



# **BORDERS IN GLOBALIZATION**





*“...the fellow members of even the smallest nation will never know most of their fellow members, meet them, or even hear of them, yet in the minds of each lives the image of the communion...”*

- Benedict Anderson

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## ***1. Introduction***

Questions on sovereignty, integrity, and identity of individuals inhabiting states with limited recognition, have piqued academic interest for a number of years. A number of issues associated with the creation of states that are struggling for recognition have arisen; they have involved conflicts, struggles for self-determination, migration and displacement. With divisive views of EU states in recognizing “unrecognized states” in the region, the sustainability of such states and the effectiveness of “citizenship” or “identity” of individuals living in such states could be at risk. Europe contains many states that have struggled for both regional and international recognition. Kosovo, Abkhazia, South Ossetia, Nagorno-Karabakh and Transnistria are a few examples of such states. The Ukraine crisis also saw the self-declaration of states in Luhansk and Donetsk. The self-declared Turkish Republic of Northern Cyprus (TRNC) has also come close to being an EU territory. The unsustainability of unrecognized states, could invalidate or minimise the effectiveness of the citizenship of individuals living in such states and limit the ability to assert their rights, legal personality and identity.

In this article I will undertake an examination of the significance of sovereignty in the context of the European Union and the extent to which such conceptions govern identity and citizenship of individuals inhabiting de-facto states. I will attempt to answer the following questions: Based on Ernst B. Haas’ analysis on neofunctionalism, how is European identity shaped in a collective sense? Where do identities of splinter states fall in this equation? How

does the European community’s perception of a state’s validity impact sovereignty of de-facto states and self-determination struggle of individuals? What does ‘European citizenship’ signify? Is ‘citizenship’ or legal identity in “non-states” contingent on their recognition by other states? What is the risk of statelessness of individuals in such states?

The paper will lay emphasis on the aspect of long term sustainability of unrecognized states in light of their contentious status and recognition by other states in Europe. The historical movements and struggles that foregrounds the formation of these de facto states, that have created new geophysical borders within certain countries, and the self-determination struggles that generate issues of identity and citizenship in such unrecognized states will also be taken into consideration in my analysis.

## **2. Nation as an imagined community**

The paper begins with a quote by Benedict Anderson in his book *Imagined Communities*, which is most appropriate to this article.<sup>1</sup> Over the years, a number of conflicts and struggles for self-governance and autonomy, in addition to violent secessionist movements, have resulted in the mushrooming of autonomous territories that have not been entirely recognized by either the international community in general, or certain specific members of the international community. Before moving to the core of my analysis, it would be worth looking at Anderson’s perception of a nation as an imagined unit.

Anderson delves into each of the characteristics that epitomize a state. He questions the concept of nationalism that leads people to undertake immense sacrifices on the basis of “ghostly national imaginings” by arguing that a nation is limited in its scope<sup>2</sup>; even if a billion people were to inhabit a nation, its boundaries are finite and consists of other nations

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<sup>1</sup> Anderson, Benedict R. O’G. 2006. *Imagined communities: Reflections on the origin and spread of nationalism*. Rev. ed. New York; London: Verso.

<sup>2</sup> *Ibid* at 6.

beyond its borders. He argues that “[n]o nation imagines itself coterminous with mankind”.<sup>3</sup> The most significant argument that Anderson makes is on the conception that a nation is an imagined community. He contends that “regardless of the actual inequality and exploitation that may prevail, the nation is always conceived as a deep, horizontal comradeship”.<sup>4</sup> Despite this contradiction between the realities within a national framework and solidarity amongst people inhabiting a nation, the comradeship has manifested into movements in an attempt to assert the sense of collective identity and nationalism, within the context of nation states that Anderson refers to as “limited imaginings”.<sup>5</sup>

### **3. The recognition conundrum**

What are unrecognized territories or states? Caspersen argues that unrecognized states have existed at all times, but the reasons for non-recognition have varied over time. Most importantly, she argues that sovereignty was not an external dimension and at most times in history sovereignty was asserted internally and hence all states were unrecognized except for some level of diplomatic recognition.<sup>6</sup> But since the inception of international law the question of sovereignty has been gaining prominence and has hence become an external dimension; therefore, Caspersen argues that due to lack of ideologically acceptable regimes in such states and inability to exercise internal authority, many states were denied recognition under international law and by extension ‘external sovereignty’.<sup>7</sup> Caspersen also points out that a number of unrecognized states in Europe used to be autonomous regions or republics – she names Nagorno-Karabakh, South Ossetia, Abkhazia, Chechnya and Kosovo as examples. She argues that their non-recognition is attributed to the dissolving of the larger federations

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<sup>3</sup> *Ibid* at 6.

