capacity for self-governance or, as Wilson (Reference Wilson2016, 11) prefers, “governance-in-exile.”

<https://www.cambridge.org/core/journals/nationalities-papers/article/western-sahara-as-a-hybrid-of-a-parastate-and-a-stateinexile-extraterritoriality-and-the-small-print-of-sovereignty-in-a-context-of-frozen-conflict/E4AA86C03E19A33B1915F51E55900EFD>

When Trump recognized Moroccan ownership of the region it caused international backlash and fighting in western sahara**. Senators have urged Biden to reverse decision**:

Inhofe and a bipartisan group of twenty-six U.S. senators sent a letter to President Biden in February asking him to reverse the recognition decision. The letter stated, in part:

We respectfully urge you to reverse this misguided decision and recommit the United States to the pursuit of a referendum on self-determination for the Sahrawi people of Western Sahara. …

The United States owes it to the Sahrawi people to honor our commitment, to help ensure the Moroccans live up to theirs, and to see this referendum through. The Sahrawi people deserve the right to freely choose their own destiny

<https://www.cambridge.org/core/journals/american-journal-of-international-law/article/united-states-recognizes-moroccos-sovereignty-over-western-sahara/36A7A41EC0BB341D79CE4661EDD8B60E>

#### Terrorism:

Al-Qaeda in the Islamic Maghreb and other groups could exploit the growing tensions in the region. And the all-but-certain deterioration of our relations with Algeria, the principal supporter of Western Sahara's right to self-determination, could also result in damage to the growth of our commercial relations, our anti-terrorist cooperation and our efforts to deepen military relations

Cites:

<https://www.washingtonpost.com/opinions/2020/12/17/james-baker-trump-morocco-western-sahara-abraham-accords/>

https://www.inhofe.senate.gov/newsroom/press-releases/inhofe-leahy-lead-25-colleagues-to-urge-biden-to-reverse-misguided-western-sahara-decision

## \*\*Xinjiang

### Notes/Background

#### Uyghur people have declared independence and been an independent state twice since the 20th century. The first ETR, east Turkistani republic was around from 1933-1934 they were eventually overthrown by the Kuomotang and USSR backed coup who then joined Kuomotang China

The second ETR was established in 1944 and fell in 1949 following a plane crash that killed its leaders the PRC took over. Following this what was left of the govt looked for asylum In the USSR and were denied. They were eventually forced to go to India who helped them get asylum in Turkey. From 1945 to 1954 due to multiple failed resistances the estimated indigineous death tole is around 150,000. In 1954 Mao set up the Bingtuan to essentially colonize the state and make it Chinese and declared it the Xinjiang Uyghur Autonomous region as it is known today.

Modern history: The East Turkistan Government in Exile was formally established on September 14, 2004, as an official government in exile in Washington, DC, by prominent Uyghur, Kazakh and other East Turkistani independence leaders representing over a dozen organizations from across the East Turkistani / Uyghur diaspora following the dissolution of the East Turkistan National Congress (ETNC).

<https://edition.cnn.com/2021/03/09/asia/china-uyghurs-xinjiang-genocide-report-intl-hnk/index.html>

<https://east-turkistan.net/about-the-etge/>

Four criteria to statehood

1. A defined territory it would be what is currently Xinjiang province (would then be referred to as East Turkistan)
2. Approx 25 million people
3. Government: there is a government in exile that is in the US / Around the world last congressional session was 2019 in DC.
4. The ETGE has had formal communication with sovereign nations as recently as February when it tried to convince Japan to recognize the onocide.

# \*\*Generic Aff/Neg Ground\*\*

## \*\*FYI

#### We started to produce general advantage areas and arguments that are relevant beyond unrecognized states. Below are a few cards that fit within this subheading. Again, not comprehensive but a flavor of what can be.

## \*\*Inherency

#### Montevideo is up for interpretation now.

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438.

The 1933 Montevideo Convention gives the basic explanation of what the State is and the criteria that it must meet in order to be recognized. But law scholars believe that the Montevideo criteria are too abstract and cannot respond to claims of modern self-proclaimed entities seeking Statehood. Many scholars have made much effort to explain and concretize the Montevideo criteria and found the terms "government" and "independence" to be controversial. The general principle regarding the government is that it must be capable of exercising effective control over its territory and population without the interference of outer powers, but all governments may depend on each other to some extent. The "capacity to enter into legal relations" (or "independence") seems to be contradictory because it is effectively a consequence of recognition, rather than a pre-requisite, and is based on other States' willingness to have diplomatic relations with the new entity, thus contradicting the declaratory theory. It must also be noted that the Montevideo Convention was designed before the active phase of decolonization and was not supposed to cope with such a massive number of seceding entities as appeared in the second half of the 20th century. Many scholars believe that in the modern times one of the most important criteria of Statehood is recognition by the United Nations. Rosalyn Higgins says that if the U.N. recognizes an entity then it meets all other criteria of Statehood, and this fact brings the question of whether the Montevideo criteria are sufficient in the modern world. But it cannot be said that the Montevideo criteria are irrelevant. The analysis of modern unrecognized and partly recognized entities shows that the entities claiming to become States in most cases meet the Montevideo criteria in all senses except effective government. They are often supported by outer military or financial powers and, therefore, cannot themselves exercise effective control over their territories. On the other hand, they may depend on outer powers because of collective non-recognition, which means that such entities are in a vicious cycle. This fact indicates that the criterion of independence is ambiguous. But whatever the reasons for lack of effective control, this factor becomes vital when the situation concerns the responsibility of self-proclaimed entities. The common rules of dispute settlement involve peaceful talks as a first aid, but this may be impossible if one party does not recognize the other and has no diplomatic relations with it. The rules also state that the wrongful act must be attributable to the State in question. And if the quasiState is under the effective control of any other State, then that controlling State must bear responsibility. This was clearly demonstrated by Loizidou v. Turkey and Chiragov v. Armenia: the TRNC and the NKR were practically meeting the Montevideo criteria, but nevertheless the ECHR decided that these quasi-States were incapable of bearing responsibility and held Turkey and Armenia (the supporting outer powers) liable. The famous scholar Thomas D. Grant-who paid much effort into analyzing the compatibility of the Montevideo criteria with contemporary issues-said that "[t]he [Montevideo] Convention includes elements that are not clearly prerequisite to Statehood, and it excludes elements that writers now widely regard as indispensable to a definition of the [S]tate."379 Grant stresses that the Montevideo criteria were relevant for the situation from a particular epoch and explains that in accordance with the Montevideo criteria such States as Bosnia and Herzegovina or Kosovo would never be granted Statehood.380

## \*\*Advantage Areas

### (International) Courts

#### Recognition affects the ability to sue

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

Another argument that Shaw refers to is the mere fact that an unrecognized entity has no access to the rights available to recognized States before the municipal courts.22 These facts show that despite its perceived weaknesses, the constitutive theory is still relevant and can explain the difficulties that the unrecognized entities have to cope with.

#### States can’t sue domestically without recognition

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

The legal effects of recognition at the national level are much wider than those at the international level. According to Shaw, the courts at the national level cannot themselves recognize the State or the government and, therefore, must rely on the executive's political decisions. Shaw says that the recognition of States in this context-and particularly in the United Kingdom and the United States-is rather constitutive because the legal results within domestic jurisdiction completely depend on the act of recognition.36 Shaw's viewpoint is largely supported by Martin Dixon, who analyzed and classified the internal legal effects of recognition in the United Kingdom. First, Dixon says that most of the laws of an unrecognized State may not be considered valid, and an unrecognized State cannot sue in its own name, 37 as was the case in City of Berne v. The Bank of England3 8 or Adams v. Adams.39 There is, however, the "acts of administration" exception, which was designed by Lord Denning M.R. specifically to mitigate the consequences for individuals.40 Lord Denning explained that the Court "could take note of certain acts of foreign sovereign, if it [were] effective within a territory, even though the sovereign was not formally recognized by the UK."41 As seen in B v. B42 and R (Kibris Turk Hava Yollari v. Secretary of State for Transport),43 this exception is not widely used and is applicable only to administrative and similar acts such as divorces.44

#### International courts

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

Secondly, Dixon introduces the concept of the "acts of a delegated sovereign" as shown in the Carl Zeiss case. 45 In this case, the defendants alleged that the claimants had no legal right to sue because the German Democratic Republic (the GDR) was not recognized by the U.K\_ The Court decided, however, that the acts of the GDR administration might be accepted as valid because the administrative power was delegated to the GDR by the USSR-a sovereign that was recognized by the U.K.46 This concept, despite being highly criticized for inconsistency with U.K. policy,47 was later adopted in a Gur Corp. v Trust Bank of Africa case.48

#### Companies‘ jurisdiction

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

Third, Dixon discusses the problem of companies incorporated under the law of an unrecognized entity. These companies theoretically may have no legal personality in the U.K. because the U.K. does not recognize their jurisdiction. This problem was resolved by The Foreign Corporation Act of 1991 (FCA), which states that the consequences of the U.K.'s nonrecognition will not affect the company if it is incorporated in a territory having "a settled court system."49 The FCA proved to be effective in the S.P. Anastasiou case,50 but, nevertheless, it was highly criticized by the European Court of Justice, which stated that the certificates used as evidence of incorporation under the TRNC law cannot be accepted because of the unrecognized status of the TRNC. Despite being politically correct, the ECJ's decision was regarded by Dixon as "a retrograde step."5

#### Greatly affects a state and its nationals

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

Finally, Dixon covers the international organizations or entities that are created under the laws of unrecognized States. He refers to Arab Monetary Fund v. Hashim,52 which proved that not only unrecognized States but also all the institutions established under their laws may lack legal personality in the eyes of recognizing States.53 In summary, the analysis of legal effects demonstrates that international recognition highly influences the life of the State, its nationals, and its businesses. This means that despite the "declaratory" character of the Montevideo Convention in theory, it plays a rather "constitutive" role in practice when the situation concerns the rights and duties in a dispute settlement. But in order to understand why recognition has such a profound effect, it is vital to assess its basic criteria for recognition.

#### Crime of aggression and quasi-states

Bachman and Abdelkader ’18. Sasha Dominik Bachmann & Yasser Abdelkader, Reconciling Quasi-States with the Crime of Aggression under the ICC Statute, 33 EMORY INT'l L. REV. 91 (2018). <https://heinonline.org/HOL/Page?handle=hein.journals/emint33&collection=journals&id=97&startid=97&endid=138>. (AF)

Conflicts involving Quasi-States are strictly speaking not international, as the international community does not recognise these entities as states. Nor are such conflicts "purely internal," since Quasi-States are "separate, effective[ly] state-like [entities] having some level of international personality" against recognised states.9 Hence, they are best described as Quasi International Armed Conflicts (QIACs),' 0 such as the Sri Lankan civil war." Therefore, referring to such hybrid interstate/internal armed conflicts without clear state definition questions the applicability of the crime of aggression on such conflicts. Currently, Quasi-States such as Somaliland, Western Sahara, Abkhazia, Transnistria, South Ossetia, Kosovo (which has become recognized under state custom since 2008), Palestine and finally the Islamic State in Iraq and Sham (IS) (until its collapse in 2017) exist on nearly every continent. They usually emerge through military means in the form of civil wars. The number of armed conflicts involving Quasi-States exceeds by far the number of (classical) interstate armed conflicts.1 2 Thus, it is necessary from a practical point of view to clear the ambiguity surrounding the legal position of Quasi-States, in order to overcome current challenges and attain a higher level of international peace. This Article aims to reconcile Quasi-States with the crime of aggression under the Rome Statute and discusses their position under international law. It is argued that, based on historical, practical and legal considerations, QuasiStates should be included under the crime of aggression and this Article elaborates on how to reconcile Quasi-States with the crime of aggression. Following the introduction, part I will provide an evaluative overview of the historical evolution of the Crime of Aggression with a reflection on the historical meaning of 'State'. Part II discusses the concept of so called 'Quasi-States' under international law before turning to the interpretation of such entities by the ICC. Part III examines the ICC's interpretation of statehood and its stance towards 'Quasi States'. The last part, part IV reflects on the interpretative issues around the term 'State' before the current sociological changes to warfare. This Article concludes with the recommendation that the Rome Statute was to be amended to include 'Quasi-States'.

### Secession Conflicts

#### Recognition helps secessionist movements succeed

Berlin 9 – JD, Law Clerk to the Honorable Patti B. Saris, United States District Court for the District of Massachusetts (Alexander, “RECOGNITION AS SANCTION: USING INTERNATIONAL RECOGNITION OF NEW STATES TO DETER, PUNISH, AND CONTAIN BAD ACTORS,” *U. Pa. J. Int’l L., 31.2*, Lexis)//BB

Furthermore, the simple act of recognition is costless, requiring nothing more from the recognizing state than a statement. Of course, to achieve fully the removal of the secessionist entity from the parent state’s control, other sanctions and potentially armed intervention may be necessary. But recognizing the secessionist entity has power of its own: empirical evidence suggests that recognition fortifies “the security of a community,” and thus is independently helpful in removing the territory from the control of the parent state.12 For instance, the security of the former Yugoslav republics of Slovenia and Croatia were significantly increased through recognition.13 Recognition can give the secessionist entity numerous benefits that increase its chance of survival, and thus the effective loss of the territory for the parent state. These benefits include “greater ability to provide for the welfare of the population . . . ; a reduction of the risk of external intervention; the possibility of entering into treaty relationships with other states; more settled borders; expanded opportunities for trade; enhanced domestic legitimacy; . . . and other benefits.”14 The bare act of recognition seems to help the secessionist entity actually free itself from the parent state, and thus remove territory, people, and resources from the parent state.15

#### US is the most important actor in this process

Paquin 4 – PhD, Professor of Political Science (Jonathan, “The United States, Secessionist Movements, and Stability,” Presented at the annual meeting of the *Canadian Political Science Association*, Winnipeg, Manitoba, 3-5 June 2004)//BB

Achieving international recognition is one of the most important aspects of secession. Many analysts have argued that diplomatic recognition is critical to secessionist groups since it often draws the line between successful and failed cases of secession (Saideman, 2002; Young, 1994; Heraclides, 1991; Horowitz, 1985).3 Without external recognition, unilateral secession has almost no value on the international scene. It is also important to mention that foreign support or acts of recognition do not all carry the same political weight. An act of recognition given by a major power has a greater impact on the process of secession than recognition granted by a weaker state. Power states have the political leverage to make secession a fait accompli. Their intervention in favor of secessionists can significantly increase the credibility of secession, regardless of the qualitative value and merits of the case. This explains, for instance, why Biafra failed to secede from Nigeria in the late 1960s, or Kosovo from Yugoslavia in the beginning of the 1990s. They were recognized by foreign states, but failed to obtain recognition from any major power states.4 Within that context, it is crucial to understand American foreign policy towards secessionist conflicts since the United States is the most powerful state of the current international system. With the collapse of the Soviet Union, the US has become the sole remaining superpower.5 Last years’ events have demonstrated that there is no sphere of influence where the American power does not reach, nor is there any serious deterrence against US actions (Kagan, 2003; Mastanduno, 1999). Moreover, it has to be remembered that, in the aftermath of the Second World War, the United States was the major architect of international institutions that facilitated international trade and commerce (GATT, IMF, World Bank, WTO), as well as political cooperation between states (UN, NATO, OAS, etc.). Despite a relative economic decline in the 1970s and 1980s (Keohane, 1984), the United States today remains the hegemonic power that guarantees the durability of the post-1945 liberal international system. American ascendancy over international institutions as well as its economical and military domination makes the US an important actor in matters of international recognition of secession. Secessionist groups can secede without an American blessing. I argue, however, that these groups will not be able to function normally in the interstate system without US recognition (e.g. Northern Cyprus and Western Sahara).

