

THE PRACTICE OF STATEHOOD AND RECOGNITION BY STATES IN INTERNATIONAL LAW

by Abdulsamad Abidemi Labaran

Submission date: 12-Dec-2018 09:18AM (UTC+0200)

Submission ID: 1055648795

File name: Abdulsamad_Abidemi_Labaran.docx (173.34K)

Word count: 15968

Character count: 116627



NEAR EAST UNIVERSITY
37 Years in Education

GRADUATES SCHOOL OF SOCIAL SCIENCES

DEPARTMENT OF LAW

**THE PRACTICE OF STATEHOOD AND RECOGNITION BY STATES IN
INTERNATIONAL LAW**

MASTER'S THESIS

ABDULSAMAD ABIDEMI LABARAN

(Student Number: 20175529)

Supervisor:

Dr Tutku Tugyan

NICOSIA

2018

DECLARATION

I hereby declare that this master's thesis titled "*The Practice of Statehood and Recognition by States in International Law*" Has been written by me self in accordance with the academic rules and ethical conduct. I also declare that all the materials benefited in this thesis consist of the mentioned resources in the reference list. To which I make certain with my honor.

ABDULSAMAD ABIDEMI LABARAN

11, December 2018

ABSTRACT

Master's Thesis

The Practice of Statehood and Recognition by States in International Law

Abdulsamad Abidemi Labaran

Near East University

Department of Law

Master's Programme

State creation under international law is defined by certain criteria, for a state to be given statehood it has to latch on to a define territory, a population; government and capacity to enter into relations with others. Notwithstanding these criteria there are states that fulfill these criteria for statehood and yet the international community denies its statehood. States that fulfill these criteria are not considered as state as a result of lack of recognition by other states and international community despite these assumptions, no standard definition exists for the term state. The definitions is rather determined by a set of criteria stated above yet are such criteria sufficient for the purpose of international law the basis of which depends entirely upon the notion of statehood.

This thesis will be centered on a discussion on the notion of statehood and recognition; this discussion will show the practice of states under these notions and also show how recognition has become a political motive of states. Furthermore there will be a case study which will be centered on the statehood of Somaliland right to secession and TRNC right to self-determination. However this study goes beyond the above and considers if Somaliland and

TRNC procure the standards of statehood and whether recognition should be placed or granted to both states and an argument will be made on the necessity of Turkey's invasion of Cyprus and why the invasion should not be a factor limiting TRNC's rights to statehood.

I will also argue that statehood should not work in line with recognition because recognition has to do with the political bias of a state and not based on its legality and also an institution should be put in place to determine recognition of states instead of the international community in this case the existing states.

Keywords: Statehood, Recognition, Defacto States, State Practice, International Community, State Bias

**THE PRACTICE OF STATEHOOD AND RECOGNITION BY STATES IN
INTERNATIONAL LAW**

CONTENT

DECLARATION	ii
ABSTRACT	iii
CONTENTS	v
ABBREVIATIONS	vii
LIST OF CONVENTIONS	ix

PART ONE

INTRODUCTION

§ 1. INTRODUCTION	1
I. PURPOSE OF THIS STUDY	3
II. RESEARCH QUESTION	4
III. METHODOLOGY	4
IV. RELEVANCE OF RESEARCH TOPIC	5
V. STRUCTURE OF THIS THESIS	5

PART TWO

THE NOTION OF STATEHOOD RECOGNITION AND DEFACTO STATES UNDER INTERNATIONAL LAW

§ 1. STATEHOOD, RECOGNITION AND DEFACTO STATES IN INTERNATIONAL LAW

I.	SCOPE OF STATEHOOD IN INTERNATIONAL LAW	7
II.	CRITICAL ANALYSIS OF RECOGNITION	14
	A. Theories Of Recognition	22
	a. Constitutive Theory	22
	b. Declaratory Theory	25

§ 2. DEFACTO STATE DOCTRINE

I.	THE DEFACTO STATE AND THE INTERNATIONAL COMMUNITY	28
II.	INTERNATIONAL LEGAL PERSONALITY TO DEFACTO STATES	30
III.	THE NEED TO RECOGNISE THESE STATES	33

PART THREE

STATEHOOD AND RECOGNITION CASE STUDY: SOMALILAND AND TRNC

§ 1. INTERNATIONAL RECOGNITION/STATEHOOD: SOMALILAND AND TRNC

§ 2. SOMALILAND CASE STUDY

I.	SOMALILAND RECOGNITION	35
A.	International Community and Somaliland	35
B.	Somaliland Under The Declaratory Theory Of Recognition And Secession	39
§ 3.	TRNC CASE STUDY	
I.	TRNC AND THE THEORIES OF RECOGNITION/ RIGHT TO SELF DETERMINATION	41
II.	TURKISH CYPRIOT UDI/TURKEY USE OF FORCE AND THE TREATY OF GUARANTEE	45
	CONCLUSION	48
	REFERENCES	52

ABBREVIATIONS

ART	ARTICLE
HL	HOUSE OF LORDS
IMF	INTERNATIONAL MONETARY FUND
ICJ	INTERNATIONAL COURT OF JUSTICE
ICESCR	INTERNATIONAL CONVENANT ⁴⁰ ON ECONOMIC SOCIAL AND CULTURAL RIGHTS OF STATES
ICCPR	INTERNATIONAL CONVENANT ON CIVIL AND POLITICAL RIGHTS
ILP	INTERNATIONAL LEGAL PERSONALITY
TRNC	TURKISH REPUBLIC OF NORTHERN CYPRUS
UDI	UNILATERAL DECLARATION OF INDEPENDENCE
UN	UNITED NATIONS
⁴⁸ USA	UNITED STATES OF AMERICA
UK	UNITED KINGDOM
US	UNITED STATES

LIST OF CONVENTIONS

THE ³⁸ MONTEVIDEO CONVENTION ON THE RIGHTS AND DUTIES OF STATES 1933

THE TREATY OF ALLIANCE 1960

THE TREATY OF GUARANTEE 1960

THE ³⁵ INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL
RIGHTS 1976

INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS 1976

PART ONE

INTRODUCTION

§ Introduction

Under international law a state comes into being when it fulfills certain criteria, this criteria serves as a definition of states in international law as there has been difficulty in defining what a state is among the international community¹.

In international level states perform a major act in the format of the type of accords that are formed or discarded, state creation under international law is complicated and entangled with developments which consist of a blend of both facts and laws of which it is associated with the formulation of specific factual situation and contentment of standardize criteria of statehood².

The creation of state has dominated the tracks of the international community as creation of state seems to be without an end. Everyday a new situation arises when an entity contesting statehood and recognition from the international community and these situations may come in the form of secessions and breaks-outs³.

As a result of these situations international law adopted the Montevideo criteria of what constitutes a state, under this convention a state must have or fulfill three criteria, Under Art 1 of this convention a state or entity must have (a) defined territory (b) a permanent population and (c) a government, even if a state possesses these factual criteria the creation of a new state is not guaranteed as there can be questions on the lawfulness appertaining to the new state announcement of independence e.g. TRNC and Somaliland, however there are various entities whom came into existence possessing these criteria and are conferred statehood e.g. South Sudan⁴.

But as a result of illegality in the declaration of independence of new entities on board are a list of thriving statistic of entities that are not recognized seeking statehood, also

¹ Steven Michael "34 v the international community made Cyprus settlement possible" Vol. 6, No. 1, 2001

² Chen Tesse, *The international law of recognition* (London: Stevens & Sons 1951)

³ 12 kson, Roberts and George, *introduction to international relations* (Oxford University Press, 2003)

⁴ Necatigil, Zaim *the Cyprus question and the position in international law*, (Oxford university press 1993)

there has been a growing number of entities that are unrecognized or defacto in nature due to unresolved issues that can be related to statehood e.g. Somaliland and TRNC⁵.

Existing states are of the notion that when a new state is created out of secession the existing state loses its territory hence states are reluctant in allowing secession be a norm in international law because no existing state wants to lose its political independence or territory due to secession⁶.

Recognition is seen as the next step after the criteria listed in the Montevideo Convention has been fulfilled, recognition serves as a medium of allowing or giving the new entity international legal personality which enables it to participate in the international community decision and also having rights. But this recognition has now been seen as a political tool used by states in determining which entity becomes a state⁷.

⁵ Under recognition two theories have developed which state what recognition is, these are constitutive theory and the declaratory theory, the constitutive theory is based on a notion pertaining to a state comes into existence only when it has been recognized by an existing state while the declaratory theory states that statehood is free from recognition and recognition is just an acknowledgement of the existence of the state, the declaratory theory emerges as the leading theory in the practice of recognition⁸.

The declaratory theory finds support under Art 3 in ⁹Montevideo Convention whichever states that the official/political actuality of a state is individualistic of recognition and Art 6 also confirms that recognition only shows that a recognizing state accepts the state and other rights and duties conferred in international law⁹.

From established above standard of statehood Somaliland and TRNC may be noted as a state because they have a territory/province, a government along with a stable population but yet these two entities have been disregarded by the international community due to facing unresolved

⁵ Chen Tesse, *The international law of recognition* (London: Stevens & Sons 1951)

⁶ Ncatigil, Zaim *the Cyprus question and the position in international law*, (Oxford university press 1993)

⁷ Ncatigil, Zaim *the Cyprus question and the position in international law*, (Oxford university press 1993)

⁸ Steven Michael "How the international community made Cyprus settlement possible" Vol. 6, No. 1, 2001

⁹ Chen Tesse, *The international law of recognition* (London: Stevens & Sons 1951)

statehood issues, the issues of Somaliland is that of secession from Somalia since Somalia is a failed state there is no government which Somaliland may contest its secession from¹⁰.

The issue of TRNC is that of Turkey use of force in territory appertaining to Cyprus which the international community has deemed to be the reason for the creation of TRNC. It is then that states must possess these criteria of statehood and thus recognition should follow to grant the new entity ILP giving it rights and duties under international law, but these act of recognition in practice has shown that recognition has been granted or withheld based on interest of states contrary to its legal nature.¹¹

There are four categories in which a state may recognize an entity due to self interest:

1. State may recognize an entity based on Geo-Strategic situations
2. A state may also recognize a new entity in the interest of political circumstances in its domestic affairs
3. A state may recognize to increase its prestige in the international plane
4. State may recognize *“new comers according to more limited understanding of appropriateness dependent on inter-group identity relations”*¹²

I. Purpose of this study

This thesis is centered on a discussion on what constitute a state and to determine if the notion of what characterize a state is accurately portrayed by the sets of criteria that determines statehood. By determine this notion of statehood I will give my opinion on the general practices of state in granting recognition; I will do this by historically examining states practices.

12

¹⁰ Necatigil, Zaim *the Cyprus question and the position in international law*, (Oxford university press 1993)

¹¹ Jackson, Roberts 34 George, *introduction to international relations* (Oxford University Press, 2003)

¹² Chen Tesse, *The international law of recognition* (London: Stevens & Sons 1951)

It is my aim in aforementioned thesis to critically criticize the notion of state hood in relation of recognition in political policy and legal angle of state practiced by analysis this I seek to give my opinion on the possible solutions to the problems of statehood.

I will also give my opinion that statehood and recognition should not work in line with each other, I will also make a discussion on the statehood of Somaliland right to secession and TRNC rights to self-determination.

The analysis of the above will be done under the criteria set ⁵ in the Montevideo Convention on the Rights and Duties of States and various scholarly articles on the notion of statehood and decision of international courts.

II. Research Question

This study will also answer the question of that the general criteria of statehood are and whether recognition is in fact political in nature or legal, also this research topic will be based on the following questions

- To determine if the existence of state can be accurately set out according to the criteria
- Are the criteria of statehood upheld in practice?
- Are Somaliland and TRNC states under the standards ascertaining statehood along with theories of recognition?
- Is the recognition important in determining statehood?
-

III. Methodology

This thesis will make use of methodologies by Legal writers, international courts decisions and philosophers whom have greatly analyze the intended topic.

This thesis will be composed of analysis on the practice of state, recognition and political interest of states.

The methods to be used in this research are books, electronic journals, scholarly articles, legal writings and international court decisions.

IV. Relevance of topic

Recognition is a way of granting ILP to new entities to join the international community although this recognition is irrelevant to statehood it acts an meaningful character in confirmation of new entities into the international community however recognition is not without ambiguities where by states are politically bias and may recognize an entity even if it doesn't fulfill the required criteria of statehood.

The relevance of this thesis is to state that if recognition is to be considered recognition should be free from the political bias of state even though it is also based on politics recognition should be done or granted without bias of national interest even though recognition doesn't create a state but acknowledges the existence of a state.

V. Structure of this thesis

This thesis is composed of three parts, it starts with an introductory part whereby under this part introduction, research questions, methodology, relevance of topic along with structure of this thesis was stated which gives an insight to the intended topic.

Parts two introduces the notion of statehood under the Montevideo Criteria, under this part ill state and analyze the notion of statehood, recognition and defacto states. This analysis will show practice of state affects recognition processes and also show the political interest of states.

Part three is a case study of statehood of Somaliland and TRNC under this part I will discuss and analyze the issues that caused this entities not to be recognized by the international

community, by doing his I will show the legal side of the declaration of independence of these entities

The last part of this thesis is a conclusion of the above and I will state my opinion on the topic discussed.

PART TWO

THE NOTION OF STATEHOOD RECOGNITION AND DEFACTO STATES UNDER INTERNATIONAL LAW

32

§ 1. Statehood, Recognition and Defacto States In International law

I. Scope of statehood in international law

What makes a entity a state? Covered by international law it is understood that a state has a starting point or a beginning, in which its presence as a state can be recognized and by which the state can enjoy having international legal personality¹³. Statehood is the title given to an entity that has certain elements which gives it an identity, thus under international practice this elements has been a strong point of discussion on what this elements are that gives rise to what statehood is when a new entity is created¹⁴.

The creation of new state as stated above is an ongoing process on what qualities an entity need to recognize statehood, as history shows in the 20th century there were only 50 states, as time moved on we now have approximately 200 states in the world today¹⁵.

These historical developments occurred as a result of decolonization and collapse of empires e.g. the Soviet Union, dissolution of Yugoslavia and various others, this development lead to many opinions on the formation of a state, some are of the opinion that *"the construction appertaining to a virgin state is amount to evidenced or actuality not including legislation"*¹⁶. Over the years several states have come about seeking statehood, and this results to what actually a state is¹⁷.

¹³ Joseph William "What Makes A State" <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 2 October 2018)

¹⁴ Joseph William "What Makes A State" <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 2 October 2018)

¹⁵ 30. Devine "The Requirements of Statehood Re-Examined" Vol. 34, No.4 1971. P. 410-417

¹⁶ 30. Devine "The Requirements of Statehood Re-Examined" Vol. 34, No.4 1971. P. 410-417

¹⁷ D.J. Devine "The Requirements of Statehood Re-Examined" Vol. 34, No.4 1971. P. 410-417

The definition of state has over the years dominated discussion in the international community the definition of this concept of what makes a state has been views differently by philosophers, lawyers and politicians. Grotius gave his notion of state *“as an entire corporation appertaining to freemen, merged for the pleasure of benefits and for their everyday pursuit”*¹⁸.