<sup>4</sup> *Ibid* at 7.

<sup>5</sup> *Ibid*.

<sup>6</sup> Caspersen, Nina. 2012. *Unrecognized states: The struggle for Sovereignty in the Modern International System*. Cambridge: Polity at 27.

<sup>7</sup> *Ibid*.

that they were a part of and since international recognition of states is only reserved to union republics, the aforementioned states have been denied recognition.<sup>8</sup>

Why are certain states unrecognized globally and more particularly in the European context? There is general trepidation amongst members of the international community and supranational organizations like that of the European Union to recognize unrecognized or de facto states. Caspersen argues that a number of times non-recognition of states has been attributed to the political ideologies or capabilities for such states to extend their influence in the international system or due to the aggression that preceded the creation of such states.<sup>9</sup> However, she argues that, contemporary unrecognized states are still experiencing a state of limbo in the international system because the parent states have not agreed to secession or have used force to attain de facto independence, and also because the criteria for self-determination is severely restrictive.<sup>10</sup>

Additionally, if conflicts were involved in creation of de facto or unrecognized states, international engagement is deemed to be unlawful unless the parent state has agreed to such arrangements.<sup>11</sup> This has led to an understanding, as Caspersen argues, that appeal for recognition to the international community, solely based on the assertion of self-determination has become difficult to succeed.<sup>12</sup> She argues that a number of leaders of such states, recognizing the limits of such appeals, have begun to claim their right to secession along with self-determination arguments. Leaders of unrecognized states have begun to present arguments to the international community that characterizes their claims to be based on egregious violations of civil and political rights of and abuses against those inhabiting

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<sup>8</sup> *Ibid* at 35.

<sup>9</sup> *Ibid* at 31.

<sup>10</sup> *Ibid*.

<sup>11</sup> *Ibid* at 35.

<sup>12</sup> *Ibid* at 37.

their states.<sup>13</sup> Nagorno-Karabakh has asserted its claim based on Azerbaijan’s policy of discrimination against the former’s population. Transnistria, as Caspersen points out, also made claims that Moldova used force against their secessionist movements and conflicts.<sup>14</sup>

However, what do states that do not want to recognize such states argue? Laoutides argues that this is the result of an image that has been created about unrecognized states being havens for illegal activity and posing threats to security of neighboring nations.<sup>15</sup> Laoutides argues that such characterizations tend to add to the already fragile nature of these unrecognized states. The European Parliament delegation describes Transnistria as “a ‘black hole’ in Europe where ‘illegal trade in arms, the trafficking of human beings and the laundering of criminal finance’ are carried on.” Similarly, South Ossetia has been a haven for smuggling groups and other criminal gangs who rely on transfer of contraband items from Russia to Georgia via South Ossetia.<sup>16</sup>

However, Laoutides argues that while such claims are not entirely incorrect, they do have certain implications and consequences, and a broad-brush characterization of all unrecognized states as being a security threat could be problematic. For example, Abkhazia’s inhabitants have had to rely on selling tangerines due to trade blockades that were imposed on them in the 1990s, which made international trade illegal in its territory.<sup>17</sup> Therefore, Laoutides argues that lack of close international engagement with these states could make “survival an immense challenge for both the state and its citizens.”<sup>18</sup> Such states lack development aid, are disallowed from participating in international negotiations, regulations mandated by customary international law do not apply and inhabitants’ freedom of movement

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<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Laoutides, Costas “*Surviving in a difficult Context: The Quest for Development in Unrecognized States*”, in Anthony Ware (ed.) **Development in Difficult Sociopolitical Contexts (Failed, Fragile, Pariah)**, Palgrave Macmillan, 2014, 71-88.