#### Secessionist recognition self-determination under i-law for all secessionist movements rather than some

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

The acceptance of self-determination leads to the acceptance of a right of secession. The former Soviet republics were also heavily reliant on this principle during the formation of new States after the dissolution of the USSR.133 Despite limited support, the international community agreed that the Baltic Republics (Lithuania, Latvia, and Estonia) had a right to selfdetermination.134 Even the Soviet Union—at that time ruled by Gorbachev’s government—agreed that the three Baltic States had a European Commission has adopted a relatively narrow view of selfdetermination, secession, and Statehood; he says that “the Commission rejected the idea that ethnic groups and minorities enjoyed a right of selfdetermination and stated that such peoples can have their identity as a separate ethnic group recognized by the ‘mother’ State, but not in a way that guaranteed them independent Statehood.”136 Nevertheless, lawful selfdetermination remains to be the most appropriate way by which a territory may achieve independence and Statehood. In summary, it can be said that all four Montevideo criteria are closely linked, and on a theoretical level they form the minimal requirements that the entity must meet to be considered a State. But in practice, these principles are sometimes neglected. This can be illustrated by the example of Bangladesh, especially by the way this State was created. During the Bangladesh Liberation War in December 1971, the Mukti Bahini (also known as Bangladesh Forces) were granted massive military support by India.137 It was a determining factor of a later formation of Bangladesh.138 Martin Dixon says that the creation of Bangladesh is a classic example of the use of force, and yet, within three months, Bangladesh was recognized by the majority of other States and in the following year was granted membership in the United Nations.139 Dixon says that Bangladesh had population, territory, and an effective government (though highly supported by India), but he believes that the militaristic way of creation of this State was illegal, and the international community ignored the use of force.140 At the same time, in the case of the TRNC, it is always said the Republic is not recognized because its creation violated the principle of non-intervention.141 This indicates either some selectivity of compliance with principles of international law or the need to consider other factors of recognition.

#### Nonrecognition stops international support, secession conflict are uniquely legally complex

Caspersen ’12. NINA CASPERSEN, UNRECOGNIZED STATFS: THE STRUGGLE FOR SOVEREIGNTY IN THE MODERN INTFRNATIONAL SYSTEM 40 - 46 (2012). (AF)

In the case of collective nonrecognition, states are precluded from engagement that assists the illegal situation. The UN member states were consequently under obligation to refrain from ‘lending any support or any form of assistance to South Africa with reference to its occupation of Namibia’. This included abstaining from ‘entering into economic and other forms of relationship or dealings with South Africa on behalf of or concerning Namibia which may entrench its authority over the Territory’.224 Secessionist confl icts are, in any case, classifi ed as purely domestic affairs and the principle of noninterference therefore bars other states from providing assistance to the secessionist movements.225 The international system of sovereign states is rigged to ensure that the parent state prevails;226 it functions as a very effective gatekeeper to new entrants, and especially to entities that have been deemed undesirable. Even though the legal position of unrecognized states is less clear than the cases of collective non-recognition mentioned earlier,227 the default position has therefore been non-engagement. But we do fi nd some variation based primarily on security concerns, strategic interests and, secondarily, their path of creation. The position of unrecognized states consequently ranges from almost complete pariah status, in the case of Republika Srpska Krajina, to extensive engagement and membership of international organizations, in the case of Taiwan.228 The cost of nonrecognition therefore varies signifi cantly. In most cases, the unrecognized states are not actively opposed—the parent states, for example, rarely receive military backing—they are ignored; they are not part of the exclusive ‘club of sovereign states’ and there is signifi cant unwillingness to engage in any activity that could be seen as endorsing them. The Serb statelets in wartime Croatia and Bosnia were associated by the international community with the illegal use of force and ethnic cleansing. Their claims to self-determination were viewed as illegitimate and they were facing almost complete international isolation. Sanctions were imposed against the Federal Republic of Yugoslavia in May 1992 and this signifi cantly reduced the supply of resources to the two entities,229 and sanctions specifi cally targeting the statelets followed in 1993.230 This isolation also affected international efforts to end the confl ict. The mediators preferred to deal with leaders of recognized states and were often unwilling to engage with the leaders of the Serb statelets in Croatia and Bosnia. This position was made possible by viewing the confl ict through the lens of ethnicity and monolithic representation; the local Serb leaders were thus regarded as the puppets of the Serbian president, Slobodan Miloševic´. Only once it became clear that intraSerb consensus or control could not always be assumed, were the local Serb leaders reluctantly included in the peace talks.231 While their demands for recognition were dismissed as illegitimate, there was consequently a hesitant willingness to engage with these entities, or rather their leaderships, in negotiations. Any other engagement, however, was regarded as strictly depoliticized and was limited to supplying humanitarian aid and deploying peacekeepers who were mandated to uphold ceasefi res and protect ‘safe areas’. When negotiations failed, the parent states were offered military support to defeat the Serb statelets. The unrecognized states in the Caucasus also experienced blockades. The Commonwealth of Independent States (CIS) imposed sanctions on Abkhazia in 1996, including a full trade embargo, which meant that the illegal trading of agricultural products was the only means of subsistence for the inhabitants.232 Border restrictions were partially lifted in 1999 and Russia formally lifted the blockade in 2008.233 Armenia has since 1993 been subject to a blockade from Turkey, which has also had a detrimental effect on Karabakh, as Armenia constitutes its only link to the outside world.234 However, the main international policy toward unrecognized states in the Caucasus has been to ignore them, however; apart from the very extensive involvement of external patrons, the Caucasus entities have seen little international engagement. The arguments of the parent states have largely been accepted—the entities are illegal, they represent a de facto occupation, they are based on ethnic cleansing and their leaderships lack any popular legitimacy—and international engagement is only undertaken if explicitly approved by the parent states,235 and it is always deliberately depoliticized.236 International organizations do not engage with the authorities and the involvement has therefore largely been framed as an issue of human security and grassroots development,237 which is not problematic in relation to the principle of territorial integrity. This almost complete lack of engagement constitutes a change from the situation in which the pre-1945 unrecognized states found themselves. In the nineteenth century, political contacts were established with the newly de facto independent South American states, despite Spain’s resistance to their recognition.238 Before World War I, nonrecognition had very little impact as long as effective control had been established and relations with unrecognized entities were also maintained in the interwar period and into World War II. China did not recognize Manchukuo, and argued that its existence violated its territorial integrity, but it still established offi cial ties for trade, communications, and transportation,239 and the U.S., which had spearheaded the collective nonrecognition of the entity, was keen to maintain its commercial interests in Manchukuo and actually increased its exports to it.240 This situation changed following the outbreak of war, when relations became more sharply defi ned by military alliances. But the Independent State of Croatia, which was under signifi cant German and Italian control, nevertheless established relations with neutral Turkey. It failed to achieve a formal trade agreement, but cultural relations were established, meetings were held with the Croatian Ambassador to Bulgaria, and Turkey clearly demonstrated its reluctance to cut off the entity completely.241 International engagement was even afforded to separatist entities still involved in active confl ict. Thus, the recognition of belligerency allowed external parties to maintain, or establish, commercial relations with separatist forces with either the approval of the parent state or if the belligerents had achieved the character of an organized government.242 There was consequently a less clear dividing line between sovereign and nonsovereign entities. The lack of international engagement with contemporary unrecognized states has important consequences. Unrecognized states are unable to obtain loans from international credit institutions; they are barred from membership of international organizations; international laws and regulations do not apply on their territories, which tends to discourage foreign investors; international markets are often closed to them; their inhabitants are unable to travel unless they can obtain (and are willing to use) passports from their parent states or external patron; and visitors are in some cases very actively discouraged from travelling to these unrecognized entities either through warnings on foreign offi ce websites or legislation in the parent states which makes such travel an offence.243 Is this as signifi cant as suggested by the constitutive approach in international law? Do these international rights and responsibilities constitute the sine qua non of statehood? First, as will be further explored in the following chapter, there are other sources of international support. We have already touched on the importance of an external patron, but a number of unrecognized states also receive signifi cant support from a diaspora population, which can help fund their state-building project and at times provide the necessary expertise. Second, there are exceptions to the general rule of international isola- tion. Even in the case of collective nonrecognition some pragmatism is allowed for. The key is to refrain from relations that would imply the legality of the situation or help support it, but this does not extend to acts unrelated to the occupation, or acts that would harm rather than benefi t the territory’s population.244 A similar distinction has allowed for the supply of humanitarian aid to a number of unrecognized states and the acceptance of travel documents from, for example, Northern Cyprus, deeming that these are ‘no more than evidence of identity and not . . . recognition of a separate TRNC’.245 But in some cases, due to economic or security considerations, the international engagement has gone a lot further and these unrecognized states consequently fi nd themselves in a less isolated position. The most notable examples are Somaliland and Taiwan. Somaliland’s independence is supported by Rwanda, South Africa, and Zambia, but neighbouring states are strongly opposed and the entity remains completely unrecognized.246 Even so, there has been a process of creeping international acceptance, which in some cases approaches de facto recognition.247 Somaliland has developed ‘functional relationships’ with its neighbour Ethiopia; it has signed formal memoranda with Britain and Denmark on the repatriation of failed asylum seekers; EU and UN agencies have offi ces in Somaliland to manage their aid programmes; the Somaliland authorities have cooperated with Western intelligence services on counterterrorism; and Somaliland ministers and government employees are able to travel on Somaliland passports.248 Moreover, international actors are not afraid to involve themselves in the domestic politics of the entity, which is usually an anathema when unrecognized states are concerned. Thus, the British Embassy in Addis Ababa funded a consultant to revise the electoral law for the 2005 elections249 and sponsored a team of international observers.250 This greater degree of international engagement can be explained by Somaliland’s strategic position on the Horn of Africa, by fear of instability, and by the lack of effective opposition from Somaliland’s parent state, Somalia. An even more interesting example is Taiwan. Taiwan remains recognized by twenty-three states, but even states that have switched their recognition to the People’s Republic of China have retained links with Taiwan. The U.S. has a ‘de facto embassy’ in Taiwan, the American Institute in Taiwan (AIT), which is technically a private organization staffed by career diplomats who are offi cially ‘on leave’. The Taiwanese counterpart in Washington, and twelve other U.S. cities, is known as the Taipei Economic and Cultural Representative Offi ce (TECRO).251 Similar links are found with other countries. Russia, for example, has a representative offi ce in Taipei, and Taiwan has a representative offi ce in Moscow; Japan has maintained nongovernmental, working-level relations; and there are unconfi rmed reports of military collaboration between Singapore and Taiwan.252 Similar, innovative arrangements have allowed Taiwan to join international organizations, almost as if it were a (recognized) state.253 Under the name ‘Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu’ (short form: Chinese Taipei) Taiwan participates in the World Trade Organization and the entity is also a member of the Asian Development Bank. In addition, Taiwan maintains extensive worldwide economic, transport, and trade links, and several states have enacted legislation to enable continued commercial relations.254 The principle of territorial integrity can therefore sometimes be trumped, or at least mediated, by other interests, but international engagement remains the exception rather than the rule and has tended to be ad hoc. Krasner argues that alternative arrangements in the case of Taiwan provide the ‘functional equivalent of recognition’,255 but even though Taiwan has been ready to distort its de facto independent status and has not formally declared independence, the lack of recognition still comes with restrictions. This is one of the reasons why Taiwan has become one of the leading forces behind an attempt to open the international system to unrecognized states.256 Not all international organizations will, for example, allow Taiwan to join: it is not a member of the United Nations, the World Bank or the International Monetary Fund and it only has observer status (as Chinese Taipei) in the World Health Organization (and then only on the basis of an invitation). When China gained admission to the Asian Development Bank—of which Taiwan is a founding member—Taiwan was allowed to remain a member, but despite its protests Taiwan is now referred to as ‘Taipei, China’.257 Also, many countries have restricted the entry of high-ranking Taiwanese offi cials as they are worried that any visit could be construed as a state visit and thereby as a de facto recognition of Taiwan. International engagement is signifi cantly restricted by the fear of damaging relations with China and therefore remains conditional on the acceptance of the parent state. Territorial integrity and thereby the acceptance of the parent state remains primary, even in these cases of more extensive international engagement. It is telling to compare this with the case of Macedonia, which was denied recognition by Greece due to a dispute over its name. However, the state’s right to exist was not disputed and Greece’s opposition did not prevent other states from establishing extensive relations. The state even joined the UN two years before recognition by the European Union was fi nally achieved.258 Full external sovereignty is often not required by international organizations, which is also illustrated by the fact that several non-self-governing territories have been allowed to join. For example, Western Sahara is a member of the African Union; Bermuda and American Samoa are members of the International Olympic Committee; and Gibraltar is a member of Interpol (sub-bureau).259 Even more noteworthy is the fact that India and the Philippines were founding members of the UN at a time when they were not still formally independent, and UN membership for Ukraine and Belorussia was also accepted, despite their lack of independent statehood, in a bid by the U.S. to improve relations with the Soviet Union.260

#### Sovereignty in secession causes lack of regulation and renewed violence

Caspersen ’12. NINA CASPERSEN, UNRECOGNIZED STATFS: THE STRUGGLE FOR SOVEREIGNTY IN THE MODERN INTFRNATIONAL SYSTEM 40 - 46 (2012). (AF)

For other anomalies in the international system, sovereignty is not necessarily interpreted as ‘either / or’, either entirely present or absent. This refl ects the view of sovereignty as multifaceted. For contemporary unrecognized states, however, sovereignty continues to be viewed as a dichotomy. These entities violate the principle of territorial integrity and parent states’ approval is therefore deemed necessary for any form of engagement. Sovereignty is not a fact, it is ‘a claim about the way political power is or should be exercised’; part of its function is to explain and justify political and economic arrangements ‘as if they belonged to the natural order of things’.261 The cost of nonrecognition for unrecognized states therefore depends on their ability to muster international goodwill and on the position of their parent state. Security Implications of Nonrecognition The relative international isolation faced by unrecognized states does not necessarily translate into a lack of international interest. Despite their often modest size, unrecognized states feature frequently in the international media and create headaches for international policymakers. This interest is explained in large part by the threat of instability and renewed warfare associated with these entities. Unrecognized states result from warfare, they tend to be located in volatile regions, and the risk of renewed instability is forever present. This was aptly demonstrated by the Russian-Georgian war in August 2008, and similar security concerns exist in other cases. The security concerns associated with unrecognized states fall in two broad camps: (1) risks associated with porous borders and unregulated territories, and (2) the risk of renewed warfare over the contested territory. While the former is often overplayed, the latter—although it has rarely emanated from the unrecognized state itself—is much more serious.

#### Terror, smuggling, and trafficking

Caspersen ’12. NINA CASPERSEN, UNRECOGNIZED STATFS: THE STRUGGLE FOR SOVEREIGNTY IN THE MODERN INTFRNATIONAL SYSTEM 40 - 46 (2012). (AF)

Risks from Territories Outside Effective Control As noted in the previous chapter, much has been made of the risk that these territories can turn into anarchical badlands. This image is very similar to that of failed states and implies that a vacuum in authority will quickly be fi lled by criminals who make immense profi ts from the smuggling of dangerous goods, including radioactive material. Although smuggling certainly exists in a large number of unrecognized states, it has already been argued that this encompasses goods such as tangerines that represent no security risk whatsoever. In fact, EU border monitoring in Transnistria has found that the smuggled goods mostly consisted of frozen chickens and similar goods, not drugs and weapons.262 International observers had for years warned that dangerous articles were smuggled across the border and described Transnistria as a criminal black hole,263 so although we cannot rule out that such smuggling occurs elsewhere, the Transnistrian fi ndings should serve as a caution against alarmist assumptions. The potential security risk associated with smuggling from, and through, unrecognized states is greater while the war is still ongoing. But, as will be demonstrated in the following chapters, once violence ceased the de facto authorities were actually able to exert greater control over the territory than is often assumed. This does of course not preclude criminal activity, as the authorities may be complicit, but it is still a different scenario than the out-of-control areas of the popular imagination. Another threat that has sometimes been mentioned is that these territories can be used as a breeding ground for terrorists. Again, this is drawn from the presumed ‘out-of-control’ character of unrecognized states and the argument is made, in particular, by parent states. In 2001 the president of Azerbaijan, for example, argued that one should not distinguish between separatism and terrorism, since ‘separatism is the mother of terrorism’.264 The risk of terrorism in the case of Nagorno Karabakh is hard to substantiate, but there are examples of terrorism and other forms of violent acts emanating from or associated with unrecognized states. The main example of this is the case of Tamil Eelam, where the Tamil Tigers continued using terrorism against Sri Lankan targets in their ongoing attempt to consolidate and expand the de facto independence of the entity. Terrorist forces have, in some cases, come from outside the unrecognized state, or at least been fi nanced by external sources. During the three years of Chechen de facto independence, Islamic extremists became increasingly prominent in Chechnya, and ever since Russia regained control of the territory they have used terrorist attacks to try to separate the territory anew. In other cases, the unrecognized states have themselves been the target of terrorist attacks. In Somaliland in 2008, at least thirty people were killed when car bombs exploded outside the Ethiopian embassy and UN offi ces in Hargeisa. Responsibility was claimed by the Islamist militant group Al-Shabab, which is challenging the transitional government in Somalia and has gained control over large parts of the state. Since then, Somaliland police have reportedly foiled several terrorist acts.265 Terrorist acts can therefore also emanate from within the parent state. This illustrates that this form of violence in the majority of cases stems from the unresolved confl ict; it stems from the ongoing dispute over territory rather than from the ungoverned status of the territory.266 This brings us to the second form of security threat associated with unrecognized states: the risk of renewed warfare.