This notion can definitely be found in modern practice as a state is comprised of people who come together forming an identity with co-operation, however Crawford also stated that an entity or perfect community is whatever that has *“enteritis in its self, i.e. whatever is not among any association and whereby has its personal policy, laws and cabinet”*¹⁹.

Over the years several treaties have also tried to define the notion of what a state is e.g. The Vienna Convention on the law of Treaties (1956 and 1966), The Declaration on the Rights and Duties of States (1949)²⁰. However no standard definition could be reached due to political sensitivity between states²¹.

Some scholars have viewed states as having characteristics e.g. a state has territoriality in this I mean that a state must exercise control over its territory²². A state is seen as having control over its territory in this notion can etched back to the 16th and 17th century, during the medieval period was territoriality replace the *“Respublica Christiana”*²³ doctrine. Which rest on *“the essential concept of unity and acceptance in which the entire association of the commonwealth were under the supervision/jurisdiction of the monarch and pontiff”*²⁴.

This notion of territoriality occurred during the augury of the Peace Treaty of Westphalia, this treaty created a new *“political order”*²⁵ that a state should be a *“sovereign state governed by a sovereign”*²⁶.

¹⁸ James Crawford “The Creation Of States In International Law” (Cambridge university press 2013)

¹⁹ James Crawford “The Creation Of States In International Law” (Cambridge university press 2013)

²⁰ Hersch Lauterpacht “Recognition of States in International Law” Vol. 53, 1944, p. 358

²¹ Joseph William “What Makes A State” <https://thenewinternationallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 2 October 2018)

²² Joseph William “What Makes A State” <https://thenewinternationallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 2 October 2018)

²³ James Crawford “The Creation Of States In International Law” (Oxford Scholarship Online 2007)

²⁴ James Crawford “The Creation Of States In International Law” (Oxford Scholarship Online 2007)

²⁵ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

²⁶ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

The definition of statehood has proven too difficult as a result of this guidelines have been developed to ascertain what entity could constitute a state²⁷. These set of guidelines can be found under Article 1 of the Montevideo Convention on the Rights and Duties of states, these guidelines conferred as sets of criteria which a state must fulfill to be regarded as a state in which this set of criteria are based on effectiveness²⁸.

Effectiveness is also known as the “*Principle of Effectiveness*”²⁹, this principle is based on the factual existence of effective supervision over an area by a state, here the principle has been under international law and is important because as stated by the arbiter that in the case of *Deutsche Continental Gas-Gesellschaft v Polish State* 5 ANN DIG ILC “*a state doesn't stand unless it observes the criteria of possessing a territory, a people possessing a territory and a civil authority which is applied upon the community and area*”³⁰.

Also the importance of effectiveness was stated by philosophers e.g. Shaw who stated that “*the eventual control over an area is the basis of a state*”³¹ and also Jellinek gave certain elements which can also be found under Art 1 of the Montevideo Convention, he stated: an entity must have in it government, a territory and a population³².

Furthermore a state existence is now characterized by certain criteria it has to fulfill³³. The characteristics relating to the concept of statehood are an entity need to have a defined territory, a permanent population, a government and the capacity to enter into relations with other states³⁴. Under international law this concept is codified in the Montevideo convention on the rights and duties of states³⁵. This means a state only exist on a factual note.

Article 1 of the Montevideo Convention criteria has been approved as the document or codification which contains the criteria that defines statehood, this article states that

⁶ UIO “ Montevideo Convention on the Rights and Duties of States”
<https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml> (Accessed 2 October 2018)

⁶ UIO “ Montevideo Convention on the Rights and Duties of States”
<https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml> (Accessed 2 October 2018)

²⁹ James Crawford “ The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

³⁰ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

³¹ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

³² James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

³³ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

³⁴ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

³⁵ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

“The entity as a personality of international law must possess the subsequent competence (a) permanent population (b) a defined territory, (c) a government and (d) capacity to enter into relations with other states”³⁶.

Under last criteria relations means that after a state fulfills the criterion a state can come into relationship with other states as an entity cannot come into relationships if it doesn't exist³⁷

According to Max Huber the principle of effectiveness a state can only exercise authority over its territory if *“provincial dominance which involves the absolute right to display the enterprise of a state, this privilege has collar duty the commitment to protect within the province the interest of other state, in particular their rights to integrity and inviolability in peace and war together with the rights each state may claim for its nationals in foreign territory without manifesting its territorial sovereignty in a manner corresponding to the circumstances the state cannot fulfill this duty”³⁸*. However in state practice effective control is likely to be *“less stringent”³⁹* as Bosnia-Herzegovina was given statehood despite not having effective control over parts of its territory⁴⁰.

Under the listed criterion of Art 1 a defined territory being the first simply means that an entity has to possess a territory to exist this territory/area is defined as it must be free from any neighboring state and also having effective control over the territory⁴¹. Under this criterion there is no minimum area of territory, this can be seen in practice in the state of guinea which has 245, 857 km of territory⁴². It is to be established that disputes over border doesn't stop a state's statehood as seen in the territorial disputes between Israel and Palestine⁴³. Territory of states is a geographical area which composes of the soil, sub soil, maritime area and airspace to what end it exerts control over under international law in which the area may be unceasing or ceasing.

⁶ UIO “Montevideo Convention on the Rights and Duties of States”
<https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml> (Accessed 2 October 2018)

⁶ UIO “Montevideo Convention on the Rights and Duties of States”
<https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml> (Accessed 2 October 2018)

³⁸ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

³⁹ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

⁴⁰ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

⁴¹ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

⁴² James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

⁴³ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

monumental or limited along with not having to have need for a defined border or absence of territorial broil⁴⁴. An example of this can be seen in territory of Liechtenstein which is a state that has 160sq km which joined the UN and became a member in 1990⁴⁵.

Statehood territory under international law does not depend upon continuum of the territory. This is seen between the conflict between Palestine and Israel⁴⁶.

This principle can be seen under the ⁴⁶ North Sea's Continental Shelf I.C.J Reports 1969, p.3 case where ICJ stated that

*"the appurtenance of a given state, considered as an entity in no way governs the precise delimitation of its boundaries anymore that uncertainty as to the boundaries can affect territorial rights. There is for instance no rule that the land frontier of a state must be fully delimited and defined and often in various places and for long periods they are not as is shown by the case of the entity of Albania into the League of Nations"*⁴⁷.

²⁵ Crawford in relation to the above stated that *"a new state can stand despite allegations to its territory/area or boundary, just as a current state continues against such allegations"*.⁴⁸ He also noted that claims can also be against an entire territory of state. In which he stated that *"claims to entire territory of a state have been commonly been raised in the context of admission to the United Nations: this was the case of Israel and also with Kuwait, Mauritania and Belize, the alleged independence or autonomy of Oman from Sultanate of Muscat and Oman in a sense raised the issue but more important problems were whether the territory constituted a protectorate and whether the matter was one for the committee of twenty-four, the proposition that a state exist despite claims to the whole of it territory was not changed in these cases"*⁴⁹.

⁴⁴ Amos o. Enabulele "statehood and self-determination" <https://tandfonline-com.ezproxy.neu.edu.tr/doi/full/10.1080/03050718.2013.870812> (Accessed 3 October 2018)

⁴⁵ Amos o. Enabulele "statehood and self-determination" <https://tandfonline-com.ezproxy.neu.edu.tr/doi/full/10.1080/03050718.2013.870812> (Accessed 3 October 2018)

⁴⁶ Amos o. Enabulele "statehood and self-determination" <https://tandfonline-com.ezproxy.neu.edu.tr/doi/full/10.1080/03050718.2013.870812> (Accessed 3 October 2018)

⁴⁷ ICJ "North Sea Continental Shelf Cases" <https://www.icj-cij.org/files/case-related/51/051-19690220-JUD-01-00-EN.pdf> (Accessed 3 October 2018)

⁴⁸ James Crawford "The Criteria for statehood: Statehood as Effectiveness" (Oxford Scholarship Online 2007)

⁴⁹ James Crawford "The Criteria for statehood: Statehood as Effectiveness" (Oxford Scholarship Online 2007)

The statehood of a new entity cannot be questioned due to the “*boundaries or territorial dispute*”⁵⁰ and also there is no specific size of territory in practice e.g. there are microstates like Liechtenstein and very large entities like Russia or China⁵¹.

The second criterion population prose that an entity after possessing a defined boundary/territory must have stable population or permanent population⁵². Crawford under this criterion stated that “*if states are territorial substance, they are also accumulation of individuals*”⁵³. Under this criterion the population has to be composed of a human group residing forever in the territory⁵⁴.

A definition of population is seen as “*an aggregate of individuals having both sexes i.e. male and female gender living together as a community*”⁵⁵ Notwithstanding this definition a state population mustn’t be of one race or ethnicity in other to be considered as a population not to create a confusion between a population and the concept of people⁵⁶. The population of a territory can comprise of different individuals of separate race, culture and ethnicity⁵⁷.

A territory relation with its population is embodied in its nationality that is admitted by any state in relations to its domiciliary criterion⁵⁸. Under this criterion no minimum or maximum number of persons is required to be known as a population and given qualification as a state to which the international community proclaimed that “*population must not possess tyrannically*
45 *defined in structure to be regarded as permanent, nor does it possess located in one label place*

³⁰ 30 J. Devine “The Requirements of Statehood Re-Examined” Vol. 34, No.4 1971. P. 410-417

⁵¹ D.J. Devine “The Requirements of Statehood Re-Examined” Vol. 34, No.4 1971. P. 410-417

⁵² James Crawford “statehood and recognition” (2nd edn, Oxford Scholarly 2007)

⁵³ James Crawford “statehood and recognition” (2nd edn, Oxford Scholarly 2007)

⁵⁴ Joseph William “What Makes A State” <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 3 October 2018)

⁵⁵ Joseph William “What Makes A State” <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 3 October 2018)

⁵⁶ Joseph William “What Makes A State” <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 3 October 2018)

⁵⁷ Joseph William “What Makes A State” <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 3 October 2018)

⁵⁸ Fatim¹ Mushurova “The Creation of New States in International Law” <https://CiteSeerX.ist.psu.edu/viewdoc/download?doi=10.1.1.869.6025&rep=rep1&type=pdf> (Accessed 3 October 2018)

for any specific period of time”⁵⁹. Thus a state population amounts to people residing in an area and relishing the state nationality including inherent citizens residing in foreign lands⁶⁰.

The third criterion is a state must have government; a state is to possess government i.e. an effective government⁶¹. A state is supposed to possess government that exercises authority over its boundaries/territory, this criterion pertains as important due to “government control is the ground for normal state to state relations”⁶². A government of a territory has to have effective control and act independently from another sovereign authority⁶³. The reason for a state to have a government is to socially organize the people living in the territory governed and represented by an authority than can effectively exercise the international obligation of the state on the territory of the state⁶⁴. Independence of the government simply means the government should not obey orders from other state by acting in an autonomous way⁶⁵.

There is no requirement as to the type of government a state is to run on, as there is freedom under international law to choose any form/nature of government they prefer e.g. a state may choose to be a monarchy, a federal state or a military dictatorship⁶⁶.

According to Crawford “the application of the benchmark of government in tradition is much less easy”.⁶⁷ He stated this because the criteria of statehood are formal and absolute, the illustrated this by using Congo as an example Congo had several issues ranging from “absence of any effective preparation for independence to division of central government”⁶⁸. But this with this it was still conferred statehood and accepted into the United Nations, the viewed this

⁵⁹ Fatima Mushurova “The Creation of New States in International Law”
<https://CiteSeerX.ist.psu.edu/viewdoc/download?doi=10.1.1.869.6025&rep=rep1&type=pdf> (Accessed 3 October 2018)

⁶⁰ Fatima Mushurova “The Creation of New States in International Law”
<https://CiteSeerX.ist.psu.edu/viewdoc/download?doi=10.1.1.869.6025&rep=rep1&type=pdf> (Accessed 3 October 2018)

⁶¹ Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁶² Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁶³ Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁶⁴ Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁶⁵ Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁶⁶ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

⁶⁷ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

⁶⁸ James Crawford “The Criteria for statehood: Statehood as Effectiveness” (Oxford Scholarship Online 2007)

situation by stating, *"The need of government is less strict than has been perceived, at least relating to this context"*⁶⁹.

With this above said a state can still exist despite not having a government and this can also be seen in the case of Germany which was left without a government after the fall of the Third Reich⁷⁰.

The last criterion works after a state has established its self as a state then that an entity is competent of getting into relations with alternative states⁷¹. Having satisfied these sets of criteria is then possible to identify which entity is a state; these set of criteria helps in identifying that *"what we have in front of us is indeed a state rather than something like a tribe or an international organizations"*.⁷²

II. Critical Analysis of Recognition

State recognition has to do with an entity that has fulfilled the criteria for statehood being recognized by the existing states⁷³. State recognition is seen as *"a single bullet gun"*⁷⁴ in which recognition can be used only once in relation to the entity seeking recognition⁷⁵.

State recognition under international law is seen as a *"discretionary act"*⁷⁶ in which no obligation is placed on an existing state to recognize the existence of an entity⁷⁷. This discretionary act is used by a current state to recognize an entity as it sees it fit⁷⁸.

This act of recognition has been deemed to be declaratory meaning recognition has no legal effect and it is based on a political act⁷⁹.

This political act has a great influence on state recognition a new state tend to not recognize a state due to political interest or may choose to recognize a state because of the

⁶⁹ Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁷⁰ Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁷¹ Antonio Cassese, *International Law* (Oxford University Press, 2005)

⁷² James Crawford, *The Creation of state in international law* (Oxford University Press, 1979)

⁷³ Hans Martin Blix, *Contemporary aspects of Recognition* Vol.130. 1970, PP. 611-631

⁷⁴ Hans Martin Blix, *Contemporary aspects of Recognition* Vol.130. 1970, PP. 611-631

⁷⁵ Hans Martin Blix, *Contemporary aspects of Recognition* Vol.130. 1970, PP. 652-677

⁷⁶ Hans Martin Blix, *Contemporary aspects of Recognition* Vol.130. 1970, PP. 652-677

⁷⁷ Hans Martin Blix, *Contemporary aspects of Recognition* Vol.130. 1970, PP. 652-677

⁷⁸ Hans Martin Blix, *Contemporary aspects of Recognition* Vol.130. 1970, PP. 652-677

⁷⁹ Hans Martin Blix, *Contemporary aspects of Recognition* Vol.130. 1970, PP. 587-592

existing state having political interest in the new state⁸⁰. It is said that Great Powers in the international community also place a part in recognition of state as if a Great Power influences the decision to recognize an entity may become a state even if other less powerful state refuse and also other less powerful states may be reluctant to recognize a new entity because of the Great Power state refusal to recognize the new state⁸¹. Accordingly their *“decision has a great duty in recognition and evidently in stating statehood’s meaning for its contestants”*⁸².

Thus recognition in practice is a privileged of existing states to use their political bias thoughts to affect the recognition of an entity, this instance can be seen when the US recognized Israel as a state due to its political interest in Israel⁸³. Peter Malanczuk has state that *“recognition is one of the most difficult topics and it is a confusing mixture of politics, international law and municipal law”*⁸⁴. This has led to several state to n be conferred statehood and recognition, but in my opinion I am against this ideal of an entity being a state if it has been recognized by other existing states. I.e. statehood is dependent on recognition. I feel statehood is based on factual criteria of statehood and recognition simply is an admission into the international community. As Crawford stated *“an entity is not a state because it is recognized, it is recognized because it is a state”*⁸⁵.