<sup>16</sup> *Ibid* at 72.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.*

is severely curbed since they still require the parent state to issue them with a travel document.<sup>19</sup> Despite such constraints a number of these states have sustained for years, due to a number of reasons, which is outside the scope of this paper.

The lack of international engagement leads unrecognized states to face a number of issues from lack of decision-making power in international negotiations, lack of foreign aid, constrained movement of their people across borders, and a number of other elements that are considered to be normal in the international system of multilateral engagement.<sup>20</sup> However, Caspersen argues that other forms of international support tends to add to the legitimacy of such entities. She argues that engagement with unrecognized states that may result in the quasi-legality of the secessionist movements or forced occupation, are unlawful. However, extending humanitarian aid or accepting travel documents of quasi-states could be acceptable and could result in unrecognized states finding themselves in a less isolated position than before.<sup>21</sup>

However, robust state-building have given greater credence to some unrecognized states in the international community. States like Somaliland, Taiwan and Western Sahara have developed functional and strategic relationships with other states, and have made de facto ambassadors and representatives available for consultation with some western nations.<sup>22</sup> Therefore, as Caspersen argues, significance of territorial integrity is sometimes weighed down by other forms of international engagement that have been sought as alternatives to enhance unrecognized states’ position in the international system.<sup>23</sup>

Within Europe for example, Armenia has supported Nagorno-Karabakh for long by providing them with economic support and allowing for the usage of Armenian currency.

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<sup>19</sup> *Ibid.*

<sup>20</sup> *Supra* n. 6 at 42.

<sup>21</sup> *Ibid* at 43.

<sup>22</sup> *Ibid* at 45.

<sup>23</sup> *Ibid* at 44.



Armenia also provides them with a mode of subsistence by providing them with products that are either produced in Armenia or imported from elsewhere.<sup>24</sup> Inhabitants of Nagorno-Karabakh are allowed to travel freely on Armenian passports. Caspersen points out that Russia provides South Ossetia and Abkhazia with similar forms of assistance and Turkey provides Turkish Republic of Northern Cyprus with economic assistance, financial resources and even manage their international affairs for them.<sup>25</sup> Extensive military support is also extended to unrecognized states; peacekeeping operations are also undertaken by troops of a larger patron state or a state that supports the cause of smaller unrecognized states.<sup>26</sup> A few more aspects of the role of ethnic commonalities and diasporas in the welfare of unrecognized states will be covered later on.

#### **4. Integration, identity and citizenship: some contextual discussions**

The analysis of the status of unrecognized states or de facto states in Europe will not be complete without an understanding of the issues surrounding political integration in a supranational set up like the European community, the identity of respective states, and questions on citizenship. Veen argues that the identity of Europe has been shaped by multiple and diverse identities. He argues that historically, Europe’s multicultural picture is represented by the number of languages spoken and by the number of nations, ethnic groups and cultures that shapes the region. Veen further argues that the shaping of European identity has not always been amicable and has involved conflicts over the years.<sup>27</sup>

From common historical experiences, to knowledge, a number of perspectives have played an integral role in enabling the understanding of European identity, both in in

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<sup>24</sup> *Ibid* at 55.

<sup>25</sup> *Ibid*.

<sup>26</sup> *Ibid* at 56.

<sup>27</sup> Veen, Hans-Joachim “Towards a European Identity: Policy or Culture?”, in Malcolm Crook, Joe Andrew, and Michael Waller (eds.) **Why Europe?: Problems of culture and identity.**, Palgrave Macmillan, 2000, 41-47.

intellectual and cultural terms.<sup>28</sup> Most importantly Veen points out that cultural identity has historically taken precedence over the formation of European nations with national identities and has appeared in the present day as “a necessary precondition within the current process of European political integration”.<sup>29</sup> However, the question is often on how political identity is achieved. This question is especially critical in the context of unrecognized states in the region, since they continue to struggle for recognition both at a regional level and at an international level.