#### Renewed conflict in secessionist scenarios

Caspersen ’12. NINA CASPERSEN, UNRECOGNIZED STATFS: THE STRUGGLE FOR SOVEREIGNTY IN THE MODERN INTFRNATIONAL SYSTEM 40 - 46 (2012). (AF)

Risk of Renewed Warfare Kolstø and Blakkisrud have convincingly argued that unrecognized states tend to be status quo players.267 They won the fi rst round of warfare and are trying to consolidate control over the territory they conquered and gain international recognition. They would therefore seem to have little incentive to start a new war. There are, however, exceptions. Unrecognized states frequently do not control all the territory to which they lay claim. Their de facto border in most cases represents a ceasefi re and they may have ambitions for further territorial gains. Such territory could, in some cases, make it easier to defend the entity or could make it more economically viable. For example, Somaliland in 2007 captured the capital of the Sool region from Puntland forces,268 and further violent confl ict over the territory controlled by Somaliland cannot be ruled out. In most cases unrecognized states are, however, unlikely to be the initiator of renewed warfare; this role usually falls on the parent state. The de facto loss of territory is often a signifi cant burden on the parent state and their claim to the lost territory has not been abandoned. The parent states often hope that time is on their side: they hope that the unrecognized state becomes gradually weaker due to international isolation, while they themselves have the time to build up a stronger army. Inspiration for such a strategy can be found in Croatia’s successful military offensive against Republika Srpska Krajina, Russia’s brutal reintegration of Chechnya, and Sri Lanka’s devastating attack on Tamil Eelam. Even though these confl icts are often described as ‘frozen confl icts’, war is never far away. Military exercises, preferably close to the front line, are a common occurrence; shootings across the front line are frequent; and both sides engage in bellicose rhetoric. Only in a few cases does the confl ict actually appear frozen, with genuine cessation of violence: in Transnistria, there have been no reports of incidents resulting in casualties since 1992.269 The threats to security are therefore very real, but they tend to be of a different kind than the ones often attributed to unrecognized states. The risk of smuggling of nuclear material or the risk of these territories becoming terrorist havens is much smaller than the risk of a new and very bloody war over the contested territory. Chapter 6 will discuss what can be done to overcome this risk.

### Democracy

#### Non-recognition hinders democratic development

Pegg 17 – PhD, Professor @ IUPUI (Scott, “Twenty Years of de facto State Studies: Progress, Problems, and Prospects,” *Oxford Research Encyclopedia of Politics*, DOI: 10.1093/acrefore/9780190228637.013.516)//BB

While a lack of external recognition does not preclude democratization and may afford de facto states some autonomy in how they choose to pursue it, nonrecognition also creates unique obstacles to democratization. Caspersen (2011, p. 346) highlights the paradox that “unrecognized states suffer simultaneously from a lack of international attention and from too much international attention.” The lack of international attention refers to the limited external assistance usually provided to de facto state electoral processes. Even basic democratic tasks such as registering voters or maintaining polling stations can challenge de facto states with their limited personnel and resources. Somaliland is a partial exception here, although it receives far less support from the international community than it would if it were a recognized state. Too much international attention refers to excessive meddling or interference by patron states upon whom de facto states often depend for their survival. Perhaps the two most famous cases are Abkhazia’s 2004 presidential elections and South Ossetia’s 2011 presidential elections. In both cases, de facto state citizens voted against the candidate obviously preferred by Moscow, precipitating political crises that were eventually resolved after extensive Russian interventions (Broers, 2013, pp. 61–62; Kolstø & Blakkisrud, 2008, pp. 499–500; Ó Beacháin, 2012, pp. 168–169). De facto states may also face unhelpful external interventions from their parent states who try to delegitimize their democratic process as part of a larger strategy to combat their secessionist bid (Tansey, 2011, p. 1527). The existential insecurity that accompanies nonrecognition is also not conducive to democratic development. For most de facto states, the struggle to present a united front to bolster self-determination claims can have a stifling effect on dissent and lead to censorship or self-censorship of nonindependence or pro-settlement views. Höhne (2008), for example, while noting how newspapers in Somaliland have provided invaluable forums for some sensitive public debates, lambasts them for distorting news and silencing alternative viewpoints in the contested eastern regions of Somaliland. The desire to be successful to further the cause of international recognition is so powerful in Somaliland that it prevents any reasoned debate over the relative merits of independence versus reunification with Mogadishu (Pegg & Kolstø, 2015). Kolstø and Blakkisrud (2012) argue that given its small size and cultural homogeneity, one might expect Nagorno-Karabakh to be more democratic than it is. Yet, “[t]he ever-present possibility of renewed hostilities means that the opposition must operate within a narrowly defined political field. Self-constraint and a perceived need for outward unity is ubiquitous in Karabakhian politics” (Kolstø & Blakkisrud, 2012, p. 149). Broers (2013, p. 60) concludes that “heavily militarized contexts . . . constrain democratization and reform processes within de facto states, and provide a constant foil strengthening the hand of hardliners over reformers.”

### Human Rights

#### Recognition is a powerful tool to fight human rights abuses

Berlin 9 – JD, Law Clerk to the Honorable Patti B. Saris, United States District Court for the District of Massachusetts (Alexander, “RECOGNITION AS SANCTION: USING INTERNATIONAL RECOGNITION OF NEW STATES TO DETER, PUNISH, AND CONTAIN BAD ACTORS,” *U. Pa. J. Int’l L., 31.2*, Lexis)//BB

Given this consistency with law and practice, the sanction theory of recognition should be adopted by the international community. In those cases where a parent state has committed human rights abuses, and recognition of a secessionist entity would serve as an effective sanction without making the world worse off, intrinsic considerations should be put aside and recognition should be granted. The international community is justified in harming the interests of the parent state and violating its territorial integrity in such cases because the parent state has violated its essential obligations as a state and thus forfeited its right to object. More fundamentally, the international community is justified in adopting the sanction theory of recognition because its returns are so great. The international community has very few tools at its disposal for enforcing good human rights behavior on the part of states. The sanction theory, by shifting the focus of recognition decisions from the intrinsic merits of the secessionist entity to the bad behavior of the parent state, while rejecting any requirement of a nexus between the bad behavior and the secessionist entity, maximizes the benefits that can be achieved through recognition, and transforms recognition into a powerful tool to combat human rights abuses.

### Economy

#### Recognition improves the economies of new states

Nelson 16 – PhD @ City University of NY (Elizabeth, “POWER AND PROXIMITY: THE POLITICS OF STATE SECESSION,” Proquest Dissertations)//BB

There are a number of general benefits to statehood. New states stand to gain in terms of economics, politics, and security.8 The economic benefits of statehood take a variety of forms. First, only states have access to international financial institutions. For example, the International Monetary Fund (IMF) provides a financial safety net for economically weak new states. New states have access to foreign aid through institutions, as well as individual or multilateral donors. In the case of East Timor, this aid comprised nearly 2% of GDP (Fazal and Griffiths 2014, 94). Both Bangladesh and Eritrea quickly received millions of US dollars after they achieved independence (Ibid.). Finally, statehood status provides for easier access to foreign markets and investors. Without an internationally recognized central bank, Somaliland is forced to use foreign accounts and secondary financial markets.9 Unrecognized states have difficulty securing foreign direct investment, which is “typically conditional upon guarantees of insurance and arbitration” (Englebert and Hummel 2005, 415). Agencies that provide insurance to investors often only do so with investors that work in recognized states (Fazal and Griffiths 2014, 94). South Sudan, having achieved statehood, has become a more attractive environment for international investors, particularly in the oil sector (Id. 95).

### Quasi States

#### Recognized states are currently held responsible for quasi-state actions

Bachmann & Prazauskas ’19. Bachmann, S., & Prazauskas, M. (2019). The status of unrecognized quasi-states and their responsibilities under the montevideo convention. International Lawyer, 52(3), 393-438. (AF)

According to Alessandro Chechi and Dr. Heiko Krüger, if a recognized State supports or assists a quasi-State, then the recognized State may be held liable for the legal consequences of any wrongful act.346 Indeed, cases relating to property left behind by former owners in Northern Cyprus were brought against Turkish authorities and not against the TRNC. In this sense, Loizidou v. Turkey347 was the most illustrative case. Turkey argued that the TRNC was justified in expropriating the houses of displaced Greek Cypriots, but the court decided that such expropriation was not proportionate.348 Secondly, 350 Despite this, Turkey argued that the region in Northern Cyprus belongs to the TRNC and does not belong to Turkey; but the Council of Europe continued to regard Turkey as a responsible party and ordered it to pay Mrs. Loizidou £800,000 in compensation.351 The compensation was finally paid in 2003.352 Loizidou v. Turkey outlines two important issues. First, it serves as a precedent for other cases regarding the Cyprus dispute.353 Indeed, the decision in Loizidou v. Turkey was later adopted by the court in Cyprus v. Turkey.354 Secondly, it clearly recalls the “effective overall control” and dependency test as a starting point of identifying the liability of selfproclaimed entities.355 Commenting on the court’s decision in Loizidou, Stefan Talmon explains that in order to establish the responsibility of an outside power, it must be proved that the actions in question are attributable to the outside power and not to the self-proclaimed entity.356 The problem with such attribution is that the authorities of secessionist entities usually do not qualify themselves as de jure organs of outside power and are not officially empowered by the law of the outside power to exercise governmental authority of that power.357 This is exactly what Turkey tried to prove in Loizidou in order to avoid responsibility, and that is why there is a particular need for effective control tests to consider the liability of quasiStates.

### Climate Change

#### State sovereignty law, climate change, and refugees

Ranalli ’19. Giacomo Ranalli,, 4-1-2019, "The Struggle of Climate-Induced Statelessness — Sydney Environment Institute," Sydney Environment Institute, <https://sei.sydney.edu.au/opinion/struggle-climate-induced-statelessness/> (AF)

From a broader perspective of climate-induced cross-border displacement, the most impending legal issue to be addressed is the lack of an internationally accepted framework that grants protection to affected people. Under current international refugee and human rights law, there is no effective and single consideration of climate as a driving factor of cross border displacement, demonstrated by the lack of a commonly accepted definition of climate refugees and by the absence of legally binding treaties that ensure the human rights protection of climate change affected people.3 Therefore, the current transnational legal context fails to give a legal categorisation to climate affected people.

Narrowing down the debate to climate-induced statelessness, multiple shortcomings of international law become clear. First of all, defining and codifying statehood internationally has long been problematic, as proven by multiple historical examples and the continued lack of a widely accepted definition of a state. Perhaps the primary point of reference to define statehood is the Montevideo Convention of 1933, which lays out four necessary criteria for a state to become legal authority: permanent population, defined territory, government and the capacity to enter into relations with other states.4 5 In the case of disappearing low-lying and island states due to climate change, the variable “defined territory” would be out of the equation sooner than later. Will their state continue to exist? It is difficult to address this puzzle, as there are no adequate and well-established criteria for statehood. Nonetheless, the identity of a disappearing state, defined by language, traditions and history, will long be carried by its population. Adding to this, the state’s governmental structure and societal organisation will maintain a certain integrity despite the eroding national borders, perhaps being still able to enter into relations with other states.6 Thus, certain elements of statehood will persist. Secondly, the existing paradigms for addressing states’ successions, defined by Craven as “the change in sovereignty over territory”, are characterised by strong rigidity, which makes them inadequate to comprehensively support climate-endangered states.7 More specifically, in the case of disappearing states, the ‘change of territory’ constitutes a permanent loss of one, an extinction of land that will never be taken over by anyone. On the contrary, the current legal context envisages dissolution of states formally only due to absorption and merger with and by other States, or dissolution with the emergence of successor states.6 Thirdly and lastly, it is important to mention that the extent to which the UN Convention Relating to the Status of Stateless Persons might protect the group of climate-induced stateless people, is very narrow. The convention, signed in 1954, defines a stateless person “a person who is not considered as a national by any State under the operation of its law”.8 Assuming inhabitants of disappearing islands nations were considered legally stateless, signatory state parties would be required to “facilitate the assimilation and naturalisation of stateless person”.8 These processes grant protection to the individual, but ultimately undermines any capacity of the threatened state to continue to exert its sovereignty, maintain its autonomy and ensure cross generational continuation of its identity, all criteria of statehood that would persist even without a territory.6 Therefore, this solution is limited in the sense that it doesn’t extensively account for all the multiple aspects of climate-induced statelessness. In light of this overview, statelessness and states’ succession law appear to fail to take into account climate change and its effects as a driving factor as well as the complexities and particularities of state extinction processes. Furthermore, these shortcomings shed a light on the multidimensional nature of the issue of climate-induced statelessness, which can’t be reduced to single human-centred approach. Populations of disappearing Pacific and Indian ocean islands might see their histories, cultures and traditions disappear with their territory, if no adequate international legal frameworks are developed. Looking at this issue from an environmental justice perspective, which accounts for a just distribution of environmental damages and benefits, disappearing low-lying and island states have contributed the least to climate change, but face the heaviest burden. This is why the international community must tackle climate-induced statelessness more comprehensively, acknowledging the need for reforms and changes of paradigms within international law, so to protect individuals at risk and ensure the continuation of those processes which allow their statehood to persist.

### Citizens’ International and Domestic Rights

#### Citizens are treated differently in de facto/non-recognized states

Carnegie Europe, 12-3-2018, "Introduction: The Strange Endurance of De Facto States," <https://carnegieeurope.eu/2018/12/03/introduction-strange-endurance-of-de-facto-states-pub-77841> (AF)

Inside the de facto states, there is understandable frustration that hundreds of thousands of people in Europe have effectively become second-class world citizens in many regards. They struggle to do things that citizens of recognized states take for granted: making bank transfers, traveling abroad with a recognized international passport, studying in a foreign university. In many ways, including citizens of unrecognized states into these activities gets harder as the world adopts new standards and regulations—trade rules, banking regulations, biometric passports, the Erasmus scheme for higher education—that do not cover these territories. The challenge of living in a de facto state is summed up by the drop-down box on an internet form that asks which country a person lives in. If Abkhazia or Transdniestria is not listed, the person faces an immediate problem. As the world becomes more interconnected and Europe’s borders open up, this situation seems even more anomalous. This is not necessarily an issue of “human rights” as many in the unrecognized territories assert. Nor is the problem always the fault of the outside world. The de facto states must also play a role in finding status-neutral measures to overcome these problems. Abkhazia has recently attached strings to some offers of cooperation, leading it to what some have called “self-isolation” as international engagement is withheld.6 Yet there can be no argument that poor healthcare, substandard education, and limited chances to travel abroad do not make for a healthy society. These deficiencies both hurt the societies of the unrecognized states and hamper their capacity to engage properly with their neighbors.