According to discussions over what makes recognition certain requirements have been placed which includes sovereignty, this simply means that an entity must be sovereign⁸⁶. Hill Gruber suggested that *“recognition is the act of getting status which resulted that under international law recognizing entity gets the legal status of a state”*⁸⁷.

⁸⁰ Hans Martin 2 ix, Contemporary aspects of Recognition Vol.130. 1970, PP. 587-592

⁸¹ Hans Martin 2 ix, Contemporary aspects of Recognition Vol.130. 1970, PP. 587-592

⁸² Hans Martin 2 ix, Contemporary aspects of Recognition Vol.130. 1970, PP. 587-592

⁸³ Hans Martin 2 ix, Contemporary aspects of Recognition Vol.130. 1970, PP. 632-651

⁸⁴ Hans Martin Blix, Contemporary aspects of Recognition Vol.130. 1970, PP. 632-651

⁸⁵ James Crawford “statehood and recognition” (2nd edn, Oxford Scholarly 2007)

⁸⁶ James Crawford “statehood and recognition” (2nd edn, Oxford Scholarly 2007)

⁸⁷ Ali Zounuzy Zadeh “ International Law and The Criteria for Statehood” <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 5 October 2018)

Recognition creates a problem in practice as to how many states recognition act is need for an entity and also this causes problems in relation to courts in relation to the “external”⁸⁸ and “internal”⁸⁹ consequences of non-recognition⁹⁰.

This can be seen in the case of ²⁹ HESPERIDES HOTELS LTD V AEGEAN TURKISH HOLIDAYS LTD, MUFTIZANDE: HL 1978 AC 508, where Lord Denning stated that

“The executive is concerned with the external consequences of recognition, vis-à-vis other states. The courts are concerned with the internal consequences of it, vis-à-vis private individuals so far as the courts are concerned, there are no many who hold that courts are entitled to look at the state of affairs actually existing in a territory, to see what is the law which is in fact effective and enforces in that territory and to give such effect to it- in its impact on individuals- as justice and common sense require provided always that there are no considerations of public policy against it”⁹¹.

This doctrine came about in determining if the law of “*Turkish federated state of Cyprus could be applied to a tort claim even though the foreign and common wealth office has certified that the United Kingdom did not recognize that entity as a state*”⁹². As Crawford stated “*legislations has sometimes had to be passed authorizing courts to treat unrecognized entities as law areas for various purposes, in order to separate non-recognition from its consequences*”⁹³ and also he stated that “*recognition have legal and political effects*”⁹⁴.

Recognition to me should not be a factor which statehood depends on, statehood is a factual situation and recognition is just an acknowledgement of that factual existence of a state, because of recognition is denied does it mean that a state that didn’t recognize the new state will “*disregard its nationality, to interfere in its affairs, generally to exclude the practice of the entity*

⁸⁸ Ali Zounuzy Zadeh “ International Law and The Criteria for Statehood” <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 5 October 2018)

⁸⁹ Ermira Mehmeti “Recognition in international law” Vol. 2, No. 2, 2016. P. 245

⁹⁰ Ali Zounuzy Zadeh “ International Law and The Criteria for Statehood” <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 5 October 2018)

⁹¹ Swarb.co.uk “May The Law Be With You” <https://swarb.co.uk/hesperides-hotels-ltd-v-aegean-turkish-holidays-ltd-muftizahde-hl-1978/> (Accessed 8 October 2018)

⁹² Ali Zounuzy Zadeh “ International Law and The Criteria for Statehood” <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 8 October 2018)

⁹³ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

⁹⁴ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

rights under international law”⁹⁵. The answer is definitely NO as Crawford suggested that “*prominence of a state is not reliant on recognition*”⁹⁶.

Thus recognition in practice has caused several entities that possess the entire criterion for statehood not to be deemed ³⁷ as states by the international community due to their non-recognition. Examples are, TRNC, Somaliland, South Ossetia and Abkhazia⁹⁷.

This situation brings the “*key question in the discussion about the legal effects of recognition whether the formation of a state is dependent or independent of recognition by the exiting state*”⁹⁸. Subsequently on this question I place my argument that the formation of a state is independent of recognition⁹⁹.

My argument is that recognition is like an acknowledgement that an entity is a indeed a state, statehood simply means that a state has certified the criteria that makes it a state it will be unnecessary to say that such statehood shouldn't be conferred on the state because certain or all exiting state refuse to recognize the entity¹⁰⁰.

As can be seen recognition doesn't make statehood it is then to be said that statehood should not be dependent on recognition¹⁰¹. After state has fulfilled the criteria of statehood its statehood shouldn't be disregarded because of non-recognition¹⁰².

⁹⁵ Enrico Milano "The ¹⁵trine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes" <http://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf> (Accessed 9 October 2018)

⁹⁶ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

⁹⁷ Enrico Milano "The ¹⁵trine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes" <http://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf> (Accessed 9 October 2018)

⁹⁸ Enrico Milano "The ¹⁵trine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes" <http://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf> (Accessed 9 October 2018)

⁹⁹ Enrico Milano "The ¹⁵trine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes" <http://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf> (Accessed 9 October 2018)

¹⁰⁰ Enrico Milano "The ¹⁵trine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes" <http://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf> (Accessed 9 October 2018)

¹⁰¹ Ali Zounuzy Zadeh “ International Law and The Criteria for Statehood” <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 10 October 2018)

¹⁰² Ali Zounuzy Zadeh “ International Law and The Criteria for Statehood” <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 10 October 2018)

Statehood should definitely not work in line with recognition because statehood creates a kind of independent notion of state and an existing factual entity which can be identified. Recognition I feel I just being part of an international community for a state which has not been recognized is part of the international community, recognition to me is like a ticket to be among the Big Dogs i.e. the international community¹⁰³. And if a state isn't part of it, it shouldn't affect its statehood as recognition is based on the political bias of states¹⁰⁴.

Most recognition in practice as I stated before has come about because of political motives of existing states¹⁰⁵. Statehood should be an independent notion as the criteria fulfilled means that the new state has dominance the boundaries or territory it possesses and exercises jurisdictions over its population/people, with this statehood is a notion that is free from recognition as state can still function/exist in a factual sense even without recognition thus this notion of statehood¹⁰⁶.

According to several writers the act of recognition has been deemed to be in the nature of policy rather than by law, this means that exiting states grant recognition not because there was a legal duty to do so but because of national interest it will gain from the new entity to be recognized.¹⁰⁷

This political nature of recognition cannot be highlighted without first testing this nature by the practice of states, the question to be asked here is that, is the practice of state in granting or not granting recognition based on political gain and not stationed on the doctrine of legality or legal doctrine.¹⁰⁸

The practice of great powers pays a huge role in deciding which entity is to be recognized or not this can be seen in relation to former Yugoslavia in which Great Powers took a

¹⁰³ Ermira Mehmeti "Recognition in international law" Vol. 2, No. 2, 2016. P. 245

¹⁰⁴ Ali Zounuzy Zadeh "International Law and The Criteria for Statehood" <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 10 October 2018)

¹⁰⁵ Martti Koskenniemi "The Politics of International Law" <https://heinonline-org.ezproxy.neu.edu.tr/HOL/Page?handle=hein.journals/eurintl&div=6&id=&page=&collection=journals> (Accessed 10 October 2018)

¹⁰⁶ Martti Koskenniemi "The Politics of International Law" <https://heinonline-org.ezproxy.neu.edu.tr/HOL/Page?handle=hein.journals/eurintl&div=6&id=&page=&collection=journals> (Accessed 10 October 2018)

¹⁰⁷ Hersch Lauterpacht "Recognition of States in International Law" Vol. 53, 1944, p. 418

¹⁰⁸ Bridget Coggins "Secession, Recognition & International Politics Of statehood" https://etd.ohiolink.edu/etd.send_file?accession=osu1154013298 (Accessed 10 October 2018)

role in the recognition of the new entities e.g. Croatia was a part of Yugoslavia and was granted recognition after its break from the former despite not having exclusive control over its territory, but the minister of state of Britain came to the defense of this act by stating that “ *Croatia was special case where the rules of international law did not apply*”¹⁰⁹

The practice of USA has also shown the shift from a legal duty to recognize or be recognized to a political motivated non-recognition of an entity e.g. Chechnya which had established a relatively strong will of domestic sovereignty by ousting the Russian army in 1996 the US didn't come to its aid because it saw Russia as a democratic and liberal ally.¹¹⁰

It is evident that the examples existing states don't really follow the listed criteria in recognizing or not recognizing a new entity, these Great Powers have placed their act n the grounds that the criteria listed does not apply to the entity they granted recognition to¹¹¹.

However it is ironic that these sets of criteria was made by them and yet in practice the criteria plays little or no role in deciding recognition, it is clear that state interest may eventually edge international law as state recognize or do not recognize an entity because of its alternative ends by disregarding the law.¹¹²

It is now obvious that the political aspect f recognition has constituted a misconduct to the rules of recognition in pursuit of personal interest, Also in 1918 Britain abused the function of recognition by offering to recognize the then Defacto State of Finland if the Finnish government would get the release of British nationals who had been captured by the Germans in Finnish territory, this situation has been seen as an attempt to make recognition an item of negotiation.¹¹³

It is to be stated that recognition has been deemed as declaratory of an existing matter however an affirmation to recognize a state due to its fulfillment of the necessary criteria leads to

¹⁰⁹ Ermira Mehmeti “Recognition in international law” Vol. 2, No. 2, 2016.

⁷ Andrew Cannon “Recognition and International law”
https://www.chathamhouse.org/sites/default/files/field_document/Meeting%20Summary%20Recognition%20States.pdf
²⁴ ccessed 10 October2018)

¹¹¹ Lassa Oppenheim. *International law: A Treatise* (5th edn, Lauterpacht ed, 1940 & 1947)

¹¹² ²⁴ xender Orakhelashvili “Statehood, Recognition and the United Nations”. Vol. 12, 2008, P. 13

¹¹³ Lassa Oppenheim. *International law: A Treatise* (5th edn, Lauterpacht ed, 1940 & 1947)

it being constitutive, both theories of recognition have opposed the doctrine of recognitions been a legal duty to a community that claims it.¹¹⁴

According to writers the constitutive views and declaratory view most especially is inconsistent with practice of state, however this declaratory view is still widely accepted due to its reaction against the political nature of recognition, it is obvious that recognition has some elements of politics in it but such political policy should not be conducted with bias.¹¹⁵

Bluntchli wrote in 1868 that

*“ so long as the open struggle for the establishment of the new state last and so long as it is doubtful whether a new state has risen, no other state is bound to recognize the new state, the newly created state has a right to enter into the international community and to be recognized by other states if it exist and because international law unites states of the world into a common legal system. The existing state can no more arbitrarily exclude a state from the society of states than they can themselves withdraw arbitrarily form that society”*¹¹⁶

With the above said recognition has shown in practice to be problematic as is hard to determine how many state recognition is needed for a new entity to be recognized, this can be solved if there was collectivization in the process of recognition though recognition though recognition is declarative but it is also constitutive n practice.¹¹⁷

This collectivization will be dependent on an aerial severity of political amalgamation of the international community as an international organization, this simply means that if an organization that can act universally is given sovereignty to act as an intentional legislation of states, this organization can be made to act outside the interest of its membership and create a sense of collective recognition.¹¹⁸

¹¹⁴ Anthony Murphy “State formation and Recognition in International Law”

https://www.esearchgate.net/publication/318110618_state_formation_and_recognition_in_international_law
(Accessed 10 October 2018)

⁷ Andrew Cannon “Recognition and International law”

https://www.chathamhouse.org/sites/default/files/field_document/Meeting%20Summary%20Recognition%20States.pdf (Accessed 10 October 2018)

¹¹⁶ Alexander Orakhelashvili “Statehood, Recognition and the United Nations”. Vol. 12, 2008, P. 1-44

¹¹⁷ Hersch Lauterpacht “Recognition of States in International Law” Vol. 53, 1944, p. 450

¹¹⁸ Hersch Lauterpacht “Recognition of States in International Law” Vol. 53, 1944, p. 442

Also the problem of recognition can also be cure if the international courts could act a agent of recognition, the ICJ being the highest Judicial Authority can be granted the power to grant recognition which can be based on applications, this can be possible due to its statutes and applicable rules or also a legislative organ of the international community can also be granted the power of granting recognition in which the judicial authority and the legislative organ can work hand in hand through advisory opinion in achieving this nature course¹¹⁹.

My reason for this is that if recognition is to be considered then it should be determined by an organ competent enough to do so, and this organ can also be under the United Nations, since laws are made by state for states, this solves the problem of how much recognition by an existing state is need for a state to be recognized and stops the political bias of states in recognition¹²⁰. Since recognition is also political in nature and states have no legal obligations to grant such, when an organ has been put in effect then a state can be made to respect this organ if a treaty is made calling for the respect of the Autonomy of the organ rights to ascertain statehood and grant recognition or be an Annex of treaty on the Rights and Duties of States¹²¹.

This option of choosing a judicial or legislative organ is because they both have legal duties and also free of any political motives or bias nature, recognition has had arguments on whether it is a political policy or a legal doctrine I fell recognition should be of a legal duty and effect, this judicial body or legislative organ can cure the political bias of states since the judiciary an legislative I based on the doctrine of laws which will in turn stamp the legal nature of recognition or gives the legal nature of recognition when a new entity has been recognized.

¹¹⁹ Anthony Murphy "State formation and Recognition in International Law" https://www.esearchgate.net/publication/318110618_state_formation_and_recognition_in_international_law (Accessed 10 October 2018)

¹²⁰ Martti Koskenniemi "The Politics of International Law" <https://heinonline-org.ezproxy.neu.edu.tr/HOL/Page?handle=hein.journals/eurint1&div=6&id=&page=&collection=journals> (Accessed 10 October 2018)

¹²¹ Stephanie-Christine Eger "The Claim to Secession of the Turkish Republic of Northern Cyprus" <https://sceger.files.wordpress.com/2010/08/ba-thesis-28-2-2009-final.pdf> (Accessed 11 October 2018)

Notwithstanding the above the natural step whereby states are viewed as an entity is by the means of individual recognition.¹²² In relation to this notion a state under international law is deemed no to be state unless it has been affirmed/recognized by existing entities/states, great debates have been carried out around what makes recognition of new entities as state lawfully effective, thus two theories emerge with great debates on the notion of recognition and statehood namely the Constitutive and declaratory theory.¹²³

In relation to this two theories there is no stopping international law makers from making laws concerning statehood to establish that contesting statehood is a mixture of both fulfilling certain criteria and recognition by existing state to enjoy international legal personality, or statehood is fulfilling certain conditions without any extra condition to enjoy international legal personality, on this two notion both the declaratory theory and constitutive theory both disagree and are in great divide on the notion of recognition.¹²⁴

A. Theories of Recognition

a. Constitutive Theory

Accede the constitutive theory recognition is fitting element that establishes a state.¹²⁵ Such recognition is to be decided by the decree and approval of an existing state¹²⁶. Most constitutive state that recognition would be given when the customary international law standards has been fulfilled, if that is not the case recognition would be premature and may become a breach of the doctrine of non-intervention¹²⁷.