Veen argues that since the Second World War the nation state as a unit has been significant in Europe and a number of people were forced into a set up of this sort against their will. Veen terms it as a “community of fate, united by their common war experience”, irrespective of the side they belonged to (winning or losing).<sup>30</sup> The post Second World War situation in Europe was dominated by poverty, hardship and economic ruin which transcended borders, and had brought every single political unit in Europe to the same level. Veen quite brilliantly articulates the coming about of a European political identity, which he argues arose from the uncertainties that thwarted any possibilities for the future, the crisis that had brought the region to its knees, and the trifling optimism that integration of old nation-states into a Union could enable effective political action to seek solutions to issues of development.<sup>31</sup> Being confronted with similar challenges, the political units within Europe sought to cope with such issues as a single supranational unit. Therefore, as Veen argues, the political integration of respective European nations was a task of pragmatism and convenience.<sup>32</sup>

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<sup>28</sup> *Ibid* at 42.

<sup>29</sup> *Ibid*.

<sup>30</sup> *Ibid* at 44.

<sup>31</sup> *Ibid*.

<sup>32</sup> *Ibid*.

Having briefly outlined the historical significance of European integration, it would be interesting to analyze how collective identities are built. As Risse argues, the “relationship between neofunctionalist reasoning and the study of collective identities” as undertaken by Ernst B. Haas in 1958, informs us that pledging allegiance and loyalty to Europe “is possible without giving up one’s national identities”.<sup>33</sup> Risse argues that European integration or socialization into European identity is a process that is driven at national levels and the idea of Europeanness is entrenched in the understanding of national identities of respective nations in the supranational unit. However, the embeddedness of the understanding of European identity at respective national levels, leads to the risk of uneven understandings of collective identities.<sup>34</sup>

Haas defines political integration as “the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities toward a new centre, whose institutions possess or demand jurisdiction over the pre-existing national states”.<sup>35</sup> He argues that such a shift in loyalties and political integration drives the creation of a new political community which overlays the pre-existing ones.<sup>36</sup> But he also points out the uniqueness that distinguishes a political community in Europe from the rest of the world; while political communities in Africa and Asia evolved in an attempt to attain statehood, the process in Europe leans towards limitation of sovereign independence and formation of formal bonds between national communities towards a goal of supranationalism.<sup>37</sup>

The emergence of unrecognized states in Europe is the result of splintering of pre-existing political communities or larger parent states in an attempt to assert self-

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<sup>33</sup> Thomas Risse., 2005. Neofunctionalism, European identity, and the puzzles of European integration. *Journal of European Public Policy* 12 (2): 291-309.

<sup>34</sup> *Ibid.*

<sup>35</sup> Ernst B. Haas, 1958. *The Uniting of Europe: Political, Social, and Economic forces, 1950-1957* at 16.

<sup>36</sup> *Ibid* at 3.

<sup>37</sup> *Ibid.*

determination. As Haas predicted, after the Second World War new states were created that were a result of splintering of existing political communities or by virtue of unification.<sup>38</sup> In such scenarios the idea of nationalism and national consciousness is paramount, which manifests into loyalty to the newly established political entity resulting in diminished allegiance to the larger parent state. The creation of new states also creates new identities that are closely intertwined with national consciousness. Haas however, doubts and questions the origin, expansion and acceptance of such national consciousness.<sup>39</sup>

However, Kolstø contends that development of a common national identity could be asserted among inhabitants of new states “through symbols, propaganda, history writing, and the cultivation and ‘invention’ of traditions and national customs”.<sup>40</sup> But the bigger and more complex question the reason behind the lack of acceptance of new forms of national consciousness. It is quite interesting to think that within certain geophysical borders the national consciousness takes control of its people; but does national consciousness end with certain frontiers or are they extendable to diaspora groups? A discussion on this will be undertaken later on this the article.

Haas’ contention was that the formation of a political community was one of the cornerstones of the European institution. Prior to integration or even after, national communities continue to enjoy the unquestioning loyalty of their citizens, which shows that loyalty is critical in the analysis of political integration.<sup>41</sup> As pointed out earlier, any population is said to be loyal to a certain set of symbols and institutions, and extended by a nation’s political authority. Therefore, in a political community, citizens show greater loyalty

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<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> Kolstø, Pål. 2006. The Sustainability and Future of Unrecognized Quasi-States. *Journal of Peace Research* 43 (6): 723-40.