### Islamic State

#### The Islamic State was a recognizable state

Munteanu ’21. Răzvan MUNTEANU, 2021, "Was the Islamic State a Real State? by Răzvan Munteanu," Market For Ideas, <https://www.themarketforideas.com/was-the-islamic-state-a-real-state-a555/>. (Munteanu is on the executive board of the Middle East Political and Economic Institute and Geopolitician working on a Ph.D. in Middle East studies, President of Chamber of Excellence in International Affairs (CEIA) Think Tank and CEO of newsint.ro media publication) (AF)

The self-proclaimed Islamic State, known to the international press under the ISIS moniker, became a true center of power in the Middle East in the period 2014-2017. Its success came with a background of instability generated by the Arab Spring, but is also due to the support from actors such as Turkey or a part of the Gulf states, as well as an unnatural alliance between Sunni jihadists in Iraq and the secular army of the Baath regime, marginalized after the downfall of Saddam Hussein’s regime. The main purpose of ISIS was to remodel the borders of the Middle East, which is why its narrative always contested the Sykes-Picot Accord, militating, as a result of its “takfiri” ideology, for the consolidation of a Sunni state entity. Following is self-proclaimed caliphate, the vast territory conquered by ISIS knew both a rudimentary and a complex governance, based on the degree of military and economic control over regions in Syria and Iraq. Due to this, ISIS leaves a heated debated in academia, as to whether it may be considered a state entity. There is no academic consensus over the definition of a state, although researchers usually fall back on Max Webber’s 1918 definition, “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory”. He considered that the state is a bureaucratically administered construct with a series of monopolies, which would brand ISIS as a state actor. How appropriate is this for 21st century geopolitical dynamics? Are Abkhazia, South Ossetia or the separatist regions in Eastern Ukraine state actors? What about Al-Shabab, which controls a vast territory in Somalia? The use of international law becomes necessary, even though the interests of Great Powers prevent a consensus from being reached. The Montevideo Convention of 1933 established the main criteria for a state entity: population, territory, government and the capacity to interact with other states. The population may vary from just 1,000 in the Vatican to the over 1 billion of China and India. As for territory, the maximum extent of ISIS holdings was larger than the United Kingdom and the precedent created by Russia when it annexed Crimea shows once again that territorial dynamics, even when contested and produced through armed conflict, do not affect the functionality and existence of a state. Moreover, it is not mandatory for a government entity to control the entire territory of a state entity. Failed states, such as Somalia and Yemen, with a vacuum of government authority, show this. Collecting taxes, coercion capacity and a judicial system are the main aspects legitimizing government in international law, criteria which ISIS also met. Moreover, though it seems amazing, the tax revenue of ISIS was higher than its oil revenues. It also had social policies, such as subsidies for staple foods, free public transport, the financing of homeless shelters, infirmaries, schools and kindergartens. The capacity to interact with other states, translating into international recognition, is the only criterion of the Montevideo Convention which ISIS does not fulfil. Despite the clandestine support it received, including through a market open to its oil, ISIS was not recognized by any other state actors, moreso since its support was the result of momentary interest. ISIS is, therefore, a proto-state, an entity on the road between non-state to state, undifferentiated conceptually from the Afghan Taliban or Al-Shabab. Despite this, the conceptual clarification and development of the state will remain a challenge for the academic world, where new conceptualizations, such as de facto states, are being developed. A de facto state is different from a proto-state like ISIS through limited international recognition. For instance, we have Abkhazia and South Ossetia, which are recognized and supported by their patron state, the Russian Federation and one of Moscow’s allies on the international stage, Nicolas Maduro’s Venezuela.

## \*\*Disadvantage/CP Areas

### Sovereignty DA

#### Unilateral recognition violates sovereignty, collapses international stability, makes war more likely

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First, unilateral recognition is risky and potentially costly because granting it flagrantly violates the home state's sovereignty. This is not only intervention and a breach of international law, but casus belli. Characteristically, when confronted with possible French or British recognition of the Confederate States of America (CSA), the United States promised war in return.76 Furthermore, where a seces sion attempt is accompanied by a war, recognition effectively internationalizes the conflict, turning a civil war into an international war for the recognizing states.77 At a minimum, unilateral recognition is cause for the home state to sever diplo matic relations with the recognizer, as Beijing routinely does for those who rec ognize Taiwan as the legitimate government of China. At worst, the home state will seek extensive, military retribution. The potential benefits of any new state's emergence would have to outweigh substantial, concentrated costs. Unilateral rec ognition also bucks an established consensus over sovereignty, potentially causing a wider conflict with other system members. For Germany, the mere appearance that it unilaterally recognized Slovenia and Croatia caused rancor and recrimina tion within the European Community.78 Acting together, recognition's potential costs are lower and more diffuse. Second, unilateral recognition is ineffective since it does not secure membership for the secessionists. Statehood can be conceptualized as conforming to a thresh old model of sorts. Each individual state's recognition increases the chances that the actor will become a state. Recognition decisions mean little in isolation though, only together—and in sufficient quantity—do they constitute membership. Once a certain threshold of recognition has been reached, the secessionists are then endowed with the full rights and responsibilities of a state. The Great Powers are each influ ential enough to thwart a new state's membership, but they cannot constitute it alone.79 Unilateral recognition only implies consequences for the state that has con ferred it. Others will continue to uphold the home state's authority. A Great Power truly desiring a secessionist state's emergence would not recognize without the expectation that others would eventually follow, breaching the critical threshold. Finally, the system's organization favors the status quo and distains overlapping sovereignty. This reluctance toward change should encourage coordination over unilateralism. Because the international order relies on exclusive territorial con trol and nonintervention, recognizing different authorities' jurisdiction over the same territory is destabilizing. Cases of multiple sovereignty like Kashmir and Israel Palestine comprise some of the world's most difficult and dangerous conflicts. State leaders should resist undermining the established order because it is potentially destructive for those directly involved, but also because they derive substantial power and authority from the continued dominance and stability of the Westpha lian states system. If Great Power recognition is strategically coordinated, recognition should pro ceed quickly when the Great Powers' interests align in favor of a state's emer gence and a new state should not be born when strong states' interests align against it. Little time should elapse between the first Great Power's recognition and the last, and recognition should become increasingly probable as recognition is granted. Coordination is only unlikely when a single power is strongly invested, usually enough to compel direct military intervention, to realize a particular outcome. In these cases, the Great Powers are not responding to opportunities presented to them, but are actively involved in creating independence or thwarting it on the ground. When powerful states become involved in secession this way, and their interests are not in sync, dangerous international instability and violence becomes more likely.

### Pandora DA

#### Political science scholarship proves that recognition is internationally perceived and emboldens would-be secessionists

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\*Nikola, \*David S., Two States in the Holy Land?: International Recognition and the Israeli-Palestinian Conflict, Politics and Religion, <http://davidsiroky.faculty.asu.edu/PR2015.pdf> --- jake justice

We posit two levels at which religion may shape recognition decisions — domestic religious institutions and transnational religious affinities. Religious institutions vary in the degree to which they regulate religious life in a given country. States that heavily regulate religion may do so because of a perceived vulnerability to domestic threats from groups adhering to other religions. When a non-core group that is culturally (ethnically and/ or religiously) distinct successfully challenges another state, extending recognition to the aspiring state may set a precedent and embolden noncore groups at home. Previous scholarly work has found that “demonstration effects” can play a significant role in stimulating secession; that is, one key region’s separatist actions tend to encourage other regions to behave similarly (Hale 2000). States that perceive themselves as vulnerable to non-core groups, both religious and ethnic, should therefore prefer to keep Pandora’s Box closed by withholding recognition from aspiring states abroad and emphasizing the principle of territorial integrity (Zartman 1966, 109). This claim extends the theory of domestic vulnerability, which argues that nation-states facing threats from secessionists at home will be less likely to support secessionists abroad, for fear of legitimizing the act of secession and sending mixed signals to domestic audiences and minority groups at home (Touval 1972; Jackson and Rosberg 1982; Herbst 2000; but see Saideman 1997; 2001; 2002; 2007). While the original “domestic vulnerability” thesis was applied to external support for secessionists, which often takes clandestine forms that the public does not directly observe, recognition is a distinct form of external support that is directly observable to the public in the recognizing state. Recognition decisions may send a relatively clear signal to domestic audiences (Coggins 2011; Walter 2006). Applying this argument to the study of international recognition, we theorize that countries facing such a threat will be less likely to recognize an aspiring state for fear of setting a precedent that would embolden aggrieved groups at home.

#### Boundary redrawing is destabilizing and spills over

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Ashley J., 8-18-16, ‘Redrawing Boundaries Would Open Pandora’s Box’, Carnegie Endowment for International Peace, <https://carnegieendowment.org/2016/08/18/redrawing-boundaries-would-open-pandora-s-box-pub-64361> --- jake justice

YOU SPOKE ABOUT STABILITY OF CRITICAL REGIONS. HOW DO YOU SEE THAT PLAYING OUT? Take the broader the Middle East. We are at a very interesting inflection point where you see states weakening, societies becoming more and more demanding, and rise of ideologies that are exploiting long-standing societal grievances. There are no easy answers to any of these problems. The US cannot go in to fix state weaknesses. The US cannot go over the heads of weak states to satisfy demands of citizenry. And ideology is fire in the minds of men. We can’t go out there and suddenly change those ideologies. The best your policy can do is cope with the consequences. These challenges are not susceptible to silver bullet solutions.The best we can do is contain the problem. Resolution will come from internal transformation. We are entering a phase particularly in the Middle East where challenges are going to be enduring, and I am not even talking of Israel and Palestine. ARE WE BACK TO A TIME OF REDRAWING OF BOUNDARIES? I would hope not. The problem with redrawing boundaries is that you are then opening Pandora’s Box. There are so many things that are wrong with the post Cold War order. After the UN Charter, the assumption was that whatever the history, we try and start afresh. If you are going to start redrawing boundaries by force or coercion and it succeeds in one place, then what succeeds in one place opens the door to another...before you know it, you have endless multiplicity to people who have grievances and ambitions. The US has been very conservative, very cautious in endorsing territorial change. The door you open may not be a door you can close.

#### China is particularly sensitive, potentially crack-down DAs based on state responses to would-be secessionist movements

Sharipzhan 8 - senior correspondent for RFE/RL who focuses on developments in the former Soviet Union.

Merhat, 8-29, Central Asian Leaders Balk At Opening Pandora's Box Of Separatism, Radio Free Europe, <https://www.rferl.org/a/Central_Asian_Leaders_Balk_At_Opening_Pandoras_Box_Of_Separatism/1194838.html> --- jake justice

Although officially the resolution reflected the joint stance of all SCO members, it is clear that it really summarized the results of hard talks between the leaders of the two major SCO players -- Russia and China. Moscow has been careful to justify its decision on the two regions with reference to "preventing genocide," "forcing Georgia to peace," and "protecting Russian citizens," and has been equally cautious not to use expressions referring to "a nation's right to self-determination." Nonetheless, Chinese President Hu Jintao, whose country is extremely sensitive to claims of self-determination, remained wary. Historically, China's Xinjiang (New Frontier) Province is part of Central Asia, a region known as Eastern Turkistan. It is populated by Turkic-speaking Uyghurs and Kazakhs and developed into quite a hotspot after the collapse of the Soviet Union in 1991 and the emergence of the independent Central Asian states. Headache For Beijing Since then, Uyghur activists have called loudly and often for independence. Clashes between the activists and Chinese police have occurred regularly in Xinjiang cities for more than 15 years now. Tibet, of course, is another major headache for Beijing, as the run-up to this summer's Olympic Games amply demonstrated. So China is obviously concerned about the possible precedent being set by Moscow's recognition of Abkhazia and South Ossetia. China's reluctance to go along with Moscow came as a considerable relief for the other SCO presidents. Kazakhstan, for example, is well aware of what it means to deal with a separatist-minded minority. Although Kazakhstan is officially a nonfederal, unitary state, it is the most ethnically diverse of the five Central Asian countries. Before the collapse of the Soviet Union, only 38 percent of its population was ethnically Kazakh, although that percentage has since risen to 53 percent. Ethnic Russians are densely concentrated in the country's north. In the late 1980s and the 1990s, Russian nationalists were very active in the region, promoting the idea of creating a Russian autonomous republic in northern Kazakhstan. President Nursultan Nazarbaev, in response, launched a successful repatriation program to attract ethnic Kazakhs from other countries to settle in Kazakhstan. In 1998, he moved the Kazakh capital from Almaty in the south to Aqmola (now, Astana) much farther north in order to emphasize Kazakh statehood in the volatile northern regions. Nazarbaev also faced a complex situation in the south, where efforts to delimit the Kazakh-Uzbek border proved difficult. In 2002, ethnic Kazakhs in the border villages of Baghys and Turkestanets even declared independence and proclaimed themselves the tiny Kazakh Republic of Baghystan as a way of attracting the attention of the Kazakh and Uzbek governments to their situation. Uzbekistan has its own potential South Ossetia -- the large autonomous Republic of Karakalpakistan in the northwest of the country. At one point during the Soviet period, that region was part of Kazakhstan, and the ethnic group known as Karakalpaks is linguistically and culturally closer to Kazakhs than Uzbeks. The Uzbek leadership has noted with concern that some tiny groups of Karakalpak nationalists have been calling recently for separation from Uzbekistan. Recognition Could Resonate And from there, the situation in Central Asia only becomes more complex. The volatile Ferghana Valley is divided between Kyrgyzstan, Tajikistan, and Uzbekistan. There are numerous pockets of Kyrgyz territory along the border with Uzbekistan that are populated by ethnic Uzbeks and vice versa. There are regions of Tajikistan populated by ethnic Uzbeks or ethnic Kyrgyz. It is possible that official recognition of South Ossetia and Abkhazia could resonate in these complicated territories, reviving the complex times of the 1990s when all the countries in the region grappled with the Gordian knot of border delimitation. Since 1996, the SCO has affirmed its commitment to the principle of territorial integrity in many mutual agreements and resolutions. An SCO accord on cooperation combating separatism and terrorism has been used by China to secure SCO support for Beijing's position on Xinjiang Province and Tibet. They were used by some Central Asian states to justify the extradition to China of Uyghurs charged with terrorism in Xinjiang, actions that elicited harsh criticism from local and international human rights activists. So, it is easy to understand China's reluctance to go along as Russia seems to be trying to rewrite the long-standing rules of the game within the SCO. None of the other member states is going to sign onto a policy that could complicate their efforts to maintain their own territorial integrity.

### Dip Cap DA

#### Recognition requires a significant expenditure of diplomatic resources

Haugevik 18 – PhD, Senior Research Fellow at NUPI, working on International Relations (Kristin, “Special Relationships in World Politics,” Kindle Edition)//BB

A second important sub-category of front-stage recognition practices is statements of recognition. In bilateral, public meetings, heads of state and government and other senior government officials will often engage in certain pre-set symbolic rituals. Rituals and protocol have traditionally played an important role in inter-state diplomacy, not least when political leaders meet in person. As Christer Jönnson and Martin Hall note, such rituals and practices often serve to strengthen the feeling of 'we-ness' between two states, by signalling to other states the importance and value of that particular relationship (2003:204—205). State visits and official visits invoke the strictest set of ceremonial practices, and hence also tend to be highly demanding on financial resources, time, the bureaucratic system and on the participants themselves. Other types of visits, typically referred to as 'unofficial visits' or 'working visits', tend to be more loosely organized, and shorter in duration. The scholarly literature on diplomatic ceremony, symbolism and rites when state representatives meet is relatively modest (but see Jönsson and Hall 2003:204—206, 2005:39—66; Neumann 2012). In the context of IR scholarship, a rare reflection on the topic is offered by Nicholas Greenwood Onuf (2012), who sees ceremonial practices as a chief part of the international interaction between states: Summit meetings and state visits are not simply or even chiefly public demonstrations of pomp and power. Like fathers, heads of governments welcome each other into an old and exclusive club. Even after they come to know each other personally, they treat each other as honorary strangers, unconditionally due to the beneficence of the household during their brief times together. Assisting them are retinues of ministers and functionaries who also stand in for their heads on lesser occasions. Like sons, diplomats present their credentials, attend ceaseless rounds of diplomatic receptions, and await the summons of their surrogate fathers while they live the lives of pampered hostages. (Onuf 2012:158) As Jönnson and Hall point out, diplomatic rituals can help to ease communication, signal feelings, reduce conflict and strengthen a particular relational identity between the two states in question (Jönsson and Hall 2003:204—205). Arguably, such public rituals can also serve to strengthen the two states' relational identity in the eyes of outside observers, in what Ringmar calls the 'external recognition circle' (Ringmar 1996). When top-level representatives of two states that routinely refer to one another as 'friends' and 'special partners' meet on the front stage of the international political scene, the pomp and circumstance surrounding the visit, and the ritual activities engaged in, are expected to reflect this specialness. Official meetings between heads of state and heads of government are often followed by a joint press conference or press availability. There is also likely to be a photo opportunity, for example of the two leaders shaking hands or performing other types of friendly gestures (Cameron 2005:44). Often, these occasions will also include the reciting of a specific narrative about the relationship or the use of programmatic catchphrases such as 'special relationship'. As argued by Bronislaw Malinowski, such ritualistic commitment to a specific representation of the other can be seen to have a phatic function — the utterance itself becomes an act of recognition, a 'type of speech in which ties of union are created' (Malinowski 1989 119211:315). A final sub-category of front-stage recognition practices is allocation of diplomatic resources. Historically, an important and very tangible indication of how much a bilateral relationship is valued and prioritized has been the diplomatic resources dedicated to it. While the size of embassies, their budgets and the number of staff — a matter of 'institutional must be seen to some extent as path-dependent robustness' (Bratberg 2008) over time, such allocations also send signals of recognition and priority (Kinne 2014). In the diplomatic tradition, considerable symbolic value has also been attached to the appointment of diplomatic envoys (Jönsson and Hall 2003:201—202). The ranking of heads of missions within their national systems and the ranks and merits of the diplomatic staff can also be seen as a recognition practice — in line with the assumption that a state will send its highest- ranking and most distinguished diplomats to the countries that are considered most important, prioritized and valued.