Recognition is then placed as a fact of law, and formation of a new entity was an element of fact¹²⁸. This would decree that when recognition is given to an entity the new states territory will be recognized as a condition of international law and by which means the territory

¹²² David Rovic, statehood and the law of self-determination (Kluwer law international 2002) 35

¹²³ Fatima Mushurova "The Creation of New States in International Law: The Cases of South Ossetia's and Abkhazia's Unilateral Declarations of Independence"

<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.869.6025&rep=rep1&type=pdf> (accessed 20 October 2018)

¹²⁴ David Rovic, statehood and the law of self-determination (Kluwer law international 2002) 30

¹²⁵ Hersch Lauterpacht "Recognition of States in International Law" Vol. 53, 1944, p. 391

¹²⁶ Hersch Lauterpacht "Recognition of States in International Law" Vol. 53, 1944, p. 385

¹²⁷ Hersch Lauterpacht "Recognition of States in International Law" Vol. 53, 1944, p. 390

¹²⁸ Hersch Lauterpacht "Recognition of States in International Law" Vol. 53, 1944, p. 358

of a state be dependent or independent of recognition?¹³⁶ I.e. should legal personality under international law be given to an entity which is not recognized by other states? This theory approaches this question negatively, this theory solely propose that if the factual criteria of state hood is substantially fulfilled it should be followed by recognition which afterwards an entity would enjoy rights essential in states under international law¹³⁷.

In the 19th century, this notion was view and best suited the positivist, whom viewed recognition as purely a consensual system, all the while during this era legal relations where established on consent amidst the state involved¹³⁸.

According to Crawford this theory are “*the interests and duties relating to statehood gotten from recognition by existing states*”¹³⁹. This notion rest on the optimal view that agreements that a state possess from international community is derived from respective states approval, while the presence of new state will lead to legal agreement to the current state¹⁴⁰. The existence of new state should be by the consent of the existing state¹⁴¹. Although this creates a problem under state sovereignty, when an entity can’t be given statehood if an existing state doesn’t recognize it I feel violates its sovereignty and an existing state choosing who is to be recognized or not is not ideal, if a state cannot make decisions or tell another state what it should do or not why should states now decide if a state is to be given recognition or not even is international law is made by states¹⁴². As to which several scholars have argued that when states are allowed to determine who should be a state or not, it goes against the central fundamentals of sovereign equality of states¹⁴³.

Also this theory has more problems like what would be the case if an entity is recognized by some and others don’t? This creates a limbo in deciding whether an entity is a state or not. Lauterpacht called for a standard joint program for the recognition of new states¹⁴⁴. For example

¹³⁶ Ali Zounuzy Zadeh “ International Law and The Criteria for Statehood” <https://amo.uvt.nl/show.cgi?fid=121942> (Accessed 21October 2018)

¹³⁷ Ermira Mehmeti “Recognition in international law” 17, 2, No. 2, 2016. P. 246

¹³⁸ Ermira Mehmeti “Recognition in international law” Vol. 2, No. 2, 2016. P. 246

¹³⁹ James Crawford “ statehood and recognition” (2nd ed 17 Oxford Scholarly 2007)

¹⁴⁰ Ermira Mehmeti “Recognition in international law” 17, 2, No. 2, 2016. P. 251

¹⁴¹ Ermira Mehmeti “Recognition in international law” 17, 2, No. 2, 2016. P. 253

¹⁴² Ermira Mehmeti “Recognition in international law” 17, 2, No. 2, 2016. P. 253

¹⁴³ Ermira Mehmeti “Recognition in international law” 17, 2, No. 2, 2016. P. 253

¹⁴⁴ Ermira Mehmeti “Recognition in international law” Vol. 2, No. 2, 2016. P. 255

the Arab world do not recognize the statehood of Israel, the question will then be since Israel is not recognized does it mean Israel doesn't have statehood and has no legal prominence? Constitutive theory carries lots of problem as it devours the concept of right to recognition and constructs interference on the domestic proceedings of a new state, which infringes the doctrine of equality of states¹⁴⁵.

In my opinion an organ competent should be put in place to determine if an entity should be given statehood or not or to determine the valid approach of statehood, this not being the case states act in the place of an organ in determining which entity is a state or not¹⁴⁶.

Crawford made an argument concerning states being an organ determining who gets statehood, he stated that state being an organ is not felicitous in international law coupled with any determination even if state conduct was constitutive or not creates a limbo in fact and law¹⁴⁷. Doubtlessly international law is not just existing states expressing their point of view on who becomes a state or not, if this was the case then international law would be a structure for applying the consent with discord of a particular state. International law was conceived or made for resolution of dispute and not merely stating them¹⁴⁸.

b. Declaratory Theory

Under this theory an entity which possesses the factual standards for statehood listed by Montevideo convention is regarded as a state and recognition is just an acknowledgement of an existing fact¹⁴⁹. In other words it can be said that other state recognizing an entity as new entities is only affirmation to pre-existing legal contents or a credible situation¹⁵⁰.

This theory creates the idea of recognition being a political act and not a crucial principle for statehood, argument are towards this theory can be seen under article 3 of Montevideo

¹⁴⁵ Ermira Mehmeti "Recognition in international law" Vol. 2, No. 2, 2016. P. 255

¹⁴⁶ Ermira Mehmeti "Recognition in international law" Vol. 2, No. 2, 2016. P. 257

¹⁴⁷ James Crawford "statehood and recognition" (2nd edn, Oxford Scholarly 2007)

¹⁴⁸ James Crawford "statehood and recognition" (2nd edn, Oxford Scholarly 2007)

¹⁴⁹ Malcolm Nathan Shaw, *International Law* (5th edn, Cambridge University Press 2003) 177

¹⁵⁰ Musle Mohammed "Non-Recognition of Somaliland in International Law"

<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 23 October 2018)

convention “this particular certainty of a state is not reliant of recognition by an existing states”¹⁵¹ this words were supported by Crawford who stated that

“Statehood was established on specific standards because the presence of an entity is a matter of actuality and not of a particular state foresight”¹⁵²

Somaliland and TRNC can find support under this theory as they both fulfill the necessary standards for statehood and absence of recognition by other state should not be a detriment to its statehood¹⁵³. As suggested under this theory recognition surmise a state actuality it does not bring to effect the creation of a state¹⁵⁴.

Notwithstanding the above this theory is not without problems especially when it comes to state practice¹⁵⁵. This theory is not backed by state practice, because of state refusal to welcome new obligations till other entity are recognized¹⁵⁶. Evans recorded two predicaments under this theory

“ the difficulty is that frequently impossible to entirely dissociate the fact of recognition from the idea of political approval, this relates to a second difficulty with the practice of recognition namely that even in cases of in which state have taken a firm position in seeking to avoid recognition of a stat they are not infrequently unable or unwilling to live with the consequences”¹⁵⁷

16

¹⁵¹ Malcolm Nathan Shaw, *International Law* (5th end, Cambridge University Press 2003) 185

¹⁵² James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

¹⁵³ Mu¹fe Mohammed “Non-Recognition of Somaliland in International Law”

<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 23 October 2018)

¹⁵⁴ Marcelo Kohen *secession* (Cambridge University Press 2006) 94

¹⁵⁵ James Crawford “ statehood and recognition” (2nd edn, Oxford Scholarly 2007)

¹⁵⁶ Marcelo Kohen *secession* (Cambridge University Press 2006) 94

¹⁵⁷ Mu¹fe Mohammed “Non-Recognition of Somaliland in International Law”

<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 23 October 2018)

This theory is viewed from different perspective of which are made of two groups, the first group is extreme in nature, this group is of the idea that state recognition is unimportant. The creation of a state should be “*seen as an absolute process*” relating to international law¹⁵⁸.

Here the enthusiast proclaim this as a particular entity seeking or contesting statehood is factual i.e. is an issues of objective and an entity shouldn't be allowed to regulate the grounds that if entity qualifies as a state or not¹⁵⁹.

Under this James stated that

*“It is not a provision of international law which has to be satisfied for a state to be ascribed sovereign status, thus the position of international law in relation to sovereignty is that it presupposes it. International law makes only sense on the assumption that there are sovereign states to which it can be applied”*¹⁶⁰

Notwithstanding this difficulties by which this theory creates it is definitely obvious that “*statehood is opposable to non-recognition*”¹⁶¹. This term helps in avoiding obvious and factual deadlock created by the constitutive theory¹⁶².

The second group is comprised of great defender of this theory¹⁶³. This group is of the notion that even if recognition by existing state may be favoring. State recognition should not be ascertained by recognition. Even though criteria for statehood are contained under international law¹⁶⁴

43 This theory is supported by the opinion of the arbitration commission of the Hague conference on Yugoslavia in which its first opinion on 29 November 1991 conveyed a notion that

¹⁵⁸ Mu¹fe Mohammed “Non-Recognition of Somaliland in International Law” <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 23 October 2018)

¹⁵⁹ Mu¹fe Mohammed “Non-Recognition of Somaliland in International Law” <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 23 October 2018)

¹⁶⁰ James Crawford “statehood and recognition” (2nd edn, Oxford Scholarly 2007)

¹⁶¹ James Crawford “statehood and recognition” (2nd edn, Oxford Scholarly 2007)

¹⁶² James Crawford “statehood and recognition” (2nd edn, Oxford Scholarly 2007)

¹⁶³ Oppenheim, Lassa “*Oppenheim's International Law*” Vol. 1, 1992, p. 120-122

¹⁶⁴ Oppenheim, Lassa “*Oppenheim's International Law*” Vol. 1, 1992, p. 130

“The doctrine of public international law serves to define the criteria on which an entity becomes a state, with this; the presence of the state is a matter of fact, that the backing of recognition by other states is mainly declaratory”¹⁶⁵.

In my ideal statehood should be free from recognition or should not be in line with recognition picture for example a goat who has all the characteristics that makes it a goat, it will be foolish to say it is not a goat because it doesn't walk among the herd or it is rejected by the herd, statehood is ascertained by certain criteria and recognition should only be there as a way of state relating with each other not it being a sole determiner of whether an entity is a state or not. Or a more practical example in relation to the social theory and sociology, to be among any social group one needs to be recognized as a member of the group by the existing group members. Picture for example Greek fraternity where a person is a member of these social gathering it is very easy to identity and seclude a member from a person who isn't a member, as only the fraternity members can attend the functions of the organization, a contesting member will be allowed into the fraternity if the person has shown a great desire to be among the group, and possessing some kind of quality that distinguishes him/ her from others maybe in academic excellence or athleticisms, the exiting fraternity members will then recognize the person, the person becomes a member of that state and thus this is how also the recognition process for states in the international system works.¹⁶⁶

§ 2. The Defacto state doctrine

This section is a discussion on the notion of defacto state, this section of this thesis is to determine if Somaliland and TRNC can be seen as a defacto state. The first part of this section is a general examination of what defacto states are and the later part of this section will characterize issues of whether this defacto states possess legal personality under international law (ILP).

I. The Defacto state and the international community

¹⁶⁵ 24. Oppenheim, Lassa *“Oppenheim's International Law”* Vol. 1, 1992, p. 177

¹⁶⁶ Lassa Oppenheim. *International law: A Treatise* (5th edn, Lauterpacht ed, 1940 & 1947)

A defacto state can be defined as a state that “*possesses the feature of a state although is unable to achieve an extent to which recognition and by this remains illegal in the views of the international community*”¹⁶⁷. With this definition Somaliland and TRNC are seen as defacto states

The notion of defacto states entails that a state must ⁶exercise effective control over its territory and also its population. Scott Pegg stated that “*the de facto state prominence can result to critical economic encouragement which can enable entities attain state-construction*”¹⁶⁸. Defacto states are seen as states who want to obey international law and become members of the international community and also seeking recognition from the existing states, this recognition of an entity will then grant it de jure status, de facto are states which fulfill the statehood criteria such defacto state is that of Kosovo, TRNC and Somaliland¹⁶⁹.

A sovereign or recognized states under international law are known as de jure, these de jure states have the status of legal personality under international law and de facto states doesn't have such, Rewand stated “*a way to differential between this two very distinguished entities is the power versus recognition, the de jure state is where an state acquires power and recognition while the de facto state acquires power to have jurisdiction over the territorial consensus without achieving recognition*”¹⁷⁰.

Unfortunately the international community as widely disregarded the rights of TRNC and Somaliland to determination and secession even though both TRNC and Somaliland have effective control over their territory¹⁷¹.

The de facto doctrine is based on three criteria in which a de facto entity has to have independence coupled with authority in its boundaries/territory and also de facto states must not

¹⁶⁷ Mark Weston Janis “The New Oppenheim and Its Theory of International Law” http://digitalcommons.uconn.edu/aw_papers/71 (Accessed 24 October 2018)

¹⁶⁸ Scott Pegg, *International Society and the de Facto State* (Ashgate 1998)

¹⁶⁹ Scott Pegg, *International Society and the de Facto State* (Ashgate 1998)

⁷ Ralph Wilde “ Recognition of States” https://www.chathamhouse.org/sites/default/files/field/field_document/Meeting%20Summary%20Recognition%20of%20States.pdf (Accessed 24 October 2018)

⁷ Ralph Wilde “ Recognition of States” https://www.chathamhouse.org/sites/default/files/field/field_document/Meeting%20Summary%20Recognition%20of%20States.pdf (Accessed 24 October 2018)

have international recognition¹⁷². The third criterion is that a de facto state has to display a need to become a de jure state, with the above both TRNC and Somaliland fulfill these sets of criteria.

According to Crawford *“an entity that has not acquired recognition but meets the requirement for recognition possesses state rights relating to international law affinity to a state not recognizing”*¹⁷³.

This lack of recognition makes the rights and obligations of defacto state to *“continue only to the amount to which they are conceded or legally asserted by a mention to the constraining rules of humanity and justice, either by existing associate of international community or people that claim recognition”*¹⁷⁴. This leads to laws being passed to authorize courts to regard entities that are not recognized as state for a specific situation I stated before for¹⁷⁵.

II. International Legal Personality To De Facto States

De facto states in practice have not been exempted from international law this is because *“rights”*¹⁷⁶ and *“Obligations”*¹⁷⁷ has effect to de facto states. De facto states have been under examination by various jurist in which various controversial issues have been in discussion one of which is *“even if the rights and obligations of states adheres to the entity the instant it meets the standards of statehood in international law or whether rights and obligations arises when existing states have recognized the new entity”*¹⁷⁸.

¹⁷² Sc 11 Pegg “Twenty Years of de Facto State Studies”
<http://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-516> (Accessed 26 October 2018)

¹⁷³ James Crawford, *The Commencement of States* (Oxford Scholarship Online 2007) 658

¹⁷⁴ Bridget L. Coggins “Secession, Recognition & International Politics Of statehood”
https://etd.ohiolink.edu/!etd.send_file?accession=osu1154013298 (Accessed 27 October 2018)

¹⁷⁵ Sc 11 Pegg “Twenty Years of de Facto State Studies”
<http://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-516> (Accessed 26 October 2018)

¹⁷⁶ James Crawford, *The Commencement of States* (Oxford Scholarship Online 2007) 658

¹⁷⁷ Sc 11 Pegg “Twenty Years of de Facto State Studies”
<http://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-516> (Accessed 26 October 2018)

¹⁷⁸ James Crawford, *The Commencement of States* (Oxford Scholarship Online 2007) 658

According to the declaratory theory ILP of de facto states previously have rights and obligations in international law and states recognition simply acknowledges this fact¹⁷⁹. While under the constitutive theory of recognition opposes this ideal and states that rights coupled with obligations in international law only exists when an existing state have recognized the new state/entity¹⁸⁰.