<sup>41</sup> *Supra* n. 35 at 4.

to their individual national institutions rather than other forms of political authority, “in a specific period of time and in a definable geographic space.”<sup>42</sup>

How is identity linked to integration? Risse points out that the founding fathers of integration theory (Ernst Haas and Karl Deutsch) show that identity is integral in the conceptualization of political integration. He points out that Haas refers to “shifting loyalties toward supranational institutions”, while Deutsch refers to a “sense of community in his conceptualization of integration”.<sup>43</sup> He goes on to characterize integration as a mode of collective loyalties, trust and identification with certain interests. Despite both Deutsch and Haas identifying “collective identification with the community [as] one of the indicators for the degree of integration”, Risse perceives that Haas’ did not assume collective identification in the context of European institutions as the “starting point of integration”.<sup>44</sup> Instead integration is perceived as being dominated by the process in which certain specific nation groups with specific interests are able to shift their aspirations in line with a larger central institution which could be beneficial to them in the long run i.e., supranationalism.<sup>45</sup>

Risse’s analysis of Haas’ integration theory gives us the impression that integration in a supranational set up is not as straightforward and follows a process. Haas employs the idea that rationalism of individual actors played a big role in their interests being orientated towards a new supranational centre.<sup>46</sup> Haas’ assumption was that certain specific instrumental interests that firmed up the initial integration into a political community was reinforced, when there were rational reasons to identify with a new central institution which resulted in further integration. Integration into a supranational system is critical in evaluating the effectiveness

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<sup>42</sup> *Ibid* at 5.

<sup>43</sup> *Supra* n. 33 at 293.

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

of citizenship of individuals.<sup>47</sup> Later on in the paper, I will discuss what European citizenship signifies and how recognition or lack thereof, of certain states impacts individuals living in such states.

##### **5. Europe and unrecognized states: a state of exception**

Irrespective of the grounds on which certain states in the international system lack recognition, their exclusion from major international forums as a fully functioning member of the international community and the supranational system, makes them an outlier. Unrecognized states such as Abkhazia, Kosovo, Nagorno-Karabakh and many others, have seceded from larger parent states, in an attempt to assert their self-determination. As Constantinou argues in the context of the Republic of Cyprus, certain states were “intended to function as a state of exception from its very inception”.<sup>48</sup> Taking this into account, an exception is noticeable in the operation of unrecognized or de facto states in the international system. Constantinou characterizes such states as “reluctant republics”.<sup>49</sup> Unrecognized states mushroomed from the assertion of self-determination and despite the possibility to achieve “self-governance, sovereign authority and state equality”, many of these political entities have been left on the fringes of the international system of states.<sup>50</sup> Their continual struggle for recognition from other members of the international community constitutes a scenario which leaves them out of major decisions of importance. Constantinou in his analysis of the contentious position of the Republic of Cyprus, based on Carl Schmitt’s conception best characterizes newly established states as “sovereigns that sovereigns decided to treat as exception[s]”.<sup>51</sup> This characterization is applicable to states with limited recognition as well.

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<sup>47</sup> *Ibid.*

<sup>48</sup> Costas M. Constantinou, 2008. On the Cypriot states of exception. *International Political Sociology* 2 (2): 145-64.

<sup>49</sup> *Ibid* at 145.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

Constantinou also asserts the conception of double exceptionality in the context of Cyprus, which is relevant in the context of unrecognized states as well. He characterizes double exceptionality as exceptions to the norm existing within a political entity or a sovereign, which is likely imposed by the internal dominant power structures, while simultaneously being excepted from the global system of states by other sovereign states.<sup>52</sup> Such situations of exceptionality are complex and could be appropriate in the context of unrecognized states. Political units that secede from larger parent states essentially do so as a result of ethnic discrimination or other forms of suppression unleashed upon a minority group by a dominant ethnic group. Therefore, splinter states or de facto states tend to be constructed with an attempt to achieve ethnic homogeneity. Diaspora groups are often involved in fortifying the assertions of self-determination by such ethnic groups to achieve self-governance and sovereignty. This is an aspect I will be dealing with in detail later on in the article. However, diaspora groups’ involvement in such struggles become more pronounced when peaceful secessionist movement tend to manifest into fully-fledged conflicts.<sup>53</sup> With increased financing of conflicts by diaspora groups, such movements could perhaps result in major divisions between people within the new sovereign. As Constantinou argues, “the local power game” could result in “enforc[ing] specific exceptions to legal and moral norms”. The second part of the double exceptionality entails the new sovereign’s struggle for recognition at an international and supranational level.<sup>54</sup> While some countries may decide to establish trade relations and other diplomatic ties with de facto states, to minimally recognize their existence in the international system of states, many others could reject their secession outright and continue to deal with larger parent states instead. In such scenarios, both the state and individuals living in such splinter states are caught in a limbo or an exceptional state

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<sup>52</sup> *Ibid* at 146.