### Engagement CP

#### The ‘engagement without recognition’ CP competes

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This article examines the extent to which states are able to interact at an official level with a contested or de facto state – a state that has unilaterally declared independence but is not a member of the United Nations – without being understood to have recognised it. This is an area of increasing interest and relevance to policy makers. As is shown, albeit with some significant provisos, legal theory and historic practice suggest that diplomatic engagement does not constitute recognition if there is no underlying intent to recognise. This means that there is a very high degree of latitude regarding the limits of state engagement with contested states, especially in bilateral contexts. Indeed, the level of engagement can even amount to recognition in all but name.

### Executive Order CP

#### The United States President should sign an executive order that [plan].

Trejo ’16. Jennifer Trejo "In the Eyes of the President - Supreme Court Holds Executive Power to Recognize Foreign Sovereignties," SMU Law Review 69, no. 1 (Winter 2016): 291-298. (The SMU Law Review: All editing is done by student members of the board of editors and the staff of the SMU Law Review Association. The Association also publishes the Journal of Air Law and Commerce and the SMU Annual Texas Survey.) (AF)

In a landmark decision, the Supreme Court settled the inter-branch dispute in favor of the executive branch, holding that "the power to recognize or decline to recognize a foreign state and its territorial bounds resides in the President alone," thus finding that section 214(d) of the Act is unconstitutional. 19 In reaching this decision, the Supreme Court began its analysis by referring to Justice Jackson's famous tripartite framework outlined in Youngstown Sheet & Tube Co. v. Sawyer.20 According to Justice Jackson's analysis, the President's refusal to implement section 214(d) in place of the Foreign Affairs Manual places the President's power "at its lowest ebb," thus his actions must be "scrutinized with caution" and he must rely solely upon powers the Constitution grants him.2 1 The Supreme Court considered (1) the specific language and initial interpretation of Article II of the Constitution, including the structure of the Constitution and the powers it grants to both the legislative and executive branch, (2) the purpose and policy making exclusive presidential power necessary, and (3) the precedent and history of presidential recognition and congressional acquiescence. 22 After holding that the recognition power belonged exclusively to the executive branch, the Supreme Court held section 214(d) of the Act unconstitutional. 23 To begin, the Supreme Court focused on the Reception Clause of Article II, which states that the President "shall receive Ambassadors and other public Ministers. '24 The Court reflected back on the Nation's early history, noting that, when President Washington recognized the French Revolutionary Government by receiving its ambassador, Alexander Hamilton felt compelled to explain the importance of the clause, namely that it "includes the power of judging . . . whether the new rulers .. ought to be recognized." 25 At the time of founding, other scholars similarly acknowledged that receiving ambassadors was "tantamount to recognizing the sovereignty of the sending state" by correlating the receiving of ambassadors with accepting a state's sovereignty. 26 The Supreme Court thus found that the foreign affairs powers given to the President under Article II bestowed upon him the power to control all recognition decisions and to do so on his own initiative. 27 The Court cited the presidential power to negotiate treaties; the ability to nominate and appoint ambassadors, public ministers, and consuls; and the sole power to open the Constitution unequivocally granted the power to recognize foreign sovereignties, the Court contrasted Article II with the powers granted to Congress under Article I and found that Congress has no constitutional power to initiate diplomatic relations with foreign nations. 29 After determining that the text and structure of the Constitution grants the President the power to recognize foreign nations, the Court went on to hold that this power was given exclusively to the President.30 The Court began with an analysis of the policy implications that the recognition power held. 31 Opining on the Nation's need for "a single policy regarding which governments are legitimate in the eyes of the United States" and on foreign ambassadors' need to know "before entering into diplomatic relations or commerce with the United States, whether their ambassadors will be received," the Court noted specifically that "these assurances cannot be equivocal. '32 Further, the Court held that "the President is capable in ways Congress is not, of engaging in the delicate and often secret diplomatic contacts that may lead to a decision on recognition. '33 And though Congress has a substantial role in making laws, which gives it authority to determine policy incident to recognition of foreign sovereigns, if the President is effectively to recognize nations, "it must be evident to his counterparts abroad that he speaks for the Nation on that precise question. '34

## \*\*Kritiks

### Critical Aff Ground

#### Why State Recognition?

As mentioned in the Executive Summary, we believe a strength of this topic is related to “populations that have not been included in most topics within the past few decades. Somaliland, Cyprus, Hawaii, Puerto Rico, Catalonia, Nagorno-Karabakh, Transnistria, Western Sahara, the Republic of Lakhotah, are (again arguably) a few locations that include aspirant statehood movements.[[8]](#footnote-8) If the community opts for an expansive version of the topic, we believe debaters of various backgrounds can find a subject matter and angle of the topic that interests them.”

#### Anyone who has researched a critical position in their lifetime knows how important the “State” is to most scholars. Whether your interest lies in Afropessimism, Settler Colonialism, Critical Disability Studies, Postcolonialism, Marxism, Feminist International Relations, Neoliberalism, Afrofuturism, Native Feminism, Necropolitics, Humanism, Postmodernism, Critical Security Studies, Chicana Feminism, Queer International Relations, Black Feminism, Agamben, and anything in between, this topic absolutely has something for you.

#### While our research for this paper is not exhaustive, we are confident that this controversy provides ample and unique ground for critical teams.

### Afropessimism K

#### There are clear anti-blackness links to self-determination/sovereignty claims

Sexton, ‘16

(Jared, University of California Irvine, “The Vel of Slavery: Tracking the Figure of the Unsovereign”, Critical Sociology, Vol. 42, No. 4-5, pp. 592, ZW)

We might understand something else about the historical relations between black and native peoples if we bear in mind that the dynamics of Negrophobia are animated, in part, by a preoccupation with sovereignty. We have learned already that settler colonialism is governed by a genocidal commandment and that, as a direct result, survival becomes central to indigenous movements for settler decolonization. We have also learned that sovereignty, even disarticulated from the stateform, is the heading for thinking about this survival as a matter of politics.19 Yet, in its struggle against settler colonialism, the claim of native sovereignty – emerging in contradiction to the imposition of the imperial sovereignty of Euro-American polities20 – ‘fortifies and extends the interlocutory life of America [or Canada or …] as a coherent (albeit genocidal) idea, because treaties are forms of articulation, discussions brokered between two groups presumed to possess the same kind of historical currency: sovereignty’ (Wilderson, 2003: 236). This point is not mitigated by the fact that native sovereignty is qualitatively different from, not simply rival to, the sovereignty of nation-states. What links these statements discursively is an ‘ethico-onto-epistemological’ (Barad, 2007) point of contact: ‘At every scale – the soul, the body, the group, the land, and the universe – they can both practice cartography, and although at every scale their maps are radically incompatible, their respective “mapness” is never in question’ (Wilderson, 2010: 181).21 Capacity for coherence makes more than likely a commitment ‘to preserve the constituent elements of sovereignty’ (2010: 182) and a pursuit of the concept of ‘freedom as self-determination’.22 The political de-escalation of antagonism to the level of conflict is mirrored by a conceptual domestication at work in the field of Native Studies, namely, that settler colonialism is something already known and understood by its practitioners. The political-intellectual challenge on this count is to refine this knowledge and to impart it. The intervention of Native Studies involves bringing into general awareness a critical knowledge of settler colonialism.

#### Calls for self-determination based on the politics of land loss is parasitic on the deracination of Blackness

Sexton, ‘16

(Jared, University of California Irvine, “The Vel of Slavery: Tracking the Figure of the Unsovereign”, Critical Sociology, Vol. 42, No. 4-5, pp. 588-589, ZW)

Are native calls for black solidarity simply expedient in a situation of settler colonialism? My sense is that there is something more complicated, and concerning, at work. If one surveys the writing on black-native solidarity in the field of Native Studies, one finds frequent reference to histories of shared struggle, strategic alliance, and cohabitation in place of or alongside acknowledgment of histories of Indian slavery, ongoing exclusion of black-native people, and pervasive anti-black racism. In drawing up the historical balance sheet this way, scholars suggest there is ground for black-native solidarity in the present. Even where there is no denial or minimization of the history of Indian slavery, even where native anti-black racism is recognized and the struggles of blacknative people are affirmed, an argument is forwarded that solidarity in this moment can be retrieved from the past and refashioned for the future. In this sense, native peoples are seeking to reunite with lost allies, namely, those enslaved Africans from the early colonial period who demonstrated a ‘a spiritual worldview, land-informed practices, and were held together by kinship structures which created relationships that allocated everyone a role in the community’ (p. 127). This is political solidarity derived from ‘cultural similarities’. The implications of this claim are considerable. If black-native solidarity is founded upon shared indigenous worldviews, practices and kinship structures, then the prerequisite for black people to move, politically and ethically, from settlers to allies ‘in the interest of a deeper solidarity’ with native people is, in a word, re-indigenization. In so doing, black people on the North American scene not only become politically relevant to settler decolonization but also, en route, redress ‘the true horror of slavery’ – the loss of culture: Diasporic Black struggles, with some exceptions, do not tend to lament the loss of Indigeneity and the trauma of being ripped away from the land that defines their very identities. From Indigenous perspectives, the true horror of slavery was that it has created generations of ‘de-culturalized’ Africans, denied knowledge of language, clan, family, and land base, denied even knowledge of who their nations are. (Amadahy and Lawrence, 2009: 127) From indigenous perspectives, diasporic black struggles would, first and foremost, need to lament the loss of indigeneity that slavery entails, a process that requires acknowledging that the loss is both historic and ongoing. This would be a more proper post-traumatic response than ‘internalizing colonial concepts of how peoples relate to land, resources, and wealth’ (p. 127). However, what becomes curious upon even the briefest reflection is the fact that ‘denied knowledge of language, clan, family, and land base’ – and the consequent temptation toward ‘internalizing colonial concepts’ – is precisely what native resistance and resurgence is struggling against to this day. To wit: ‘I believe that the systematic disconnection (and dispossession) of Indigenous Peoples from our homelands is the defining characteristic of colonization’ (Waziyatawin, 2012: 72). So, de-culturalization, or loss of indigeneity, is a general condition of black and native peoples, not one that native people can restrict to black people in order to offer (or withhold) sympathies. The structuring difference between settler colonization and enslavement is to be found precisely in the latter’s denial of ‘knowledge of who their nations are’ – that is, deracination. On this count, the loss of indigeneity for native peoples can be named and its recovery pursued, and that pursuit can (and must) become central to political mobilization. The loss of indigeneity for black peoples can be acknowledged only abstractly and its recovery is lost to history, and so something else must (and can) become central to political mobilization. Not the dialectics of loss and recovery but rather the loss of the dialectics of loss and recovery as such, a politics with no (final) recourse to foundations of any sort, a politics forged from critical resources immanent to the situation, resources from anywhere and anyone, which is to say from nowhere and no one in particular. From indigenous perspectives, this baseless politics can only ever be a liability. Without a base, which is to say a land base, a politics of resistance can only succumb to ‘civilization’s fallacies and destructive habits’. The quest for equality is perhaps the most pernicious of those fallacies. The conclusion of this line of thinking is that, due to ‘the trauma of being ripped away from the land that defines their very identities’, landless black people in diaspora cannot mount genuine resistance to the settler colonial state and society; they can only be held apart from it as slaves. Which is to say that, without the benefits of a land-base and absent the constitutive exclusion of slavery, blacks are destined to become white, and thus settlers, in thought and action and, moreover, have effectively become so post-emancipation.10 But rather than argue that black people in North America do, in fact, have significant, if attenuated, indigenous worldviews, practices and kinship structures or, in any case, can learn such from others in order to begin fighting the good fight; I submit we must consider the possibility that 1) the ‘Black Diasporic struggles’ under examination are irreducible to anti-racism, 2) that anti-racism is irreducible to demands upon the state, and 3) that demands upon the state are irreducible to statist politics.11 Blacks need not be indigenous and/ or enslaved Africans in order to be allies to native peoples in the Americas, whatever that might mean. And I say all of this without need of mentioning the ‘notable exceptions’ otherwise known as the black radical tradition.12 What if there are, and will have always been, ways to pursue settler decolonization otherwise than as indigenous peoples and their immigrant allies, a movement from within that slavery whose abolition is yet to come?

#### There are specific abolition alternatives for this controversy

Sexton, ‘16

(Jared, University of California Irvine, “The Vel of Slavery: Tracking the Figure of the Unsovereign”, Critical Sociology, Vol. 42, No. 4-5, pp. 592-593, ZW)

We might contrast the unsuspecting theoretical status of the concept of settler colonialism in Native Studies with its counterpart in Black Studies: racial slavery. I remarked above that any politics of resurgence or recovery is bound to regard the slave as the position of the unthought. This does not suggest, however, that Black Studies is the field in which slavery is, finally, thought in an adequate way. The field of Black Studies is as susceptible to a politics of resurgence or recovery as any other mode of critical inquiry. Which is to say that the figure of the slave and the history of the emergence of the relational field called racial slavery remains the unthought ground of thought within Black Studies as well. The difference, provisionally, between these enterprises is that whereas Native Studies sets out to be the alternative to a history of settler colonialism and to pronounce the decolonial intervention, Black Studies dwells within an un-inheritable, in-escapable history and muses upon how that history intervenes upon its own field, providing a sort of untranscendable horizon for its discourse and imagination. The latter is an endeavor that teaches less through pedagogical instruction than through exemplary transmission: rather than initiation into a form of living, emulation of a process of learning through the posing of a question, a procedure for study, for black study, or black studies, wherever they may lead. Native Studies scholars are right to insist upon a synthetic gesture that attempts to shift the terms of engagement. The problem lies at the level of thought at which the gesture is presented. The settler colonial studies critique of colonial studies must be repeated, this time with respect to settler colonialism itself, in a move that returns us to the body in relation to land, labor, language, lineage – and the capture and commodification of each – in order to ask the most pertinent questions about capacity, commitment, and concept. This might help not only to break down false dichotomies, and perhaps pose a truer one, but also to reveal the ways that the study of slavery is already and of necessity the study of capitalism, colonialism and settler colonialism, among other things; and that the struggle for abolition is already and of necessity the struggle for the promise of communism, decolonization, and settler decolonization, among other things. Slavery is the threshold of the political world, abolition the interminable radicalization of every radical movement. Slavery, as it were, precedes and prepares the way for colonialism, its forebear or fundament or support. Colonialism, as it were, the issue or heir of slavery, its outgrowth or edifice or monument. This is as true of the historic colonization of the Third World as it is the prior and ongoing settler colonization of the Fourth.23 ‘The modern world owes its very existence to slavery’ (Grandin, 2014a).24 What could this impossible debt possibly entail? Not only the infrastructure of its global economy but also the architecture of its theological and philosophical discourses, its legal and political institutions, its scientific and technological practices, indeed, the whole of its semantic field (Wilderson, 2010: 58). A politics of abolition could never finally be a politics of resurgence, recovery, or recuperation. It could only ever begin with degeneration, decline, or dissolution. Abolition is the interminable radicalization of every radical movement, but a radicalization through the perverse affirmation of deracination, an uprooting of the natal, the nation, and the notion, preventing any order of determination from taking root, a politics without claim, without demand even, or a politics whose demand is ‘too radical to be formulated in advance of its deeds’ (Trouillot, 2012: 88).25 The field of Black Studies consists in ‘tracking the figure of the unsovereign’ (Chandler, 2013: 163) in order to meditate upon the paramount question: ‘What if the problem is sovereignty as such’ (Moten, 2013)? Abolition, the political dream of Black Studies, its unconscious thinking, consists in the affirmation of the unsovereign slave – the affectable, the derelict, the monstrous, the wretched26 – figures of an order altogether different from (even when they coincide or cohabit with) the colonized native – the occupied, the undocumented, the unprotected, the oppressed. Abolition is beyond (the restoration of) sovereignty. Beyond the restoration of a lost commons through radical redistribution (everything for everyone), there is the unimaginable loss of that all too imaginable loss itself (nothing for no one).27 If the indigenous relation to land precedes and exceeds any regime of property, then the slave’s inhabitation of the earth precedes and exceeds any prior relation to land – landlessness. And selflessness is the correlate. No ground for identity, no ground to stand (on). Everyone has a claim to everything until no one has a claim to anything. No claim. This is not a politics of despair brought about by a failure to lament a loss, because it is not rooted in hope of winning. The flesh of the earth demands it: the landless inhabitation of selfless existence.