It is clear that recognition is declaratory in international law is seen in Art 6 of the Montevideo Convention on the rights and duties of state of 1933¹⁸¹. However state practice or “political practice”¹⁸² has been established on the constitutive doctrine of recognition, therefore meaning de facto states lack ILP under state practiced or as a result of this practice¹⁸³.

In relation to the above scholars in the legal field have opposed state practice and stated that ILP “is related to any entity such as international organizations, intercontinental co-operations and also particular people each having limited capacity of which this capacity is given to them by the exiting states establish the rights and powers in juridical and other annals to accomplish rights”¹⁸⁴. Hence ILP is drawn-out to de facto states to enforce their rights under legal proceeding or any other kind, this has been done in relation to courts and also in the opinion of the ICJ as I have stated before¹⁸⁵.

Notwithstanding the above Brownlie also stated that “for a particular legal purpose it is easy to note the continuity in a political entity and to hence to give consequence, after statehood has been achieved, to legal conducts happening prior to independence”¹⁸⁶, therefore ILP relating to de facto states is more like a judicial aspect¹⁸⁷.

¹⁷⁹ James Crawford, *The Commencement of States* (Oxford Scholarship Online 2007) 665

¹⁸⁰ Lawteacher.net, <https://www.lawteacher.net/free-law-essays/constitutional-law/declaratory-and-constitutive-theories-of-state.php?vref=1> (accessed 27 October 2018)

¹⁸¹ Joseph William Davids “what makes a State” <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 23 October 2018)

¹⁸² Lawteacher.net, <https://www.lawteacher.net/free-law-essays/constitutional-law/declaratory-and-constitutive-theories-of-state.php?vref=1> (accessed 27 October 2018)

¹⁸³ Marshall Brown “The Recognition of Israel” Vol. 42, No. 3, 1948, p. 620-627

¹⁸⁴ J. Dugard, *Recognition and the United Nations* (Cambridge. Grotius Publications Limited 1987) 53-54

¹⁸⁵ Marshall Brown “The Recognition of Israel” Vol. 42, No. 3, 1948, p. 620-627

¹⁸⁶ J. Dugard, *Recognition and the United Nations* (Cambridge. Grotius Publications Limited 1987) 53-54

¹⁸⁷ Joseph William Davids “what makes a State” <https://thenewinternationalallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 27 October 2018)

The ILP of de facto states in history has only been used as “a synonym to statehood”¹⁸⁸ placing emphasis on the only person with ILP in international law is a recognized state or “sovereign state”¹⁸⁹. Crawford defines the notion of ILP by stating that it is “the amplitude to deliver rights and duties in international law”¹⁹⁰.

If ILP is conferred to defacto states on a judicial note there are other instances where international law can also be applied to de facto state. According to legal writers “de facto state constitutes a constitutional person in international law and receives the pretentiousness of state rights and obligations before international recognition”¹⁹¹.

The facto states of Somaliland and TRNC to my view can be a party under international law, but such act is limited as “they operate in finite dimensions in international law”.¹⁹² According to the notion of “Adequate ILP”¹⁹³ international benchmark such as constraint of holocaust/genocide, suffering/torture and the use of force for defense against harm as applied to all entities in relation to de jure and de facto states, in practice this can be detected in the instance of Ilias and Ahmed v Hungary 47287/15 (ECHR 14 march 2017) where the court in Germany applied the opinion of ECHR where the court “urged Hungary to not dismiss the defendant to Somalia, where it was questionable that he would be administered as a to breach of Art 3 of the ECHR because of absence of state authority over an agents not of the state where non-state agent have de facto authority over the boundaries/territory”¹⁹⁴

Also the case of Israel v Palestine where Palestine as a de facto state had the rights to use force against Israel attacks¹⁹⁵. With the above said despite de facto states having limited or no legal personality under international law practices of state¹⁹⁶. Certain norms or treaty like the Geneva Convention of Art 3 based on the Jus Cogens norms applies to both de jure and de facto states and also ICL applies to both situations when there is a crime that “constituted offence

¹⁸⁸ Cohen “The Concept of Statehood in United Nations Practice” Vol. 109. No. 8, 196, p. 1127-1171

¹⁸⁹ Colin Warbrick “State and Recognition in International Law” (M Evans(ed) 2nd Edition, OUP 2006)

¹⁹⁰ James Crawford “The Criteria for Statehood applied: Special Cases” (2nd edn, Oxford Scholarly 2007) 198

¹⁹¹ James Crawford “The Criteria for Statehood applied: Special Cases” (2nd edn, Oxford Scholarly 2007) 198

¹⁹² Colin Warbrick “State and Recognition in International Law” (M Evans(ed) 2nd Edition, OUP 2006)

¹⁹³ Colin Warbrick “State and Recognition in International Law” (M Evans(ed) 2nd Edition, OUP 2006)

¹⁹⁴ ECHR “Case-Law” https://www.echr.coe.int/Documents/CLIN_2017_09_210_ENG.pdf (Accessed 28 October 2018)

¹⁹⁵ Marshall Brown “The Recognition of Israel” Vol. 42, No. 3, 1948, p. 620-627

¹⁹⁶ Colin Warbrick “State and Recognition in International Law” (M Evans(ed) 2nd Edition, OUP 2006)

against world community”¹⁹⁷. This part of my thesis was to show the limited ILP of de facto states and which international law can they take part in¹⁹⁸.

However due to limited ILP de facto states are exempted from signing treaties or decisions in the international community due to lack to recognition¹⁹⁹.

III. The Need To Recognize These States

The need to recognize the entity of Somaliland and TRNC is because these entities and other de facto states could cause issues on the parts of conflicts and human rights²⁰⁰. The lack of recognition of this entity has shown in practice that de facto states “*create an insecure political climate, which facades to a violation of international peace and security*”²⁰¹. This can be seen in the five million displaced refugees that fled to Palestine and to other countries from the defacto state of Kosovo and also in Somaliland that had displaced people as well as those killed which was of a high number²⁰².

The need of recognize de facto states is that human rights are technically ignored due to the notion of statelessness conferred on the people of a de facto state²⁰³. This would create a humanitarian problem if the international community doesn’t recognize these de facto states²⁰⁴.

The international community lack of recognition of de facto states can be seen under three sides, it is either the international community brutally punishes the de facto state or it entirely avoid the de facto state and also or the international community partially welcome the de

¹⁹⁷ Marshall Brown “The Recognition of Israel” Vol. 42, No. 3, 1948, p. 620-627

¹⁹⁸ R.Cohen “*The Concept of Statehood in United Nations Practice*” Vol. 109. No. 8, 196, p. 1127-1171

¹⁹⁹ R.Cohen “*The Concept of Statehood in United Nations Practice*” Vol. 109. No. 8, 196, p. 1127-1171

¹⁴ Bridget L. Coggins “Secession, Recognition & International Politics Of statehood” https://etd.ohiolink.edu/!etd.send_file?accession=osu1154013298 (Accessed 28 October 2018)

⁷ Ralph Wilde “ Recognition of States and The Consequences of Non-Recognition” https://www.chathamhouse.org/sites/default/files/field/field_document/Meeting%20Summary%20Recognition%20of%20States.pdf (Accessed 28 October 2018)

⁷ Ralph Wilde “ Recognition of States and The Consequences of Non-Recognition” https://www.chathamhouse.org/sites/default/files/field/field_document/Meeting%20Summary%20Recognition%20of%20States.pdf (Accessed 28 October 2018)

¹⁴ Bridget L. Coggins “Secession, Recognition & International Politics Of statehood” https://etd.ohiolink.edu/!etd.send_file?accession=osu1154013298 (Accessed 28 October 2018)

⁷ Ralph Wilde “ Recognition of States and The Consequences of Non-Recognition” https://www.chathamhouse.org/sites/default/files/field/field_document/Meeting%20Summary%20Recognition%20of%20States.pdf (Accessed 28 October 2018)

facto state²⁰⁵. From the mentioned TRNC is an example of international community restless refusal and opposition to the de facto state status and also an example of how the international community entirely avoids the existence of a state can be seen in the situation of Somaliland were the international community entirely avoids its existence²⁰⁶.

¹⁴ Bridget L. Coggins "Secession, Recognition & International Politics Of statehood"
https://etd.ohiolink.edu/etd.send_file?accession=osu1154013298 (Accessed 28 October 2018)

¹⁴ Bridget L. Coggins "Secession, Recognition & International Politics Of statehood"
https://etd.ohiolink.edu/etd.send_file?accession=osu1154013298 (Accessed 28 October 2018)

PART THREE

STATEHOOD AND RECOGNITION CASE STUDY: SOMALILAND AND TRNC

§ 1. International Recognition/Statehood- Somaliland and TRNC

In part two of this thesis I stated the notion of statehood, recognition and defacto state and I also made analysis on this notions, the aim of this part will be to discuss this notions in practice I will do this by using Somaliland and TRNC as case studies, this is to help see how recognition has been conducted via practice and also how these criterions of statehood comes into play when determining if an entity fulfills it or not.

This part will be based on descriptive and analytical discussions on the statehood and recognitions of these entities and also a discussion will be made on what caused these entities not to be recognized or deemed as a states i.e. non recognition

§ 2. Somaliland Case Study

I. Somaliland Recognition

Somaliland is an entity unrecognized by any international organization state or international community in general²⁰⁷. Somaliland despite its lack of recognition has numerous dealings and agreements by its government with other states. Somaliland lack of recognition varies. It issues consist of political, legal and existential issue²⁰⁸.

²⁰⁷ Nasir Ali "Somaliland Statehood"

https://ke.boell.org/sites/default/files/somaliland_statehood_recognition_and_the_ongoing_dialogue_with_somalia.pdf(Accessed 30 October 2018)

²⁰⁸ Nasir Ali "Somaliland Statehood"

https://ke.boell.org/sites/default/files/somaliland_statehood_recognition_and_the_ongoing_dialogue_with_somalia.pdf(Accessed 30 October 2018)

Somaliland claims of sovereignty and recognition as an independent state which maintains a democracy has moved from this to an issue of identity²⁰⁹. Somaliland hasn't received any aids which includes funds and monetary aid from the international community which has forced the entity to survive off other states and its home earnings due to non-recognition²¹⁰.

Recognition gives rise to international responsibilities and legal personality²¹¹. Recognition has proved that it does not apply the compatible legal model to a factual footing²¹². This is because existing state doesn't want to recognize other entity because of the consequences of recognition that comes after²¹³. For example USA didn't acknowledge the existence of People's Republic of China because of legal consequences entails by recognition which gives rise to, it is evident that recognition is based mostly on politics rather than its legality or legal status²¹⁴. Among the two theories mentioned in chapter one the constitutive theory insists on the need for recognition as a necessary step of statehood. The declaratory theory on the other hand states that a new entity will develop into a term of international law if it fulfills the criterions of statehood and doesn't need recognition of other states to become a state²¹⁵.

Given the ideal of the declaratory theory Somaliland is then seen as an independent entity which is party to right and duty conferred by international law i.e. Somaliland can be regarded as a state if put in effect the declaratory theory²¹⁶.

²⁰⁹ Mu1fe Mohammed "Non-Recognition of Somaliland in International Law" <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 30 October 2018)

²¹⁰ Mu1fe Mohammed "Non-Recognition of Somaliland in International Law" <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 30 October 2018)

⁴ Nimo Ismail "Somaliland: A stable and Independent State, But no Recognition" <https://worldpolicy.org/2017/02/21/somaliland-a-stable-and-independent-state-but-no-recognition/> (Accessed 1 November 2018)

⁴ Nimo Ismail "Somaliland: A stable and Independent State, But no Recognition" <https://worldpolicy.org/2017/02/21/somaliland-a-stable-and-independent-state-but-no-recognition/> (Accessed 1 November 2018)

⁴ Nimo Ismail "Somaliland: A stable and Independent State, But no Recognition" <https://worldpolicy.org/2017/02/21/somaliland-a-stable-and-independent-state-but-no-recognition/> (Accessed 1 November 2018)

²¹⁴ Ayushi Kalyan "Somaliland- A Unique Case of Statehood and Recognition" <https://ilnu-jihlhr.org/somaliland-a-uniqueq-case-of-statehood-and-recognition/> (Accessed 2 November 2018)

²¹⁵ Malcom D Evans, *International law* (Oxford University Press 2003)

²¹⁷

²¹⁶ Malcom D Evans, *International law* (Oxford University Press 2003)

²¹⁷

A. International Community And Somaliland

It can be said the reason by western government are hesitant in granting recognition to Somaliland is the passivity of the African Union in doing so²¹⁷. As I stated before recognition is purely political, Somalia has ensured that recognition isn't granted to Somaliland due to this fact Somaliland is in the north and Somalia is not wishful to loss the north in attempting to regulate its airspace and also loosing the north leaves it vulnerable when crisis begin²¹⁸.

African Union is of the notion that granting Somaliland recognition may set a motion other groups seeking separation, this has led its members being reluctant in granting recognition to Somaliland an example is the crisis of South Sudan who recently gained its independence and this situation makes it even harder to grant recognition²¹⁹. As the African Union fears that recognizing Somaliland would because the dissolution of Somalia and set precedents also to other member states²²⁰.

The biggest difficulty Somaliland faces is territory²²¹. The international community has a passion to keep in place territories which have been in existence or drawn up by colonial rule²²². Since the colonial rule mapping of Africa there has been few changes to it i.e. the departure of Eritrea from Ethiopia and also the new state of South Sudan from Sudan. Somaliland best chance at being recognized by other state is through the consent and support from Somalia²²³.

The ideal possessed by the AU in relation to entities seeking self-government if recognition granted to Somaliland was disagreed by Coggins who stated that

²¹⁷ Charlotte Gleave Riemann "Somaliland: An Oasis of Peace to Somalia's Chaos" <https://Atlismta.org/online-journas/0809-journal-intervention/somailand/> (Accessed 2 November 2018)

²¹⁸ Charlotte Gleave Riemann "Somaliland: An Oasis of Peace to Somalia's Chaos" <https://Atlismta.org/online-journas/0809-journal-intervention/somailand/> (Accessed 2 November 2018)

²¹⁹ Dimitros Lalos "Between Statehood and Somalia: Reflections of Somaliland Statehood" vol. 20 No.4, 2011, p.795

²²⁰ Nimo Ismail "Somaliland: A stable and Independent State, But no Recognition" <https://worldpolicy.org/2017/02/21/somaliland-a-stable-and-independent-state-but-no-recognition/> (Accessed 1 November 2018)

²²¹ Dimitros Lalos "Between Statehood and Somalia: Reflections of Somaliland Statehood" vol. 20 No.4, 2011, p.795

²²² Dimitros Lalos "Between Statehood and Somalia: Reflections of Somaliland Statehood" vol. 20 No.4, 2011, p.795

²²³ Dimitros Lalos "Between Statehood and Somalia: Reflections of Somaliland Statehood" vol. 20 No.4, 2011, p.795

*“Both sub-Saharan Africa and the MENA territory hardly notice a state that doesn’t depend on another state and yet they all have a number of current secessionist appeals. The evidence of failure fruitful endeavors, such as Eritrea or the new state of South Sudan, encouraged new flood of appeals”*²²⁴

Phem also goes against the AU notion stating that there is no possible way Somalia and Somaliland can be a single entity without there being conflict²²⁵.

Despite the above Somaliland is a history changing entity that by its own has created an entity from the conflict that ravished Somalia free of any conflict without any international interventions. The fact that Somaliland doesn’t have any conflict in its territory it doesn’t profess the world’s awareness as a result of this leaders around the world do not have any motivation to give recognition because Somaliland doesn’t have world attention²²⁶.

Somaliland is seen as an entity which wants to return to its colonial borders. Somaliland has been failed by the AU to formulate away to deal with this case. Somaliland isn’t seeking cessation from Somalia as an ethnic minority²²⁷.

Arguments for Somaliland can be found in ³the consultative act of AU which was adopted in 2000. Under this ³the doctrine of uti possidetis is formed²²⁸. This doctrine states that

*“A boundary/territory is a residue to it boner at the end of a war except contrarily administered by treaty”*²²⁹ i.e. colonial borders are to be preserved after or at the beginning of independence²³⁰. This principle simply gives validity to Somaliland unilateral independence

²²⁴ Charlotte Gleave Riemann “Somaliland: An Oasis of Peace to Somalia’s Chaos” <https://Atlismta.org/online-jourmas/0809-journal-intervention/somailand/> (Accessed 2 November 2018)

²²⁵ Charlotte Gleave Riemann “Somaliland: An Oasis of Peace to Somalia’s Chaos” <https://Atlismta.org/online-jourmas/0809-journal-intervention/somailand/> (Accessed 2 November 2018)

²²⁶ Malcom D Evans, *International law* (Oxford University Press 2003)

217

⁴ Nimo Ismail “Somaliland: A stable and Independent State, But no Recognition” <https://worldpolicy.org/2017/02/21/somaliland-a-stable-and-independent-state-but-no-recognition/> (Accessed 2 November 2018)

²²⁸ Ayushi Kalyan “Somaliland- A Unique Case of Statehood and Recognition” <https://ilnu-jihlhr.org/somaliland-a-uniqueq-case-of-statehood-and-recognition/> (Accessed 2 November 2018)

²²⁹ Ayushi Kalyan “Somaliland- A Unique Case of Statehood and Recognition” <https://ilnu-jihlhr.org/somaliland-a-uniqueq-case-of-statehood-and-recognition/> (Accessed 2 November 2018)

²³⁰ Charlotte Gleave Riemann “Somaliland: An Oasis of Peace to Somalia’s Chaos” <https://Atlismta.org/online-jourmas/0809-journal-intervention/somailand/> (Accessed 3 November 2018)

because it is an entity which is trying to return to its colonial boundary of the dissolved British colony of Somaliland²³¹.

AU should set its political motives aside and render Somaliland recognition because the entity has governed its territory successfully for 10 years without disputes or conflicts also the recognition of Somaliland would help the state by ensuring monetary aid which would help increasing investment opportunities in the state when there is disclosure to international financing²³².

B. Somaliland Under The Declaratory theory of Recognition And Secession

Somaliland may be said to be a de jure state as it effectuate all the factual criterions of statehood. Somaliland possesses population, a defined territory and government²³³. Under declaratory theory Somaliland is a state as it disregards recognition as irrelevant and not necessary for statehood²³⁴. Thus recognition should be granted as Somaliland has fulfilled the necessary criteria²³⁵.

Under the first criterion of statehood Somaliland has a defined population of 3,390,000. Somaliland population consists of nomads²³⁶. These nomadic populations acquire no problem in relation to its recognition as it still has stable population or occupant²³⁷.

²³¹ Nimo Ismail "Somaliland: A stable and Independent State, But no Recognition" <https://worldpolicy.org/2017/02/21/somaliland-a-stable-and-independent-state-but-no-recognition/> (Accessed 3 November 2018)

²³² Ayushi Kalyan "Somaliland- A Unique Case of Statehood and Recognition" <https://ilnu-jihlhr.org/somaliland-a-unique-case-of-statehood-and-recognition/> (Accessed 3 November 2018)

²³³ The Recognition of Somaliland <https://recognition.somalilandgov.com/wp-content/uploads/2013/01/The-recognition-of-Somaliland-Growing-international-engagement-and-backing.pdf> (Accessed 4 November 2018)

²³⁴ The Recognition of Somaliland <https://recognition.somalilandgov.com/wp-content/uploads/2013/01/The-recognition-of-Somaliland-Growing-international-engagement-and-backing.pdf> (Accessed 4 November 2018)

²³⁵ The Recognition of Somaliland <https://recognition.somalilandgov.com/wp-content/uploads/2013/01/The-recognition-of-Somaliland-Growing-international-engagement-and-backing.pdf> (Accessed 4 November 2018)

²³⁶ Dimitros Lalos "Between Statehood and Somalia: Reflections of Somaliland Statehood" vol. 20 No.4, 2011, p.805

Secondly Somaliland under the criteria of territory has borderland which extend over 68,000 square miles approximately interrelated to its colonial borders²³⁸. Most of its boundaries are ancient district of Somalia it can be stated or argued that Somaliland has a defined territory as international law doesn't depend on precise drawn border²³⁹.

Under the third criterion it is clear that Somaliland has a defined government²⁴⁰. As referendum has been held on its constitution and has conducted peaceful elections. Under this theory entity independence is independent from recognition by existing states as states must first exist which it has by fulfilling the Montevideo criteria²⁴¹.

As stated before Somaliland is an entity which wants to return to its colonial borders with this situation at has Somaliland right to secession can be applied in relation to the doctrine of "*uti possidetis*"²⁴².

This principle states that

*"New entities will come to self-government with the same boundary that they had when they were once protectorates"*²⁴³

Under this principle if Somaliland can be defined constructively by the borders of its previous colonial masters then it can have a strong point in seeking secession from Somalia the intention of this principle which was formulated in the AU charter was to "*strengthen the doctrine of respect*"²⁴⁴ for the preeminence and territorial probity of each state and for its inviolable right to self governing with also "*Strengthening all the states to undertake to respect*

²³⁷ Dimitros Lalos "*Between Statehood and Somalia: Reflections of Somaliland Statehood*" vol. 20 No.4, 2011, p.805

²³⁸ Somaliland <http://recognition.somalilandgov.com/history> (Accessed 5 November 2018)

²³⁹ Somaliland <http://recognition.somalilandgov.com/history> (Accessed 5 November 2018)

²⁴⁰ Somaliland <http://recognition.somalilandgov.com/history> (Accessed 5 November 2018)

²⁴¹ Ayushi Kalyan "Somaliland- A Unique Case of Statehood and Recognition" <https://ilnu-jihlhr.org/somaliland-a-unique-case-of-statehood-and-recognition/> (Accessed 5 November 2018)

²⁴² Dimitros Lalos "*Between Statehood and Somalia: Reflections of Somaliland Statehood*" vol. 20 No.4, 2011, p.800

²⁴³ Dimitros Lalos "*Between Statehood and Somalia: Reflections of Somaliland Statehood*" vol. 20 No.4, 2011, p.801

²⁴⁴ Muhittin Tolga Ozsaglam "Limited Recognition and Limited Relations TRNC" Vol. 16, 2018, P. 314-328

*the boundaries existing at independence*²⁴⁵” under the Cairo resolution. Under Africa this principle leads to territorial integrity which has a backing for self determination²⁴⁶.

Somaliland can find arguments under this principle because despite the international community desire to unify Somalia and Somaliland it goes against this principle²⁴⁷. Also Somaliland can find arguments under state dismemberment e.g. the dismemberment of Yugoslavia dissolution is a strategy used when voluntary union has broken down as is the case between Somaliland and Somalia²⁴⁸.

§ 3. TRNC Case Study

I. TRNC and the Theories of Recognition/Rights to Self-Determination

On a factual note TRNC fulfils the objective criteria of statehood under international law. TRNC can be said to constitute a state under the declaratory doctrine of recognition. Therefore the TRNC has statehood status²⁴⁹.

Under the first criterion which is state must have a defined population, TRNC has an estimated population of over 326, 000, a population which had double since 1983 when TRNC declared itself as a state of which this population is a stable one²⁵⁰.

Secondly TRNC under the criterion of territory, TRNC has “*an area of 3,355 square kilometers*”, which this territory lies 75 kilometers south beneath turkey and 95 k/m to the east of Syria, this territory is defined as it “*amounts to one third of the island*”²⁵¹.

²⁴⁵ Muhittin Tolga Ozsaglam “Limited Recognition and Limited Relations TRNC” Vol. 16, 2018, P. 314-328

²⁴⁶ Muhittin Tolga Ozsaglam “Limited Recognition and Limited Relations TRNC” Vol. 16, 2018, P. 314-328

²⁴⁷ Ayushi Kalyan “Somaliland- A Unique Case of Statehood and Recognition” <https://ilnu-jihlhr.org/somaliland-a-unique-case-of-statehood-and-recognition/> (Accessed 5 November 2018)

²⁴⁸ Ayushi Kalyan “Somaliland- A Unique Case of Statehood and Recognition” <https://ilnu-jihlhr.org/somaliland-a-unique-case-of-statehood-and-recognition/> (Accessed 5 November 2018)

²⁴⁹ Nina Caspersen and Gareth Stansfield, *Unrecognized States in the International System* (first published 2011, Routledge 2011) 11

²⁵⁰ Jean Christou, “North’s Population tops 350 thousand” Cyprus mail (Cyprus, 28 November 2017)

²⁵¹ Tasos Kokkinidis “Population of North Cyprus more than Doubles Since it was Declared a state” Greek Greece Reporter (Greece, 28 November 2017)

Thirdly TRNC also has effective control of its territory by its government in which the government is made up of a unitary semi-political republic composed of an executive and legislative branch of government²⁵².

With this it is obvious that TRNC fulfills the unbiased criterion of statehood and in relation the declaratory theory it is a state or has the statehood status. But however, the international community has refused on countless occasions grant this entity statehood/recognition since in practice recognition has been seen as constitutive and has a political effect to it²⁵³.

History reveals that the reluctance of international community to grant TRNC statehood/recognition is because of turkey's invasion of 1974, and as a result of this the international community sees the affirmation of independence of the Turkish Cypriot as illegal and motivated by turkey invasion²⁵⁴.

The legality of this invasion will be discussed in the next section under the heading of Turkey Invasion and The Treaty of Guarantee. To get an understanding of the UDI of Turkish Cypriot, I will give a brief account o the processes and acts that lead o this UDI.

Cyprus as an island located in the Mediterranean sea is a territory with a population of 738, 00 people of which 70% had Greek origin and 19% had Turkish origin, the territory was a former British colony which in 1960 go it's independence from Britain²⁵⁵. Prior to the independence a constitution was made that created power sharing between this two ethnicities, whereby the president will be of Cypriot Greek and also vice president a Cypriot Turkish, whom will be elected simultaneously but both having/sharing executive powers²⁵⁶.

This republic was brought to a standstill when the then president named Makarios recommended that modification be made to the constitution in 1963 this resulted to a conflict/

²⁵² S.K.N Blay "Self-Determination In Cyprus" <https://clasic.austlii.edu.au/au/journals/AUYrBkIntLaw/1983/2.pdf> (Accessed 13 November 2018)

²⁵³ Monroe Leigh " The Legal Status in International Law of the Turkish Cypriot" <https://www.mfa.gov.tr/chapter5.en.mfa> (Accessed 13 November 2018)

²⁵⁴ Monroe Leigh " The Legal Status in International Law of the Turkish Cypriot" <https://www.mfa.gov.tr/chapter5.en.mfa> (Accessed 13 November 2018)

²⁵⁵ Monroe Leigh " The Legal Status in International Law of the Turkish Cypriot" <https://www.mfa.gov.tr/chapter5.en.mfa> (Accessed 13 November 2018)

²⁵⁶ Augusto Sinagra "Illegality and Non-recognition of states" <https://sam.gov.tr/wp-content/uploads/2012/01/Augusto-sinagra.pdf> (Accessed 13 November 2018)

violence which lead to the Turkish Cypriot withdrawal from political offices, This injustice done by the Cypriot Greek constituted to a breach of the constitution and their obligations stated in the Treaty of Guarantee²⁵⁷.

As a result of this injustice done to the Turkish Cypriot they applied their freedom to self-determination by establishing the TRNC in 1983, with this it is obvious that the injustice done to the Cypriot Turkish by the Cypriot Greek lead to minority Turkish Cypriot to seek autonomy over their own interest²⁵⁸.

These UDI a few days was considered to be void by the UN Resolution 541 and 550, according to Resolution 541 *"the members of the UN were urged to not give recognition to North Cyprus and instead recognize the Republic of Cyprus being the only figure with authority over/on the island"*²⁵⁹.

Art 550 also stated that *"the council condemned the exchange of ambassadors between turkey and Northern Cyprus"*.²⁶⁰ My argument in relation to these resolutions is that Turkish Cypriot has been given the rights to self determination and determination its future status, this right was acknowledged by the two communities in relation to the international agreements made on Cyprus²⁶¹.

Mr. Lennox Boyd had stated from the onset before the UDI of the Turkish people *that "it will be for the purpose of her majesty's government to ensure that nay exercise of self-determination should be effected I n such a manner that the Turkish community no less than the Greek Cypriot community shall in special circumstances of Cyprus be given freedom to decide for themselves their future status"*.²⁶² But the international community deemed the UDI of TRNC as an illegal one.

²⁵⁷ Augusto Sinagra "Illegality and Non-recognition of states" <https://sam.gov.tr/wp-content/uploads/2012/01/Augusto-sinagra.pdf> (Accessed 13 November 2018)

²⁵⁸ Augusto Sinagra "Illegality and Non-recognition of states" <https://sam.gov.tr/wp-content/uploads/2012/01/Augusto-sinagra.pdf> (Accessed 13 November 2018)

²⁵⁹ UNSCR "Resolution 541" <https://unscr.com/en/resolutions/541> (accessed 13 November 2018)

²⁶⁰ UNSCR "Resolution 550 " <https://unscr.com/en/resolutions/541> (accessed 13 November 2018)

²⁶¹ S.K.N Blay "Self-Determination In Cyprus" <https://clasic.austlii.edu.au/au/journals/AUYrBkIntLaw/1983/2.pdf> (Accessed 13 November 2018)

²⁶² Mumtaz Soysal "A Solution for Cyprus through Statehood" Vol. 4, No.3, 1999, P.4

The legality of this UDI can be examined under the Treaty of Guarantee since both parties were bound by this treaty obligation of ceasing any act that could result to the partitioning of the island, according to the doctrines of international law any *“secession or the partition of a state through a revolution or some other means is neither legal nor illegal because the law doesn't forbid or permit it”*²⁶³.

But in the context of Cyprus during the signing of the Treaty of Guarantee of 1960 an obligation was assigned to both communities on the island not to act in a way that results o the division of the island, this is stated under art II of this treaty²⁶⁴.