### Neoliberalism K

#### Recognition furthers neolib, gets co-opted --- it’s no wonder the World Bank likes it

Bryan 12 - PhD in Geography from the University of California, Berkeley, Professor @ UC-Boulder (Joe, “Rethinking Territory: Social Justice and Neoliberalism in Latin America’s Territorial Turn,” *Geography Compass*, 6.4)//BB

One of the more curious outcomes of neoliberalism in Latin America has been the trend towards legal recognition of indigenous peoples’ and Afro-descendants’ collective rights to land and resources. Where such demands were once a hallmark of opposition to neoliberal reforms, their legal recognition has since become a critical site for expanding neoliberal forms of governance (Hale 2005). Through this ‘‘territorial turn,’’ states in Latin America now recognize indigenous and Afro-descendant tenure rights to some 200 million hectares of land (Larson et al. 2008; Offen 2003; Pacheco and Barry 2009) . This amounts to an area slightly larger than Mexico, nearly all of which is located in forested areas historically regarded as national frontiers. This transfer of land and resources would have once been construed as sacrificing national sovereignty through the loss of territory. Neoliberalism has altered that perspective by recasting the role of the state as coordinating the interests of the private sector and civil society in order to maintain the socio-spatial order necessary for the functioning of markets. Indeed, the World Bank has emerged as one of the most powerful, if unlikely, advocates for recognizing indigenous peoples’ and Afro-descendants’ collective rights to property (Hale 2005; Offen 2003; Rolda´n Ortega 2004). Property rights only partially address the broader demands for racial equality and self-determination characteristic of indigenous peoples’ and Afro-descendants’ claims to territory. The difference is more than semantic. It also preserves an underlying socio-spatial order, perpetuating dominant forms of power and economy while allowing for the continual reorganization of control over land and resources (e.g., Agnew 2005; Watts 2003). The dynamics of the territorial turn challenge conventional notions of territory as something that simply exists. Instead they shift attention to how territories are continually produced and altered through historical processes (Agnew and Oslender 2010). In this regard, indigenous peoples’ and Afro-descendants’ claims raise a clear epistemological challenge to notions of territory as a natural or immutable basis for the socio-spatial configuration of power relations. Instead, their claims point out how that order has been historically constituted through practices of exclusion frequently justified in racial terms. Indigenous peoples’ and Afro-descendants’ claims further seek to transform that order according to principles of self-determination and racial equality, affirming territory as an ontological pre-condition for having rights. Their rights to territory are thus construed as an expression of a fully formed set of interests. The partial recognition of those claims under the territorial turn challenges that assumption, suggesting that territory is something that has to be designed and created through legal reforms, titling, demarcation, and participatory mapping. Indigenous peoples’ and Afro-descendants’ territorial claims do not challenge the existing socio-spatial order so much as they help create it. Recognition of their rights enables the extension of that order rather than fundamentally altering it, as the territorial turn in Latin America makes clear. That dilemma further makes clear that territory is not an object to be measured and recognized. Instead it suggests the ways in which it works conceptually to make space governable, providing a means of linking the political economic importance of control over land and resources with struggles over political authority conceived in terms of the distribution and protection of rights (Elden 2010; see also Watts 2003). Put differently, it shifts attention away from an emphasis on control over territory and towards a consideration of how power works through territory, the political and conceptual work that the term does, and how it shapes prospects for social justice.

#### This book, which I didn’t have time to ILL seems great for neolib links

The Neoliberal State, Recognition and Indigenous Rights: New paternalism to new imaginings

https://books.google.com/books?id=EiJtDwAAQBAJ&printsec=frontcover#v=onepage&q&f=false

### Settler Colonialism K

#### The contradictory position of a genocidal state offering recognition can never be reconciled. Native people must continue to push for total decolonization lest they become harbingers of their own death.

Lindroth et al 18

(Marjo Lindroth, Arctic Centre University of Lapland, Heidi Sinevaara-Niskanen Unit for Gender Studies University of Lapland, Global Politics and Its Violent Care for Indigeneity: Sequels to Colonialism, Palgrave Macmillan, 2018, Book, JKS)

The component practices of biopower that see indigeneity in terms of exceptionality attach the recognition of its rights to that exceptionality and, in the end, offer no more than promises that keep indigeneity hoping and waiting for their redemption. These three components of ‘seeing’, ‘(mis)recognizing’ and ‘pleading for patience’ are transformed continuations of the power that has always been at work on indigeneity. What is at stake in this current assemblage of biopower that operates through seemingly benevolent care is indigenous subjectivity itself. Despite the acknowledgment that there is still a great deal to be done in improving the social, legal, political, economic and environmental conditions of the peoples, biopolitical care focuses on the struggling yet surviving subject. It is resilient, ever-adapting and malleable indigeneity that will yield the resources needed to endure and ultimately (and allegedly) to alter conditions. The signals of hope, as well as the encouragement to hold on, to be resilient and persevere, contribute to the realignment that is detaching subjects from their very conditions. Presumably, it is the subjects, even though they are not responsible for their deprivation and dispossession, who are the ‘solution’ to addressing, tackling and even ‘fixing’ these conditions. In this biopolitical setting, the very condition for the existence and survival of indigeneity is the particular indigenous subjectivity. Indeed, what is crucial in the biopolitical modes of care is that they boil down to the subject. The tolerable recognizable difference and authenticity of the subject, the historical evidence of its dispossession and its engagement in the process that promises future redemption make the indigenous subject the focal point of global politics rather than justice, equality and correcting the wrongdoings of the past. Ordaining what kind of indigeneity is recognizable before the law and politics is to determine what is the indigeneity to be fostered and what is the indigeneity to be abandoned. Thus, processes of political and legal recognition are ultimately instances of policing. They are not concerned with acknowledging and redressing injustices and injuries, but rather function as apparatuses for governing subjects. What is particular about this mode of biopolitical governing is that it places subjects in a process where they are eternally in the making and, as a result, always in-between. The subject worth investing in is one that strives to improve itself, enhances its adaptive capacities and cherishes its ability to cope on its own devices. In a word, it is a subject that is more resilient than it has ever been. Seemingly, the call for indigenous subjects who possess innate, enhanced and exceptional capacities stems from the inheritance of the past—a demonstrated ability to endure and survive even the harshest of conditions—and from the potential realization of rights and recognition in the future. However, as the fulfillment of future hopes constantly eludes them, indigenous subjects must remain responsive to the expectations and requirements imposed on their subjectivity if they are to keep that potential ‘better’ future on the horizon. Indigeneity is locked in a “temporal limbo” (Povinelli 2011, p. 78), “between the conditions of the past and the promise of the future”. The rationality of ‘bearing with’ tells the peoples that “they will have to live with less now in order to live with more in future, or that their present deaths are actually a future redemption” (Povinelli 2011, p. 99). This in-betweenness is tantamount to a ‘bracketing’ of indigeneity, in which the peoples’ existence and cause have been noted, but have been placed among the other issues to be resolved in the future. There is no telling when these brackets will be removed and if claims will be settled in the end. In this limbo of potentiality and promise, the sources of salvation—as biopolitical care would have us believe—are the very capacities of the subjects themselves. For things to move on and improve, the subject is to be proactive, engaged and responsive. The debates on land rights are a prime legal and political avenue along which biopolitical care trickles down to the subjects. As is often the case, the recognition of such rights is suspended until it is determined who are entitled to the rights and all the consequences of those rights are clarified. In terms of those entitled to the potential rights, disputes arise over ‘proper’ ethnicity, and indigenous communities are often driven into identity struggles over how to perform ethnicity ‘properly’ and distinctively enough (e.g. Hale 2002; Sturm 2011; Birrell 2016). While communities are left to ‘decide’ for themselves who to include and exclude, those with the power to recognize the rights of the peoples can legitimately refuse to proceed or do anything at all for that matter. In order to move forward with their claims before such an authority, the peoples must represent a coherent ‘we’ that is convincing in its claim that it genuinely continues its cultural and historical distinctiveness. For example, a claim for native title in Australia requires the peoples not only to provide evidence of their genealogical past and connectedness to the land but to prove that there is an unbroken chain of cultural practices from past to present (e.g. Merlan 2016; Birrell 2016). Similarly, any messiness or uncertainty surrounding the consequences of the government recognizing Aboriginal rights functions as a valid reason for suspending their realization. Whether one considers the adoption of the UNDRIP at the UN General Assembly (e.g. Lightfoot 2012) or the ratification of ILO Convention No. 169 (e.- g. Heinämäki et al. 2017), the uncharted political territory, that is, the recognition of the collective rights of indigenous peoples, daunts those in power, for the costs of realizing such rights are unknown. Clearly, it is a smart move for those in power to just say ‘maybe’, as this allows them to avoid the shame for not granting equal rights and recognition and the unease of not knowing what the potential results of granting such rights are. With that ‘maybe’ the responsibility for the struggle for rights and recognition and all that they entail is off-loaded onto the communities in question. Once again, what is called for is the coping, struggling, yet—in spite of everything—hopeful indigenous subject. In terms of political subjectivity, what does this future projected in the promise of inclusion, rights and recognition entail? While politics offers them ‘a place at the table’ and equal rights—rights that are difficult not to want—the indigenous subject seeking recognition within the Western political and legal paradigm can never transform the power setting of this paradigm. The agreeable difference that indigeneity is called upon to present is no more than a felicitous and ‘decorative’ otherness that does not displease or fundamentally challenge the existing power setting. As a result, the indigeneity and indigenous subjectivity sought after in global politics has stagnated (Spivakovsky 2006), becoming an essentialized, romanticized and exotic otherness that leaves little room for indigenous subjects to influence or decide the course of political and legal events. For those assigned a seat in the waiting rooms of global politics—in as much as they have chosen to pursue the ‘goods’ promised by the liberal Western political system—there is no other choice than to follow a path that is marked by this system and to walk at the pace it sets. Coincidentally, the position that biopolitical care places indigeneity in denies indigenous subjects any possibility of radical change.

#### Native people desiring survival is not consent to legal recognition. Rather, it is a coercive ruse of consent designed to consolidate settler authority and control over Native life.

Simpson 17

(Audra Simpson, Kahnawà:ke Mohawk., Associate Professor of Anthropology at Columbia University. She is the author of Mohawk Interruptus: Political Life Across the Borders of Settler States, (2017): The ruse of consent and the anatomy of ‘refusal’: cases from indigenous North America and Australia, Postcolonial Studies, DOI: 10.1080/13688790.2017.1334283, JKS)

Would you consent to have your land taken? Are the treaties I described earlier a model for thinking through just relations on stolen land? The trick of law in settler spaces is to pretend that this in fact was not a theft that all parties consented to this fully and that appropriation of land was in fact just. And thus, matters are settled. Recent work by Heidi Stark unmasks the conceit of this as fact with recourse to events in what is now American and Indigenous history.45 Stark’s thesis is the following: the nascent U.S. and Canada constructed Indigenous people (mostly men) as criminal in order to mask their own criminality. They did so by actually converting treaties from Indigenous understandings of forms of relationship (often called ‘renewal’) to contracts and land cessions. By interpreting these agreements as contracts, they set up conditions for outright war through the sanctioning of constant incursions upon Indigenous land. These incursions ‘rendered unlawful the moment they violated the treaties that authorized their presence across Indigenous lands’.46 She then offers in painstaking detail accounts of the hangings and the incarcerations of predominantly indigenous men as they resisted these wrongful interpretations of treaty: everywhere from Modoc country, to Tsilhqot’in in what is now British Columbia, to Dakota territory in what is now Minnesota. Native male bodies were hanged, were shot, were incarcerated for the purposes of a land grab, but this land grab was also achieved in part by the interpretive move by the state: the move from the model of relationship to contract, with the subsequent move to inevitable contravention and the production of criminality. Stark then argues, this was the making and the masking of a ‘criminal empire’.47. This ‘criminal empire’ was driven by a desire for land and resources, achieved through the force of violence and executed and sealed through contractual thinking and law – a law that masked settler state criminality while producing Indians as criminals. I articulate Stark’s account and analysis to Rosas’s ethnography and also to Danaiyairi’s interviews because they all point to the press of states and law as they do their work of ‘governing’ and fail, at points, to achieve ‘perfect settler sovereignty’, ‘neoliberal sovereignty’ or what some might perceive as simply ‘governance’. The practices and techniques of institutional ‘recognition’, of bringing peoples presumed alterity into the ambit of the state through the devices of treaty, of contract, later of citizenship itself, the mechanisms of rights appear to offer fairness, protection a form of justice. All of these techniques also require concession to the authority of foreign and dispossessing political will but also serve to diminish the authority and sovereignty (even when recognised, ever so slightly), of robust Indigenous political orders. These varying accounts have demonstrated state’s effort to enclose life for land and sometimes their failure at this, but also in broad strokes, a kind of cunning practice of recognition and governance.48 In this, I mean a cal- culating effort to (in Lisa Ford’s terms) perform territorial rationality, jurisdiction and governance by any legal and discursive means necessary,49 but also to (in my terms) steal while making those who you steal from, the criminal. This is the ruse of consent, they did not consent to this fully, they know this, it is the liberal move again and again to pretend as if this ruse of consent signals freedom and the free will to consent to this. It is a ruse laid bare in these electoral moments in the U.S.A, when people are starting to point to where they think ‘the facts’ lie – where the origin stories are, and what the stur- diness of those stories is – all motivated by the specious grasp on both ethics and truth- telling by the current regime. These double moves are the conditions as well, for and of refusal. The ethnographic and historical cases here point to the multiple ways in which contrac- tual thinking and dispossession have produced historical consciousness in indigenous people that pushes against the contained, diagnostic language of politics (or perhaps pol- itical science itself) and rendered refusal an expression of this consciousness. Refusal is a symptom, a practice, a possibility for doing things differently, for thinking beyond the recognition paradigm that is the agreed-upon ‘antidote’ for rendering justice in deeply unequal scenes of articulation. A master and a slave are unequal. One owns the other. Seeking oneself in the gaze of another can be a fallacy of endless suffering if not in and of itself an impossibility. Will they see me as I ought to be seen? Turning away, as Coulthard has argued, and as I have argued and demonstrated in Mohawk Interruptus, is a technique, is a possibility.50 Every possibility is not in the gaze or the minds of the master, nor is the hope of mutuality (underwritten by a hope for sincerity) something that all seek. History is also littered with those painful, disappointing, mobilising stories of so many failed attempts at justice, and also at times, refusal. Why keep trying? One might wonder. This practice of refusal, one of various sorts, revenges the conceit of easy politics, of the very notion that Indigenous peoples had all things been equal would have consented to have things taken, things stolen from them. I have charted this out in this brief thesis on refusal. Rosas’ interlocutors smash these categorical impera- tives, what I call the ‘easy answers’. The people I work with refuse the eliminatory efforts of the state. They operate as nationals in a scene of wardship and dispossession. They are different from Rosas’ interlocutors, but they operate from a similar and flagrantly self- assured position, utterly escaping the answer that is easy to record or to analyse. My eth- nographic and analytical prerogative is to make the practice of ethnography itself a refusal in time with theirs.