Article II states that *“Greece, turkey and the United Kingdom likewise under take to prohibit, so far as concerns them, any activity aimed at promoting directly or indirectly either union of Cyprus with any other state or partition of the island”*.²⁶⁵

Self-determination in this context will be deemed illegal due to this Treaty, however the above terms of this treaty can be said to have been breached by the signed parties, firstly Greece and the Greek Cypriot violated the terms of not pursuing an act that leads to partition of the territory/island to which Greece has initiated an overthrow of government or coup d etat aimed at achieving enosis which is translated to a political union of Greece and Cyprus, also turkey as a result of this invaded Cyprus that resulted to the partitioning of the island and also the UK failed to fulfill its obligations in the treaty to return the status quo of Cyprus²⁶⁶.

From the above is can be said that the treaty signed by this parties became null and void as the parties failed to fulfill their obligations and respect the provision of this treaty, not to deviate from the intended question of whether the UDI was illegal in relation to this treaty obligation, I say the UDI was indeed a legal one because under international doctrine of conducting treaty, a party to the treaty may exonerate him/her self from the duty imposed on it by the treaty if another party to the treaty transgresses from his/her obligations in the treaty, in

²⁶³ Mumtaz Soysal “A Solution for Cyprus through Statehood” Vol. 4, No.3, 1999, P.6

²⁶⁴ MFA “Treaty of Guarantee” https://www.MFa.gr/images/docs/kypriako/treaty_of_guarantee.pdf (Accessed 15 November 2018)

²⁶⁵ MFA “Treaty of Guarantee” https://www.MFa.gr/images/docs/kypriako/treaty_of_guarantee.pdf (Accessed 15 November 2018)

²⁶⁶ Stephanie Eger “The Claim Of Secession Of The Turkish Republic Of Northern Cyprus” <https://sceger.files.wordpress.com/2010/08/ba-thesis-28-2-2009-final.pdf> (Accessed 16 November 2018)

this case the act of Greece in pursuing enosis constituted a breach and hereby rendering the treaty void and null and thus the UDI cannot or couldn't be a breach of this treaty obligations²⁶⁷.

Therefore with the above I place my argument that Turkish Cypriot has the legal requisite to self-determination as this notion doesn't constitute being illegal in international law and this can be seen under Art 1(2) of which the UN Charter states that

*"To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universal peace"*²⁶⁸. Also this was confirmed by James Crawford who stated that *"international law acknowledges the doctrine of self-determination"*²⁶⁹.

In conclusion due to the injustice done to the Cypriot Turkish community by the Greek Cypriot community, Turkish Cypriot should be allowed to exert their rights to self-determination as they are the minority also they should be acknowledged by the international society as according to art 1 of the ICCPR and ICESCR which states

*"All people have the freedom of self-determination by the goodness of that freedom they freely choose their political status and freely go after their fiscal, social and ethnical developments"*²⁷⁰

II. TURKISH CYPRIOT UDI/TURKEY USE OF FORCE AND THE TREATY OF GUARANTEE

According to global law the use of force by sovereign states on another sovereign state is prohibited and if a new entity arises as a new state due to the use of force the new entity will not follow suit with recognized²⁷¹.

²⁶⁷ Stephanie Eger "The Claim Of Secession Of The Turkish Republic Of Northern Cyprus"

<https://sceger.files.wordpress.com/2010/08/ba-thesis-28-2-2009-final.pdf> (Accessed 16 November 2018)

²⁶⁸ Codification Division Publications "Charter of the United Nations" <https://legal.un.org/reportery/art.shtml> (Accessed 16 November 2018)

²⁶⁹ James Crawford, *Secession* (Oxford Scholarship Online, 2007) 384

²⁷⁰ Codification Division Publications "Repertory of Practice" <https://legal.un.org/reportery/art.shtml> (Accessed 16 November 2018)

Unfortunately above is reality that TRNC faces as an entity seeking recognition, the doctrine of prevention on the use of force is the impediment to TRNC lack of recognition since the majority or all representatives of the international society believe that TRNC creation was by the use of force on the territory of Cyprus by the Turkish army or military.²⁷²

But from the view point of the Turkish government and the Cypriot Turkish community, this use of force was not unwarranted as it occurred due to the plight or trouble that devastated the island, from Art 4 of the Treaty of Guarantee Turkey had been given power by this treaty as a patron which gave Turkey the authority and placed a duty on Turkey to use any means necessary to restore the status quo on the island and safeguard the Turkish Cypriot²⁷³.

As is stated in the previous section during the drafting process of the constitution a notion was made that if the Greek Cypriot were to push for enosis then the Turkish Cypriot can go ahead and determine their future status²⁷⁴.

The advent of this conflict started as a result of the Greek Cypriot pursuing enosis backed by Greece thus the military intervention by Turkey is not a legit reason for the international community refusal to grant recognition of the TRNC as they had the right of self-determination, a really remarkable scenario is the international community refusal and denial to see the faults of the Greek Cypriot and thus this can be seen as the political nature of recognition²⁷⁵.

The UDI of Turkish Cypriot came 9 years after the intervention of Turkey and thus it can be said that this intervention played little or no role in the establishment of TRNC and this establishment was a right conferred on them i.e. Right to Self-Determination²⁷⁶.

The doctrine of Declaration of Friendly Relations can be cited in cases where there is a representative government however since TRNC had already declared statehood, there were

²⁷¹ Huseyin Pazarcı, *International Law Courses*, Vol. 5 1998, p. 19

²⁷² Huseyin Pazarcı, *International Law Courses*, Vol. 5 1998, p. 19

²⁷³ Zaim M. Necatigil, *The Cyprus Question And The Turkish Position In International Law* (Oxford Press, 1989)

²⁷⁴ Colin Warbrick, *State And Recognition In International Law*, (M Evans, 2006)

²⁷⁵ Scott Begg, *International Society And Defacto States* (Ashgate Publishing, 1998)

²⁷⁶ Zaim M. Necatigil, *The Cyprus Question And The Turkish Position In International Law* (Oxford Press, 1989)

two divisions on the island and the other half controlled by Greek Cypriot lacked a representative government²⁷⁷.

It is obvious that Greek Cypriot cause the uproar in Cyprus by pursuing enosis and administering bigotry and subjecting the Turkish Cypriot to ethnic cleansing which had gone on from 1963-1974. But the international community failed or was reluctant to see this part of the conflict and instead viewed the Turkish Cypriot as the culpable unit²⁷⁸.

With the above said the Turkish Cypriot were definitely deprived of their rights which constituted a breach of international law and use of force by Turkey should not be an issue depriving the Turkish Cypriot of their rights to determine their political status by the international community because use of force was granted by the Treaty of Guarantee²⁷⁹.

On this note ⁴⁷ Art 2 (4) of the UN Charter constraints the use of force and with this scenario yes definitely Turkey use of force is not or was not a solution to the crisis in Cyprus but Turkey was relatively in the right state to act as the Turkish Cypriot were subjected to human rights injustice and all they desired was to pursue self-determination²⁸⁰

²⁷⁷ 31 M. Necatigil, *The Cyprus Question And The Turkish Position In International Law* (Oxford Press, 1989)

²⁷⁸ Colin Warbrick, *State And Recognition In International Law*, (M Evans, 2006)

²⁷⁹ Cansu Akgun "The Case Of TRNC In The Context Of Recognition Of States Under International Law"
<https://web.ebscohost.com.ezproxy.neu.edu.tr:2028/ehost/pdfviewer/pdfviewer?vid=2&sid=9cbcee46-f946-42f3-a564-7abd80b08104%40sdc-v-sessmgr04> (Accessed 20 November 2018)

²⁸⁰ Cansu Akgun "The Case Of TRNC In The Context Of Recognition Of States Under International Law"
<https://web.ebscohost.com.ezproxy.neu.edu.tr:2028/ehost/pdfviewer/pdfviewer?vid=2&sid=9cbcee46-f946-42f3-a564-7abd80b08104%40sdc-v-sessmgr04> (Accessed 21 November 2018)

CONCLUSION

As we have discussed in other for an entity to be regarded as a state it must fulfill the necessary criteria of statehood, the goal of this thesis has been to scrutinize and analyze notions of statehood, recognition and what constitute a defacto state with a case study on the statehood of Somaliland and TRNC. In achieving this we come to a conclusion that the statehood criteria is sufficient for accessing statehood and the political bias of states in the practice of recognition in which I gave my opinion that the practice of recognition should be judicial in nature to prevent political bias of states and also give a legal effect to recognition

Part one looked at the necessity/ relevance of this study e.g. Introduction, Research Question, Methodology, Relevance of the Topic and Structure of this Thesis. Under this part we gained an insight to the matter at hand and the structure on how the matter is to be discussed.

Under Part two, I made a discussion on the notion of state, a critical analysis on recognition and the defacto state doctrine. It is evident that statehood is a factual existence of a state and a state can function without recognition although recognition limits the level at which a state that is not recognized can conduct relations with the international community²⁸¹. Notwithstanding this recognition also plays a vital role in giving ILP to new entities and granting them passage to the international community.

Recognition has been deemed to be a “*discretionary act*”²⁸² in which obligations to recognize an entity is not conferred to an existing state even though recognition is important relating to the international society it has stand influenced by practice of state. This is because state does not want to recognize an entity because of the interest it may gain from doing so.

The practice of Great Powers has shown that if they don't back state for recognition that state may not be acknowledged by other participants in the international society, in relation to this I gave instances oh how states or Power States have abused the doctrine of recognition due to political interest.

²⁸¹ Hans Martin ²ix, Contemporary aspects of Recognition Vol.130. 1970, PP. 567

²⁸² Hans Martin Blix, Contemporary aspects of Recognition Vol.130. 1970, PP. 652-677

Great Powers recognized the entity of Croatia despite not having effective authority over its boundaries/territory and refusal of USA to aid Chechnya because it saw Russia as a political and liberal ally has shown the injustice of Great Powers in achieving their political interests²⁸³.

It can also be shown by the above that states disregard the criteria of statehood by stating that it doesn't confer with their practice despite the fact that this criterion was developed by them. The political aspect of recognition can also be seen in the practice of Great Britain that tried to use recognition as a bargain to free its captured nationals.

This political nature has led writers to deem recognition as having a nature of policy rather than by law due to their political interest and against²⁸⁴. It is evident that there are political aspects to recognition but from the practice of states political bias and self interest has been rampant; this is why I gave my opinion that there should be collectivization of recognition which can be done by a competent international organization or organ. I chose this idea because it cures the problems of political bias of states and also cures the question of how many states recognitions is needed to make an entity to be recognized.

I also gave another opinion which was influenced by the writings of Lauterpacht that the problems of recognition can be cured if the international courts can act as an agent of recognition and the court can be the ICJ due to its statutes and applicable rules, also a legislative organ can be given the right to determine recognition, this legislative organ can be a legislative organ of the international community, and these bodies can work hand in hand through advisory opinion²⁸⁵. This cures the political nature of recognition bias of states since there is no notion of politics in the judiciary or legislative although sometimes the legislative can have a little bit of politics in it.

The reason I chose this aspect is that political recognition may change the way the international system works, because it is obvious from the discussions that political recognition has become norm which may decrease the importance of territory with the international

²⁸³ Oppenheim, Lassa "*Oppenheim's International Law*" Vol. 1, 1992, p. 100

²⁸⁴ James Crawford "statehood and recognition" (2nd edn, Oxford Scholarly 2007)

²⁸⁵ Oppenheim's International law Vol. 1, 1993.

communities, this can be seen in practice where an entity is given recognition despite not having control over its territory or democratic sovereignty²⁸⁶. And it is also clear the interest of states may eventually edge international law because states recognize not because it is necessary but to meet alternative ends by disregarding the law.

Part three was aimed at analyzing the statehood of Somaliland and TRNC and why the international community has refused or ignored their pleas. It is evident that Somaliland has fulfilled the necessary criteria of statehood and is a stable entity that has shown its desires to follow international law. The international community should stop ignoring its factual existence and a freedom to secession, Somaliland has the freedom to secession even though there is no government in Somalia to negotiate its secession. The lack of recognition has crippled the economy of Somaliland due to Saudi Arabia ban on Somaliland livestock because the health reports provided by its government were not internationally recognized²⁸⁷. And because Somaliland is not recognized it cannot gain access to the ICJ or get monetary funds or help from the IMF because only recognized members of the international community can do so²⁸⁸.

TRNC is also an entity that has fulfilled all the criteria of statehood nevertheless due to the use of force by Turkey it has not been granted recognition, it is factual in nature that the international society has refused to acknowledge the injustice faced by the Cypriots Turkish when the Cypriots Greek went against constitution of the state to centralize power to the Greek Cypriot whereby this constituted a breach on the Treaty of Guarantee whereby the parties were under an obligation not to act or follow policies that may lead to the partitioning of the island²⁸⁹. However the Greek Cypriots backed by Greece still went against the provision of the treaty and pursued enosis which led to the killing of Turkish Cypriot and subjection to ethnic cleansing. The Turkish use of force can be said to be legal under the Treaty of Guarantee as it gave Turkey, Greece and the UK to do so to return the status quo of the island. The UDI of Turkish Cypriots

²⁸⁶ Mark Weston Janis "The New Oppenheim and Its Theory of International Law" http://digitalcommons.uconn.edu/aw_papers/71 (Accessed 26 November 2018)

²⁸⁷ Marcelo Kohen *secession* (Cambridge University Press 2006)

²⁸⁸ Charlotte Gleave Riemann "Somaliland: An Oasis of Peace to Somalia's Chaos" <https://Atlismta.org/online-jourmas/0809-journal-intervention/somaliland/> (Accessed 3 November 2018)

²⁸⁹ Mumtaz Soysal "A Solution for Cyprus through Statehood" Vol. 4, No.3, 1999, P.56

only occurred because the Greek Cypriots refuse to drop enosis and their ethnic cleansing idea²⁹⁰1.

Therefore the international community should disregard turkey use of armed forces/force and exercise and see the freedom which Turkish Cypriot has in relation with self-determination or decide their political future.

On this note I come to a conclusion that the practice of recognition should be free from bias or national interest and the entity of Somaliland and TRNC should be granted recognition as lack of recognition has been detrimental to the survival of these entities.

In this thesis I should the political practice of states on a biased note and the need to reform this practice, It is to be noted that this thesis isn't a possible solution of the problems of recognition, statehood and defacto states or the statehood of Somaliland and TRNC but a mere Opinion on the problems that have risen in this situations.

²⁹⁰ Monroe Leigh "The Legal Status in International Law of the Turkish Cypriot"
<https://www.mfa.gov.tr/chapter5.en.mfa> (Accessed 13 November 2018)

REFERENCES

ACADEMIC ARTICLES

Alexander Orakhelashvili "Statehood, Recognition and the United Nations". Vol. 12, 2008,

Chen Tesse, *The international law of recognition* (London: Stevens & Sons 1951)

D.J. Devine "The Requirements of Statehood Re-Examined" Vol. 34, No.4 1971.

David Ravic, statehood and the law of self-determination (Kluwer law international 2002)

Dimitros Lalos "*Between Statehood and Somalia: Reflections of Somaliland Statehood*" vol. 20 No.4, 2011,

Downer, Joshua "*Towards a Declaratory School of Government Recognition*" Vol. 46, No.2 2013

Ermira Mehmeti "Recognition in international law" Vol. 2, No. 2, 2016.