#### Recognition coopts radical indigenous movements

Reinhardt 15 – PhD, Professor of History @ Towson --- review of Coulthard (Akim, “Red skin, white masks: Rejecting the colonial politics of recognition,” *Contemporary Political Philosophy*,” 15.1)//BB

Coulthard switches the usual focus on capital relation to an emphasis on colonial relation. After all, colonialism is an ongoing reality for many Indigenous peoples around the world who continue suffering from state intervention and repression. In critiquing the normative development model, Coulthard wonders, ‘what are we to make of contexts where state violence no longer constitutes the regulative norm governing the process of colonial dispossession, as appears to be the case in ostensibly tolerant, multinational, liberal settler polities such as Canada?’ (p. 15) If neither sheer violence nor the silent compulsion of capitalist forces explain it, then what accounts for the reproduction of capitalist hierarchies that find Indigenous peoples and societies at the bottom? As Coulthard points out: ‘In the Canadian context, colonial relations of power are no longer reproduced primarily through overtly coercive means, but rather through the asymmetrical exchange of mediated forms of state recognition and accommodation.’ In other words, for Indigenous peoples, capitalism is a function of colonialism, not vice versa. By re-working Marx and examining the ‘colonial-settler present’ Coulthard hopes to: move past orthodox Marxism’s economic reductionism; understand the innate injustice of colonial rule on its own terms instead of defining it as a byproduct of capitalism; overcome the overly materialistic and anti-ecological tendencies in Marx’s works by centering dispossession and paying particular attention to place-based Indigenous experiences; and recognize that dispossession, rather proletarianization, has been the dominant process defining the relationship between Indigenous people and the Canadian state. Coulthard also works extensively with the ideas of Frantz Fanon. Coulthard employs Fanonian theory to explain how colonialism made the transition from naked aggression to colonial governmentality, which uses state recognition and accommodation to limit the freedoms of colonized people. As the title of Red Skins, White Masks suggests, Coulthard leans on Fanon’s Black Skin, White Masks to make the case. Coulthard cites Fanon’s critique of the Hegelian master/slave dialectic to reveal how the liberal democratic politics of recognition and self-determination produces colonial thought, desire, and behavior among the colonized. Instead of an avenue toward freedom and dignity, recognition actually constitutes an arena of power in which colonial relations are produced and maintained. However, Coulthard is more critical of Fanon’s interpretation of culture, via the latter’s writings on negritude, and the limits Fanon placed on its ability to shape decolonization efforts. Through Fanon, Coulthard also discusses how, when state violence is not the main form of enforcement, colonialism relies on Indigenous people identifying, implicitly or explicitly, with asymmetrical and non-reciprocal forms of recognition that are either imposed or granted by the settler state and society. Coulthard is especially critical of the politics of recognition. He opposes Indigenous people’s quest for political and legal recognition from colonial power structures, and he critiques recognition schemes that acknowledge the collective rights and identities of Indigenous peoples only so long as they do not challenge the political and economic fabric of colonialism. Instead, he favors Indigenous people empowering themselves through individual and collective cultural practices that prefigure radical alternatives to colonial power. Thus, Coulthard condemns transitional justice mechanisms, such as reconciliation commissions, state apologies, and commissions of inquiry, noting that Canadian colonialism is not in a transitional phase but is rather ongoing. Such mechanisms insulate colonial abuses by relegating them to past, and thus implicitly support current colonial abuses such as dispossession. Coulthard also takes umbrage with the politics of reconciliation. He shows how since 1969, Canadian colonialism has moved from unconcealed action to a more disguised approach through state recognition and accommodation. All the while, dispossessions of Indigenous people’s lands and self-determining authority continues. And once again Coulthard turns to Fanon as he champions the transformative role of ressentiment. In the end, Coulthard advocates an Indigenous resurgence paradigm similar to the ones advanced by Indigenous scholars Taiaiake Alfred and Leanne Simpson. Coulthard champions direct action, opposition to capitalism, building through urban as well as rural Indigenous networks, overturning patriarchal norms spawned by colonialism, and ultimately moving beyond the nation state. Other theorists Coulthard considers along the way include Charles Taylor, Nancy Fraser, Dale Turner, Louis Althusser, Seyla Benhabib, Jean-Paul Sartre and Vine Deloria Jr. One of Red Skin, White Masks’ strong points is Coulthard’s narration and historical interpretation of Indigenous movements, including those of his own Dene people and the recent Idle No More protests. For example, he shows how Dene successfully challenged capitalism by pursuing political independence before being co-opted by recognition politics. During the 1970s and 1980s, Dene activists used Indigenous approaches and values to resist colonial expansion into their territories and to oppose capitalist extract resources schemes. Yet by the twenty-first century, many of the once radical activists had begun supporting the construction of diamond mines and the Mackenzie Valley Pipeline. An Indigenous struggle that was once informed by the land had transformed into a struggle for the land as recognition politics absorbed activists.

### State K

#### There’s an epistemology K of centering analysis on state/sovereignty

Visoka 18 – PhD, Assistant Professor of Peace and Conflict Studies at Dublin City University (Gezim, “Metis diplomacy: The everyday politics of becoming a sovereign state,” *Cooperation and Conflict*, <https://doi.org/10.1177/0010836718807503>, SAGE)//BB

The everyday has been taken for granted in mainstream IR debates. This has limited our understanding of the micro-politics and everyday practices that are constitutive of social and material aspects of IR. While the everyday as an epistemological and methodological site has been the bedrock for many feminist studies on power, hierarchy and inequality in world politics (see Linda Åhäll’s article in this special issue), the absence of the everyday is most notably evident in the study of the state and sovereign statehood. The dominant perspectives associated with mainstream IR scholarship conceive sovereignty as ahistorical, static, given and embedded in solid foundations, such as territoriality, power, anarchical equality, constitutional independence and non-interference (Bartelson, 1995). These accounts offer a rationalist and realist explanation of the contemporary nature of sovereignty. For example, Alan James (1999) approaches sovereign statehood from an institutionalist perspective, which depicts sovereignty as an artefact of legal arrangements that has the force of law, the possession of unlimited power and constitutional independence, and the control of internal and external policy flowing from a single unitary source. Such conceptions of state and sovereignty mainly draw their inferences from historical analysis or conceptual discussions from the observed practices and discourses of established sovereign states (Coggins, 2014; Fabry, 2010). They take the state and sovereignty as primitive and unproblematic starting points for analysis, while others take systemic factors as enablers of state formation. Consequently, mainstream institutionalist perspectives hide the human agency and everydayness of sovereignty by focusing on its structural and normative properties. Contrary to these views, constructivist, critical and poststructuralist approaches consider sovereignty a historical product that emerges through specific struggles, interactions and practices of states, which produce norms, rules and institutions that form the structural foundation of the international order. Thomas Biersteker and Cynthia Weber (1996: 11) define the ‘state, as an identity or agent, and sovereignty, as an institution or discourse, [which] are mutually constitutive and constantly undergoing change and transformation’. Endorsing ontological contingency, R.B.J. Walker (1993: 168) perceives the state as ‘constantly maintained, defended, attacked, reproduced, undermined, and relegitimised on a daily basis’. Critical accounts of sovereignty and state-making offer meta-theoretical and conceptual critiques of western democracies, thus ignoring new dynamics of statehood in global politics (Caspersen, 2012; Weber, 1998). While the constructivist constellations seek to break away from ahistorical views of sovereignty, they still are rooted in abstract inferences and normative frameworks of rule-based governance of political affairs. Across the board, these accounts on the changing nature of sovereignty do not explore sufficiently the everyday constitution, contestation and transformation of sovereignty. Often critical scholars seek to navigate non-institutionalized sites of power and agency to make sense of the productive nature of subjectivities. By doing this, they risk not only omitting the everyday life of political organizations, but also ignoring spaces where political relations, social interactions, epistemic knowledge and embedded practices and cultures clash, fuse, and produce new forms of symbolic power, exemplified through textual interactions, performative practices and entangled agencies (see Björkdahl and Buckley-Zistel, 2016). As this special issue demonstrates, a significant missing link in IR is the study of everyday dynamics of diplomatic interactions and how micro-politics are constitutive of world politics. Although the everyday has always been a subject in sociology and anthropology, in IR only recently have we seen a renewed interest in studying everyday forms of diplomatic agency, culture, and practice. The everyday is understood as ‘the spatiality of situated, mundane, and habitual practices, often little appreciated in IR because of their “routine” character versus the drive of crisis and globalist thinking’ (Acuto, 2014: 346). The everyday as a site, level of analysis and practice is crucial for capturing the praxeological mutation of sovereignty with all its contradictions and entanglements. As Christian Krohn-Hansen and Knut G. Nustad (2005: 12) maintain, ‘a modern state must be understood as produced by a broad and continuously shifting field of power relationships, everyday practices and formations of meaning’. Deriving from this, everyday diplomacy can be synonymized with ‘codes of indirection, listening skills, tact, coded gestures, staged performances and empathy’ which take place in non-institutional constellations (Constantinou, 2016: 24). While the notion of the everyday has come to be associated with peripheral sites of power and the exceptionality of sovereignty, the everydayness of official politics and institutional life where power and state sovereignty is assembled, constituted, circulated, and articulated through linguistic and performative actions is insufficiently explored. Although the everyday is often associated with ordinary, repetitive, mundane, and vernacular practices, it is profoundly a political phenomenon as it entails the site, space and scale where different forms of agencies (discursive, embodied, spatial, material, relational) emerge, which can impact local, national, regional and international politics. Especially, the everyday making of sovereignty in contemporary examples of state formation with contested sovereignty, different degrees of international recognition, and external engagement and acceptance remains under-researched. Such new explorations would complement existing studies on the everyday nationhood and citizen performances of identity (Fox and Miller-Idriss, 2012; Hartmann, 2007). Therefore, new conceptual and empirical research is pivotal to look at the everyday life of sovereignty and its coming to become a social fact in world politics through discourses, performances, and entangled agencies. In this regard, the everyday diplomatic micro-practices are essential for explaining macro effects in world politics.

#### The state K links, because the aff has to create one. One take could criticize the focus on institutional interests of great power instead of everyday performances

Visoka 18 – PhD, Assistant Professor of Peace and Conflict Studies at Dublin City University (Gezim, “Metis diplomacy: The everyday politics of becoming a sovereign state,” *Cooperation and Conflict*, <https://doi.org/10.1177/0010836718807503>, SAGE)//BB

Sovereignty is one of the major concepts underpinning contemporary domestic and international politics, while states continue to remain core units of international society (James, 1999). Despite many critiques of the state, independent statehood remains an ontological solvent to achieve collective self-determination for many ethnic groups. Although there is extensive research on the politics, legality and ethics of the right to self-determination, less work has been undertaken on the micro-politics and everyday practices of how independent statehood is achieved. Existing debates on state-becoming generally rest upon systemic factors, normative institutions and the preferences of great powers (Coggins, 2014; Krasner, 1999), thereby ignoring the everyday agency of unrecognized subjects in world politics. The everyday turn in international relations (IR) remains underdeveloped, both theoretically and empirically. So far, the notion of everyday is mainly associated with peripheral sites of power and the exceptionality of sovereignty, as well as non-elite practices and knowledge. Yet, the everydayness of elites, institutions and diplomatic practices where sovereignty is assembled, constituted, circulated and articulated through linguistic and performative actions is insufficiently explored (see Sending et al., 2015). Disentangling the everyday politics and diplomatic practices of new states is necessary to understand how new states build capacity to enter in international relations, which is one of the essential features of modern and recognizable statehood. Using James C. Scott’s (1998) concept of ‘metis’ knowledge, this study puts forward ‘metis diplomacy’ as a conceptual sketch to depict the everyday prudent assemblage of situated and practical diplomatic knowledge and skills that guide the writing, performing and entangling of sovereign statehood and the overcoming of external contestation. Metis signifies circumstantial and practical knowledge as a defining feature of bottom-up forms of social and political agency. Through the lens of metis practices, this article seeks to expand the study of the everyday by looking how elites, namely diplomatic corps, of emerging states practise state-becoming through everyday discourses, performances and entanglements with other states. Discourse at the centre of the study of everyday politics of statehood not only helps in viewing IR as intertextual relations, but also reveals how state-making is first and foremost an everyday text-making endeavour (Epstein, 2008). Metaphorically, wording sovereignty plays a significant role in ‘worlding’ sovereignty. However, discourse without performance remains a textual artefact short of social power. Performativity is what gives life to sovereignty. Diplomatic performances rely on the art of circumstances, which entails using situational and tactical knowledge to maximize effects (Butler, 2010; Scott, 1998). While everyday discursive and performative practices capture diplomatic inter-actions and mutually constitutive dynamics, the everyday is the site where agencies entangle, whereby intra-actions – namely related and unrelated actions, events and processes – may produce effects without direct discursive and performative encounter (Aradau et al., 2015). In this regard, both situated and remote global assemblages are crucial for explaining the complex causation and entanglement that facilitates and obscures acting in world politics. Accordingly, the concept of metis diplomacy assists in demonstrating how the everyday is the site where language, performance and agency not only challenge the existing international order but also contribute to the remaking of world politics.

### Queer Citizenship K

#### The valorization of recognition comes at the expense of queering citizenship entirely. The plan is a fleeting gesture towards freedom that reinvests in heteronormative political membership.

Phelan 14

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In democratic regimes, minorities can only change the rules if they persuade a substantial number of the majority that such changes are justified. Such changes are often fleeting and imperfect; we should not read every piece of legislation as reflecting perfectly the mood of the people at that time. Still, we can be confident that laws will endure only if they find reasonable accord with the population. Thus, citizenship for some depends upon the willingness of the majority to acknowledge them as members. This willingness in turn depends upon the construction of a new hegemony, with new readings of rights, equality, and membership. Overlooking the role of acknowledgment has led several scholars to assert recently that acting as a citizen—whether through voting or participation in electoral politics, demon- strations, or cultural strategies of visibility and confronta- tion—is sufficient for establishing one’s citizenship. Rightly noting that such action is essential to the idea of citizens as political actors rather than targets of policy, authors such as Lauren Berlant (1997) have stated or implied that such action is sufficient for citizenship regardless of the response of others. But citizenship and its practices cannot take place in a vacuum. Whether an action fosters citizenship depends upon the interplay between the actor and those with and toward whom s/he acts. It is never a matter simply between individuals or even between groups, but is a contest among and within polities concerning the constitution of those polities. Since citizenship is an element, perhaps the central element, in modern political con- structions of the “we,” its parameters and limits describe the polity’s sense of itself. Although dissent may be an important vehicle for expressing citizenship, dissent in the face of total rejection is not citizenship but rebellion. Such rebellion becomes citizenship not simply when the rebel claims to be a member of the polity, but when other members of that polity recognize her as such. This is not an all-or-noth- ing proposition: no polity of any complexity will be unanimous in its judgments, including cultural judgments about who is “really” a mem- ber. But we can use the concept of acknowledgment to evaluate whether and how particular polities incorporate diversities of various sorts, and how far that incorporation leads those polities to transform their dominant self-understandings. Whether and in what ways a polity is open to change can be signaled not only by who is allowed to hold office, but by how they are enabled or prevented from transforming public meanings. Queer citizenship will also be the emergence of major change in the American polity. Whether the citizenship of lesbians and gays will make such a difference is less clear. In order to make good on such sweeping claims, I will return here to several dilemmas of citizenship that have been visited in earlier chap- ters. Precisely because they are partially constitutive of modern citi- zenship, conceptions of bodies and kinship must be challenged if citizenship is to become open to all. These conceptions also point to avenues for alliances with overlapping or “other” groups. They also give substance to the distinction between “lesbian and gay” and “queer,” a distinction that has become increasingly important not only in political action but in controversies over the goals of such action. At the same time, the process of queering must extend into a deconstruction of the binary between these terms as well; as I argued in Chapter 4, a too-neat dichotomy between these both obscures the destabilizing moment in even modest proposals for change and ignores the partici- pation of queer politics in prevailing American norms of individualism and self-expression. The question, then, is not “queer or not,” or “how to make citizenship queer,” but how to queer citizenship—how to continue the subversion of a category that is nonetheless both crucial and beneficial for millions of people around the world. We may thus expect to find not only that the patriarchal and phallic foundations of citizen- ship must be chipped away, but that the modes in which we have thought about political membership are also not up to the task of re- imagining. Reaching this conclusion is not a cause for despair, but rather provokes the beginning in the middle that is all human action.

#### Progressive state action towards queer inclusion in citizenship is a liberal façade. The aff’s limited approach trades off with grassroots movements that are infinitely more effective than whatever the plan can offer.

Phelan 14

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Because citizenship is a political category, activists and theorists are likely to look to state apparatuses for its achievement or transformation. The membership needs of citizens cannot all be addressed by state venues, however, so an exclusive focus on the state will always be a mistake. This does not mean that any encounter with the state is a mistake. Legal challenges and legislative campaigns are not simply instrumental but also serve as sites of organization for broader community goals. It must be made clear, however, that such campaigns do not automatically produce public spaces; without a concerted effort at long-term community building, these campaigns can instead sap the energies of a group with little long-term result. Thus, lesbians and gays must focus on infra- structure as well as issue campaigns. Rights, however extensive, are not the sum of the definition of citizenship; or rather, rights can only become real in people’s lives when they are sufficiently supported culturally to be exercised. As the history of African-Americans demon- strates, legal rights without cultural and political support are simply the facade of rights. The drive for rights may at times in fact run counter to citizenship strategies. This is not a defect in rights, but reflects limited legalistic understandings of the place of rights in people’s lives. Seen as private possessions rather than as the vehicle and mode of communal membership, rights become the sum of citizenship. As formal rights are granted (the right to be “like us”), resistance grows toward any further considerations of the shape of the polity, such as social and economic patterns of discrimination. As the guarantor of individual liberty, rights seem to level the playing field and to leave the outcome to the individ- ual. Further consideration of the “we” is deemed either moralistic (if done by the Right) or whiny (if done by the Left). Thus, the public nature of citizenship, the binding of members to one another, is refused in a politics of rights alone. Citizenship is also limited by strategies of change that rely simply on the lobbying or legal efforts of national organizations. Such organiza- tions rely primarily on small staffs of professionals, who are paid to lobby or organize on behalf of “the community.” The organizations that purport to represent gays and lesbians have no local chapters, no conventions, no elections of their boards. The involvement of most members is limited to writing checks (Vaid 1995, 223). This does not mean that such organizations do not serve a purpose, but rather that their purposes are limited. Citizenship strategies must combine legisla- tive and judicial campaigns with social activism and education. In the absence of real changes of ideas and opinions, today’s legal efforts will be eroded as soon as our opponents organize. This organization is already visible in the legislation passed by Congress and many state leg- islatures that denies validation of any same-sex marriages that might be performed in their own or other states. Acknowledgments of citizenship are embedded within social struc- tures that afford recognition and reciprocity among members of a polity. Without such recognition and reciprocity, formal guarantees of protection and rights are fragile and unintelligible to many. There is no shortcut to equality or liberty; they must be fought for, not just in state houses but in media representations, news coverage, local and commu- nity affairs, financial and economic structures, and daily life. The greatest danger of a narrowed focus for activism is the conceit that legal admission to a few select institutions constitutes citizenship. Citizen- ship requires acknowledgment and inclusion in institutions, but it also requires a public culture of acknowledgment. If citizenship is to be more than a “right to certain privileges” (Ignatieff 1995), it requires the patience to build grassroots structures and the determination to confront the arguments against equal membership. Focusing on legislation when the culture does not offer lesbians and gays the real promise of equality will perhaps inevitably foster interest-group strategies over citizenship strategies. In so doing, activists run the risk of losing the battle for citizenship by fighting for rights. As a goal, citizenship has less to do with bundles of goods than with public acknowledgment as a member. The demand for citizenship is also a promise to undergo the risks and burdens facing members of that society, to unite one’s fate with that of one’s fellow citizens. As such, it militates against quick fixes or narrow visions of self-interest.

#### Queering citizenship requires destabilizing intimacy and desire in politics to generate new imaginations outside of legal recognition.

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This second element of queering citizenship is intimately related to the first: the end of the phallic citizen. A central element of phallic citizenship is the illusion that one is self-sufficient and the demand that others be as well. Although cultures are not like philosophies, with ideas neatly placed in alignment and checked for consistency, we can nonetheless see integral relations between dominant ideas about citizenship and kinship and those concerning race, gender, and sexuality. The persistent intertwinement of gender, race, and sexuality in modern America, and the extensively documented relations between each of these and citizenship and kinship, make clear that citizenship cannot be queered without confronting the structures of gender and race through which it is constructed. This is the persistent problem with strategies of entry that do not simultaneously account for gender and race: not only will they fail to achieve entry for those marked by those other structures, they will fail to make room for the ever-persistent blooms of strangeness within white middle-class gay men. Few are those who can be so confident that new blossoms will never grow in their soil. Queering citizenship, then, must be more than citizenship for queers—not because the latter is not good enough, but because it cannot be achieved without the former. While many les- bians and gays will achieve greater recognition and acceptance, the terms of that recognition will continually place them at risk of re-othering. The hidden links among kinship, citizenship, and bodies reside in our conceptions of what passions are appropriate in which areas of our lives. Queering citizenship will require a refocusing of the passions of citizenship. Currently the passions of adhesion—love (whether homo- social, familial, sexual, or all of these), empathy, desire—are slotted into compartments that hide their force in the construction of a common world. They are not absent, as liberals might hope and their critics might charge, but they are manipulated and interlaced with fear, anger, arrogance, and other “masculine” passions. Rather than building a foundation for republican government, the adhesive passions are re- served for the “private” world unless they can be marshaled to inspire unthinking support for government policy. And it is precisely their inevitable visibility in lesbian and gay politics that makes that politics so viscerally unnerving for so many. While all social movements must build on adhesive passions to form circles of solidarity, most movements continue to deny the bodily and sexual components of those passions. The love of co-protesters, we might say, is purely Platonic. But the rallying cry of lesbian and gay demonstrations—“an army of lovers cannot fail”—belies this sublimation/denial. Not only are gays and les- bians marked by their eroticism; queers who avow this eroticism in pub- lic (and not just the sanitized or regulated kinship forms through which the flow of eroticism is authorized) begin to demonstrate the presence of this eroticism in all collective endeavors. This does not mean that queers “don’t do” anger, fear, or other “masculine” passions, but rather that they combine them in ways that do not disavow their links to adhe- sive passions. Queer citizenship must make room not only for a spectrum of bodies and comportments, but also for new arrangements of passions. The masculine republican citizen must give way to a citizen neither infantile nor stereotypically feminine, but capable of acknowl- edging and thriving on the adhesive passions, using them to overcome fears and angers that have been the signature passions of our times. The democratizing force of “emotions” described by Nicholson must be combined with an “ethos of pluralization” to foster not only atten- tion and respect for emotions in others, but a new receptiveness to the play of unruly passions in ourselves. Rather than becoming “virtually normal,” Americans must seek out the strange and the unexpected in themselves and others. Most readers will likely recognize the magnitude of such a project, and surely the immediate chances for making such changes do not seem good. But cultural change is always a matter of gradual introductions of changes that do not seem possible until they happen. Although there is ample room for pessimism concerning the future of the United States and its citizens, that room will only increase if we do not imagine another future. It may well be that those who are currently sexual strangers will continue to be so for the duration of the American repub- lic, and well past it. I mean to suggest here not “what should be done” in order to guarantee the end (which means the universalization) of strangerhood, but to fire imaginations stunted by an overdose of American politics. As Connolly (1995, xiii) phrases it, I choose to “give priority to possibility over probability because closures in the pluralist imagination itself help to conceal or marginalize injuries and limits in need of political engagement.” As the old feminist motto says, women who aspire to be equal to men don’t aim high enough. Sexual strangers who want to be the citizens currently on model sell themselves, and everyone else, short. Let’s wait for a better offer.

### Feminist IR K

#### Personification of statehood comes from Montevideo

O’Donoghue ’18 O'Donoghue, Aoife (2018) '‘The admixture of feminine weakness and susceptibility’ : gendered personifications of the state in international law.', Melbourne journal of international law., 19 (1). pp. 227-258. <https://law.unimelb.edu.au/__data/assets/pdf_file/0005/3152489/ODonoghue-unpaginated.pdf>. (AF)

International law explicitly engages with both personhood and international personality, often utilising gender in times of invasion or economic crises.50 Other characteristics also play a role in our perceptions and this focus on gender does not exclude these other narratives, but rather, as Charlesworth argues, ‘locating the mechanisms by which international law sexes the state, so that the state cannot be plausibly presented as an abstract, neutral subject’ is critical to understanding what law attempts to do in these circumstances.51 The admixture of statehood and gender became entrenched under the Montevideo Convention and its constituent elements still negatively impact women.52 But this particular admixture became entrenched in the 19th century as the next section describes.

#### CIL utilizes gendered language for the state

O’Donoghue ’18 O'Donoghue, Aoife (2018) '‘The admixture of feminine weakness and susceptibility’ : gendered personifications of the state in international law.', Melbourne journal of international law., 19 (1). pp. 227-258. <https://law.unimelb.edu.au/__data/assets/pdf_file/0005/3152489/ODonoghue-unpaginated.pdf>. (AF)

Bluntschli defines the state in masculine terms:

— the State is a combination or association (Gesammtheit) of men, in the form of government and governed, on a definite territory, united together into a moral organised masculine personality; or, more shortly, — the State is the politically organised national person of a definite country.

Such personification asks the reader to associate particular masculine stereotypes with specific attributes of government. The masculine state, just as the male body is bounded and not subject to childbirth or penetration, does not allow for emissions or entries being in complete control of its borders and governance. The state is also a moral fraternity whose structure forms part of the natural order. Bluntschli links his definition to an organismic view of statehood in both domestic and international law; ‘[t]he recognition of the personality of the State is thus not less indispensable for Public Law (Statsrecht) than for International Law (Völkerrecht)’. These definitions idealise the nation state as having a set of characteristics reminiscent of the Montevideo Convention definition of statehood, which would thereafter become customary international law, a fixed border and population, control of internal and external affairs. As Carty observes, in the writings of this era only weak states betray ‘womanish fears’. Bluntschli links independent and ordered government to masculinity while connecting feminine qualities to a lack of governance and dependence: Strictly speaking, only those peoples in which the manly qualities, understanding and courage, predominate are fully capable of creating and maintaining a national State. Peoples of more feminine characteristics are, in the end, always governed by other and superior forces.76 Bluntschli suggests that states can progress toward masculine, or regress toward feminine, attributes but there are also peoples who are wholly incapable of ever developing masculinised governance and that this, as well as being part of the inevitable order of things, is a basis for imperialism. These peoples are, as feminine, underdeveloped and will forever lack the virtues we ascribe to the mature man and civilised state. The masculinity of the internal state and the external replication and representation of such masculine characteristics are common themes. Lorimer argues that for international law there is a particular governance trajectory: When contrasted with other branches of jurisprudence, there are several points of view in which the law of nations may be regarded as modern. There were not only men and families but there are unions of families into clans and tribes, bound together with ties of blood … and neighbourhood before there were those ethnological and geographical combinations which we call nations.77 Lorimer reaches back to a mythical era, a typical strategy of 19th century nationalism, which interlinks the natural male headed household as at the core of the operative state.78 Robert Lansing, writing in the first edition of the American Journal of International Law in 1907, makes a similar point by stating that the ‘inherent weakness of woman is still recognized in the states of the world, and the possession of sovereignty is deemed today a masculine prerogative just as it has been for thousands of years’. 79 Part of the colonising method was to remove women from governance so as to more fully resemble the Western male governance order. Lorimer ties the modern state to the possession of full internal control as masculinised governance. Bluntschli aligns this perspective with the Church’s role in the state: The French expression, L’état c’est l’homme, does not merely signify ‘the State is Man in general’ (der Mensch im Groszen), but ‘the State is the man, the husband (der Mann) in general’ as the Church represents the womanly nature in general, the wife (die Frau) … The highest conception of the State — which however has not yet been realised — is thus: The State is humanity organised, but humanity as masculine, not as feminine, the State is the man.80

#### Hegemonic masculinity undergirds criteria for state recognition

**O'Donoghue ‘18** (Aoife O'Donoghue, "The Admixture of Feminine Weakness and Susceptibility: Gendered Personifications of the State in International Law." Melbourne Journal of International Law, vol. 19, no. 1, July 2018, pp. 227-258. HeinOnline.)

Choice of language and structural forms were central to the modernisation of international law. While Orakelashvili argues that certain authors such as Lorimer bordered on racism, and Koskenniemi describes the language as 'striking', 6 1 both accounts underplay blatantly racist and misogynist language. Such language was neither inevitable nor can it be passed off as contextual to the time. 62 Before turning to that discussion, it is important to look to the texts themselves. In this era, the personification of the state was not hidden, it was blatant: The manly character of the State. The State, as the nation, consciously determining and governing itself, cannot afford to weaken its manly character by the admixture of feminine weakness and susceptibility ... The great danger, that political struggles would become more passionate and less amenable to the guidance of reason. The State would suffer if its passive elements were thus increased, and the active diminished ... Hence, while we may tolerate such exceptions as female succession to the throne, which in favourable circumstances and in a civilised country may do no harm, it would be disastrous to bestow political rights on women more generally.63 Bluntschli typifies this era's m6lange of ideas meshed together to depict the state. First, there is the character of the state, its attributes as self-governing and active, second, the dangers of feminine characteristics, third, the calamity of actual female governance and fourth, the disastrous consequences which would flow for the integrity of the Westphalian state should women be enfranchised. A clear view of what is masculine and what is feminine and the latter's unsuitability to either governance or political rights emerges. Also evident is the link between civilisation and masculine states. The degree to which feminised governance would lead to the disintegration of states is evident. The reasonability of the masculinised state enables it to hold together even when civilisation is in doubt, an attribute which could be undermined by the presence of women as constituents or constituted power holders. That non-civilised states in particular were at risk from feminised governance structures was played out in various imperial undertakings.

#### The idealized nation-state embodies attributes of hegemonic masculinity, and new states not yet recognized are ostracized for their femininity.

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Here, Phillimore aligns the female pronoun not with the divinely appointed position of the male state reaching its point of perfection. Allying femininity with the 'new' state that must, as yet, prove her worth rather than possessing a 'normal' position as a matter of right.7 1 The male state represents the natural order of social states, while the female state, not possessing this pre-ordained position, before admittance, must be adjudged by the Commonwealth to be capable of acting as they do and executing her obligations before gaining her rights. New states by being female are not yet fully capable of being members of the Commonwealth or, perhaps, as is more commonly articulated in the Statute of the Permanent Court of International Justice and the Statute of the International Court of Justice, must prove they are amongst the civilised 72 nations. Bluntschli defines the state in masculine terms: - the State is a combination or association (Gesammtheit)of men, in the form of government and governed, on a definite territory, united together into a moral organised masculine personality; or, more shortly, - the State is the politically organised national person of a definite country. 73 Such personification asks the reader to associate particular masculine stereotypes with specific attributes of government. The masculine state, just as the male body is bounded and not subject to childbirth or penetration, does not allow for emissions or entries being in complete control of its borders and governance. The state is also a moral fraternity whose structure forms part of the natural order. Bluntschli links his definition to an organismic view of statehood in both domestic and international law; '[t]he recognition of the personality of the State is thus not less indispensable for Public Law (Statsrecht) than for International Law (Vblkerrecht)'.74 These definitions idealise the nation state as having a set of characteristics reminiscent of the Montevideo Convention definition of statehood, which would thereafter become customary international law, a fixed border and population, control of internal and external affairs. As Carty observes, in the writings of this era only weak states betray 'womanish fears' .75 Bluntschli links independent and ordered government to masculinity while connecting feminine qualities to a lack of governance and dependence: Strictly speaking, only those peoples in which the manly qualities, understanding and courage, predominate are fully capable of creating and maintaining a national State. Peoples of more feminine characteristics are, in the end, always governed by other and superior forces. 76 Bluntschli suggests that states can progress toward masculine, or regress toward feminine, attributes but there are also peoples who are wholly incapable of ever developing masculinised governance and that this, as well as being part of the inevitable order of things, is a basis for imperialism.

#### The Montevideo Convention’s criteria for statehood is framed as neutral – but assumes the feminine state to be one that is incomplete

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In the imperial context personifications transferred gendered structures beyond Europe, muting women on whom imperialism bared down. States categorised to possess feminine characteristics were incomplete making colonisation an imperative. Failure to account for the gendered context of the creation of modem statehood in these texts where half the population are silenced perpetuates their authority into the 21st century. The Montevideo Convention's criteria on statehood are most often presented in contemporary textbooks as neutral qualities of statehood. Yet the permanent population, the defined territory, possession of a government and capacity to enter into relations with other states are demonstrated to be quite the opposite. 194 Each of these criteria operate upon a particular set of assumptions that, as Orford argues, has 'no place for those portrayed as unruly, disordered, subversive, primitive or irrational'. To be a feminine state is to be incomplete.196 To function within international law, a state must cohere to these stereotypes and scholars demonstrate that such underlying assumptions continue to resonate. This piece demonstrates that this can be directly drawn from the work of 19ti century scholars.

1. If you are unaware of the history of the McCarthy era “Red Scare” and the fallout from the community selecting the topic, take some time and read Dr. Louden’s compilation of information here, it’s fascinating and a reminder of debate’s lack of universal acceptance https://debate.wfu.edu/history/a-national-controversy-debating-red-china/ [↑](#footnote-ref-1)
2. Depending on the “what” the resolution includes to be recognized, “state” recognition may not include government recognition. We cannot promise Afghanistan-Taliban is part of the topic. Several definitions distinguish state recognition from government recognition. This may be fodder for tensions in how recognition works and thus affirmatives can argue for a change in the process, maybe even a derecognition of Afghanistan(?). [↑](#footnote-ref-2)
3. De Facto is not universally defined, however in general it assumes that a state has nearly all the statehood requirements of a state but has yet to be recognized as such by other established countries. [↑](#footnote-ref-3)
4. Visoka 2021, Gëzim, School of Law and Government, Dublin City University, Ireland. “Statehood and recognition in world politics: Towards a critical research agenda” Cooperation and Conflict ﻿1– 19 © The Author(s) 2021 DOI: 10.1177/00108367211007876 [↑](#footnote-ref-4)
5. See full article link here http://www.columbia.edu/~aw2951/WimmerFeinstein.pdf [↑](#footnote-ref-5)
6. [↑](#footnote-ref-6)
7. Inherency is strong with these affs (Yoda voice). [↑](#footnote-ref-7)
8. [↑](#footnote-ref-8)