Grant, Thomas D "*East Timor, the UN System and Enforcing Non-Recognition in International Law*" Vol. 33, No. 2, 2002

Hans Martin Blix, Contemporary aspects of Recognition Vol.130. 1970,

Hersch Lauterpacht "Recognition of States in International Law" Vol. 53, 1944,

Huseyin Pazarcı, *International Law Courses*, Vol. 5 1998,

James Crawford "statehood and recognition" (2nd edn, Oxford Scholarly 2007)

J. Dugard, *Recognition and the United Nations* (Cambridge. Grotius Publications Limited 1987)

James Crawford, *the Creation of state in international law* (Oxford University Press, 1979)

Jean Christou, "North's Population tops 350 thousand" Cyprus mail (Cyprus, 28 November 2017)

James Crawford, *the Commencement of States* (Oxford Scholarship Online 2007)

Mumtaz Soysal "*A Solution for Cyprus through Statehood*" Vol. 4, No.3, 1999,

Marshall Brown "*The Recognition of Israel*" Vol. 42, No. 3, 1948,

Muhittin Tolga Ozsaglam "*Limited Recognition and Limited Relations TRNC*" Vol. 16, 2018

Nina Caspersen and Gareth Stansfield, *Unrecognized States in the International System* (first published 2011, Routledge 2011)

Necatigil, Zaim *the Cyprus question and the position in international law*, (Oxford university press 1993)

Nordin, Rohaida Witbrodt, Matthew Albert "*Self-Determination of Indigenous Peoples: The Case of the Orang Asli*" Vol. 20, No. 2, 2012

Oppenheim, Lassa "*Oppenheim's International Law*" Vol. 1, 1992,

Oppenheim's International law Vol. 1, 1993.

Poore, Brad "*Somaliland: Shackled to a Failed State*" Vol. 45, No. 1, 2009

R.Cohen "*The Concept of Statehood in United Nations Practice*" Vol. 109. No. 8, 196,

Steven Michael "*how the international community made Cyprus settlement possible*" Vol. 6, No. 1, 2001

Sterio, Milena "*A Grotian Movement: Changes in the Legal Theory of Statehood*" Vol. 39, No. 2, 2011

Sterio, Milena "*Self-Determination and Secession in International Law*" Vol. 16, No. 1, 2015

Vidmar, Jure "*territorial integrity and the law of statehood*" Vol. 44, No. 4, 2012

BOOKS

Andrew T. Guzman, *How International Law Works* (Martinus Nijhoff, 2004)

Antony Carty, *Philosophy of International Law* (Edinburg University Press, 2007)

Antonio Cassese, *International Law* (Oxford University Press, 2005)

Colin Warbrick, *State and Recognition in International Law*, (M Evans, 2006)

David J. Bederman, *the Spirit of International Law* (University of Georgia Press, 2002)

Heather A. Wilson *International Law and The Use Of Force By National Liberation Movements* (Clarendon Press, 1988)

James Crawford "The Creation of States in International Law" (Cambridge university press 2013)

James Crawford "The Creation of States in International Law" (Oxford Scholarship Online 2007)

James Crawford "The Criteria for statehood: Statehood as Effectiveness" (Oxford Scholarship Online 2007)

Jackson, Roberts and George, *introduction to international relations* (Oxford University Press, 2003)

Jack L. Goldsmith, Eric A. Posner, *the Limits of International Law* (Oxford University Press, 2005)

Karen Knop, *Diversity and Self-Determination in International Law* (Cambridge University Press, 2002)

Lassa Oppenheim. *International law: A Treatise* (5th edn, Lauterpacht Ed, 1940 & 1947)

Malcolm Nathan Shaw, *International Law* (5th end, Cambridge University Press 2003) 177

Marcelo Kohen *secession* (Cambridge University Press 2006)

Malcom D Evans, *International law* (Oxford University Press 2003)

Necatigil, Zaim *the Cyprus question and the position in international law*, (Oxford university press 1993)

Peter Malanczuk *Akehurst's Modern Introduction to International Law* (Routledge, 1997)

Scott Pegg, *International Society and the de Facto State* (Ashgate 1998)

Ti-Chiang Chen, *The International Law Of Recognition, With Special Reference To Practice In Great Britain And The United States* (Nabu Press, 2010)

Thomas D. Grant *the Recognition Of States: Law And Practice In Debate And Evolution* (Praeger, 1999)

Zaim M. Necatigil, *the Cyprus Question and the Turkish Position in International Law* (Oxford Press, 1989)

ONLINE RESORUCES

Ali Zounuzy Zadeh "International Law and The Criteria for Statehood" <https://arno.uvt.nl/show.cgi?fid=121942> (Accessed 5 October 2018)

Anthony Murphy "State formation and Recognition in International Law" https://www.esearchgate.net/publication/318110618_state_formation_and_recognition_in_international_law (Accessed 10 October 2018)

Andrew Cannon "Recognition and International law" https://www.chathamhouse.org/sites/default/files/field_document/Meeting%20Summary%20Recognition%20States.pdf (Accessed 10 October 2018)

Augusto Sinagra "Illegality and Non-recognition of states" <https://sam.gov.tr/wp-content/uploads/2012/01/Augusto-sinagra.pdf> (Accessed 13 November 2018)

Ayushi Kalyan "Somaliland- a Unique Case of Statehood and Recognition" <https://ilnu-jihlhr.org/somaliland-a-unieug-case-of-statehood-and-recognition/> (Accessed 5 November 2018)

Amos o. Enabulele "statehood and self-determination" <https://tandfonline-com.ezproxy.neu.edu.tr/doi/full/10.1080/03050718.2013.870812> (Accessed 3 October 2018)

Bridget L. Coggins "Secession, Recognition & International Politics Of statehood" https://etd.ohiolink.edu/!etd.send_file?accession=osu1154013298 (Accessed 27 October 2018)

Codification Division Publications "Repertory of Practice" <https://legal.un.org/reportery/art.shtml> (Accessed 16 November 2018)

Charlotte Gleave Riemann "Somaliland: An Oasis of Peace to Somalia's Chaos" <https://Atlismta.org/online-journas/0809-journal-intervention/somailand/> (Accessed 3 November 2018)

Cansu Akgun "The Case of TRNC in the Context of Recognition of States under International Law" <https://web.ebscohost.com.ezproxy.neu.edu.tr:2028/ehost/pdfviewer/pdfviewer?vid=2&sid=9cbee46-f946-42f3-a564-7abd80b08104%40sdc-v-sessmgr04> (Accessed 21 November 2018)

Enrico Milano "The doctrine(s) of non-recognition: theoretical underpinnings and policy implications in dealing with de facto regimes" <http://esil-sedi.eu/wp-content/uploads/2018/04/Agora-3-Milano.pdf> (Accessed 9 October 2018)

Mustafe Mohammed "Non-Recognition of Somaliland in International Law" <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.828.873&rep=rep1&type=pdf> (Accessed 23 October 2018)

Monroe Leigh "The Legal Status in International Law of the Turkish Cypriot"
<https://www.mfa.gov.tr/chapter5.en.mfa> (Accessed 13 November 2018)

Mark Weston Janis "The New Oppenheim and Its Theory of International Law"
http://digitalcomoon.uconn.edu/aw_papers/71 (Accessed 24 October 2018)

Nimo Ismail "Somaliland: A stable and Independent State, But no Recognition"
<https://worldpolicy.org/2017/02/21/somaliland-a-stable-and-independent-state-but-no-recognition/> (Accessed 1 November 2018)

Fatima Mushurova "The Creation of New States in International Law"
<https://Citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.869.6025&rep=rep1&type=pdf> (Accessed 3 October 2018)

ICJ "North Sea Continental Shelf Cases" <https://www.icj-cij.org/files/case-related/51/051-19690220-JUD-01-00-EN.pdf> (Accessed 3 October 2018)

Joseph William "What Makes a State" <https://thenewinternationallaw.wordpress.com/2012/05/02/what-makes-a-state/> (Accessed 3 October 2018)

Lawteacher.net, <https://www.lawteacher.net/free-law-essays/constitutional-law/declaratory-and-constitutive-theories-of-state.php?vref=1> (Accessed 27 October 2018)

Martti Koskenniemi "the Politic of International Law" <https://heinonline-org.ezproxy.neu.edu.tr/HOL/Page?handle=hein.journals/eurintl&div=6&id=&page=&collection=journals> (Accessed 10 October 2018)

MFA "Treaty of Guarantee" https://www.MFa.gr/images/docs/kypriako/treaty_of_guarantee.pdf (Accessed 15 November 2018)

Nasi M. Ali "Somaliland Statehood"
https://ke.boell.org/sites/default/files/somaliland_statehood_recognition_and_the_ongoing_dialogue_with_somalia.pdf (Accessed 30 October 2018)

UIO "Montevideo Convention on the Rights and Duties of States" <https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml> (Accessed 2 October 2018)

UNSCR "Resolution 541" <https://unscr.com/en/resolutions/541> (accessed 13 November 2018)

UNSCR "Resolution 550" <https://unscr.com/en/resolutions/541> (accessed 13 November 2018)

Ralph Wilde “Recognition of States”

https://www.chathamhouse.org/sites/default/files/field/field_document/Meeting%20Summary%20Recognition%20of%20States.pdf (Accessed 24 October 2018)

[Swarb.co.uk](https://swarb.co.uk/hesperides-hotels-ltd-v-aegean-turkish-holidays-ltd-muftizahde-hl-1978/) “May the Law Be With you” <https://swarb.co.uk/hesperides-hotels-ltd-v-aegean-turkish-holidays-ltd-muftizahde-hl-1978/> (Accessed 8 October 2018)

S.K.N Blay “Self-Determination In Cyprus”

<https://clasic.austlii.edu.au/au/journals/AUYrBkIntLaw/1983/2.pdf> (Accessed 13 November 2018)

Stephanie-Christine Eger "The Claim to Secession of the Turkish Republic of Northern Cyprus" <https://sceger.files.wordpress.com/2010/08/ba-thesis-28-2-2009-final.pdf> (Accessed 11 October 2018)

Scott Pegg “Twenty Years of de Facto State

Studies” <http://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-516> (Accessed 26 October 2018)

Stephanie Eger “The Claim of Secession of the Turkish Republic Of Northern Cyprus”

<https://sceger.files.wordpress.com/2010/08/ba-thesis-28-2-2009-final.pdf> (Accessed 16 November 2018)

Somaliland <http://recognition.somalilandgov.com/history> (Accessed 5 November 2018)

Tasos Kokkinidis “Population of North Cyprus more than Doubles since it was Declared a state” Greek Greece Reporter (Greece, 28 November 2017)

The Recognition of Somaliland <https://recognition.somalilandgov.com/wp-content/uploads/2013/01/The-recognition-of-Somaliland-Growing-international-engagement-and-backing.pdf>

(Accessed 4 November 2018)

THE PRACTICE OF STATEHOOD AND RECOGNITION BY STATES IN INTERNATIONAL LAW

ORIGINALITY REPORT

9%

SIMILARITY INDEX

8%

INTERNET SOURCES

7%

PUBLICATIONS

%

STUDENT PAPERS

PRIMARY SOURCES

1

cognitive-geometrics.com

Internet Source

1%

2

N. E. Bell. ""RECOGNITION" AND THE TAIWAN RELATIONS ACT: An Analysis of U.S.-Taiwan Relations within the Realm of "Low" Politics", China Information, 01/01/1995

Publication

1%

3

ilnu-jihlhr.org

Internet Source

1%

4

unpo.org

Internet Source

<1%

5

eprints.nottingham.ac.uk

Internet Source

<1%

6

cosmosmagazine.com

Internet Source

<1%

7

apo.org.au

Internet Source

<1%

8

Internet Source

<1 %

9

e.bangor.ac.uk

Internet Source

<1 %

10

acikerisim.deu.edu.tr

Internet Source

<1 %

11

www.cambridge.org

Internet Source

<1 %

12

sas-space.sas.ac.uk

Internet Source

<1 %

13

Edward Newman, Gözim Visoka. "The European Union's practice of state recognition: Between norms and interests", Review of International Studies, 2018

Publication

<1 %

14

www.contemporanea.us

Internet Source

<1 %

15

twitter.com

Internet Source

<1 %

16

www.tribunajuridica.eu

Internet Source

<1 %

17

Renée Jeffery. "Hugo Grotius in International Thought", Springer Nature, 2006

Publication

<1 %

18	citeseerx.ist.psu.edu Internet Source	<1 %
19	cris.maastrichtuniversity.nl Internet Source	<1 %
20	www.hanyang.ac.kr Internet Source	<1 %
21	www.rhsmun-sf.org Internet Source	<1 %
22	www.tandfonline.com Internet Source	<1 %
23	www.polis.leeds.ac.uk Internet Source	<1 %
24	Ersun Kurtulus. "Theories of Sovereignty: An Interdisciplinary Approach", Global Society, 1/1/2004 Publication	<1 %
25	arno.uvt.nl Internet Source	<1 %
26	etheses.lse.ac.uk Internet Source	<1 %
27	ses.library.usyd.edu.au Internet Source	<1 %
28	eprints.keele.ac.uk Internet Source	<1 %

29

swarb.co.uk

Internet Source

<1 %

30

S. Talmon. "The constitutive Versus the Declaratory Theory of Recognition: Tertium Non Datur?", British Yearbook of International Law, 2005

Publication

<1 %

31

AKGÜN, Cansu. "The Case of TRNC in the context of recognition of states under international law", Ankara Barosu Başkanlığı, 2010.

Publication

<1 %

32

"The Use of Force against Ukraine and International Law", Springer Nature America, Inc, 2018

Publication

<1 %

33

www.duo.uio.no

Internet Source

<1 %

34

D. Guilfoyle. "The Mavi Marmara Incident and Blockade in Armed Conflict", British Yearbook of International Law, 2011

Publication

<1 %

35

www.nationalethicscenter.com

Internet Source

<1 %

36

www.eastmauiheritage.net

Internet Source

<1 %

37	Sean D. Murphy. "Democratic Legitimacy and the Recognition of States and Governments", <i>International & Comparative Law Quarterly</i> , 07/1999 Publication	<1 %
38	M. N. Shawt. "The Heritage of States: The Principle of Uti Possidetis Juris Today", <i>British Yearbook of International Law</i> , 01/01/1997 Publication	<1 %
39	Manual of Public International Law, 1968. Publication	<1 %
40	core.ac.uk Internet Source	<1 %
41	NUNNER, Stephan. "International Law, Recognition and the Recent Practice of States in the Cases of Kosovo, South Ossetia and Abkhazia", <i>Bilge Adamlar Stratejik Araştırmalar Merkezi (BİLGESAM)</i> , 2016. Publication	<1 %
42	www.iclklamberg.com Internet Source	<1 %
43	opil.ouplaw.com Internet Source	<1 %
44	www.ciaonet.org Internet Source	<1 %

45	LexisNexis Publication	<1 %
46	dare.ubvu.vu.nl Internet Source	<1 %
47	ediss.sub.uni-hamburg.de Internet Source	<1 %
48	digilib.library.usp.ac.fj Internet Source	<1 %
49	legal.un.org Internet Source	<1 %
50	www.moot.in Internet Source	<1 %

Exclude quotes On

Exclude matches < 10 words

Exclude bibliography On