<sup>53</sup> *Supra* n. 15.

<sup>54</sup> *Supra* n. 48 at 146.

since their rights are being flagrantly violated within the new sovereign by virtue of other sovereign states in the global system not recognizing them as self-governing peoples.

Constantinou argues that such exceptionalities do not exist in a vacuum and that such predicaments need to be contextualized to better understand the status quo. He argues that the status quo of double exceptionality is better understood if the liminality or transitional stage of state-building process is taken into account.<sup>55</sup> Many de facto states are still in the early stages of asserting their sovereignty, self-governance, self-determination and secession. Taking that into account, it is critical to observe that within the international system of states, such political entities are yet to achieve full recognition. It is likely that the conditions and legal constraints on secession may place considerable limitations for such states to fully enjoy their independence. After Kosovo declared independence from Serbia in 2008, the International Steering Group consisting of 23 member states from the EU decided to allow for “supervised independence” which eventually ended as of 2012, when Kosovo was considered full independent.<sup>56</sup> However, as Constantinou argues, “exceptionality furnishes some states with only certain attributes of sovereignty, providing only degrees of statehood”, which result in these political entities’ inability to exercise exclusive sovereign control of their territory and enforce laws and regulations as a fully functioning member of the international system of states.<sup>57</sup> Therefore, a number of issues on the status quo of de facto states remain to be explored.

## **6. Theoretical and international law rhetoric in the context of unrecognized states**

Having outlined the idea of exceptionality as experienced by unrecognized states, it is critical to view what can be observed from the prevailing rhetoric on this subject. In this section, I will begin with an outline of some key aspects of international law and political

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<sup>55</sup> *Ibid* at 147.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*



theory of territory, before moving on to analyze them in greater detail. Despite the conception expressed by Anderson that a nation should be viewed as an imagined community, international law views states as the “predominant actors within the [international] system”.<sup>58</sup> As O’Connell argues, “[l]egal action is the index of juristic personality; only persons comprehended by the law can perform actions prescribed by the law”.<sup>59</sup> Therefore, international legal personality of both the states and those who inhabit them is a central feature of the discussion on the notion of statehood.

Rothwell et.al. argue that over centuries the notion of statehood has undergone significant transformations and international law has had to adapt itself to these changes. But what remains important in this rhetoric is the fact that political processes in the international system, bilateral or multilateral relationships between states have continued to dictate recognition of states.<sup>60</sup> Though a state may fulfill the attributes as established under international law, such aspects alone have failed to include certain states in the international systems. However, membership in the United Nations has often been the barometer of a state’s validity and recognition. This is exemplified by the fact that when the United Nations was first established in 1945, there were only 20 member states. However, decolonization, the collapse of the Soviet bloc, break up of former Yugoslavia, and other successful secessionist movements were few of the many political processes that saw the number grow to a 196 in 2015.<sup>61</sup>

Origins of states as the dominant actors in the international system, in addition to other transnational and supranational organizations which have also gained legitimacy under international law, necessitated the need for a convention that comprised a state’s

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<sup>58</sup> Donald Rothwell, Stuart Kaye, Afshin Akhtarkhavari, Ruth Davis, 2014. *International Law: Cases and Materials with Australian Perspectives*, 2<sup>nd</sup> Edition: Cambridge, U.K.: Cambridge University Press. at 269.

<sup>59</sup> D.P. O’Connell *International Law* 2<sup>nd</sup> Edition, vol. 1, Stevens, London. at 80.

<sup>60</sup> *Supra* n. 58

<sup>61</sup> *Ibid.*

characteristics. The 1933 *Montevideo Convention on the Rights and Duties of States* is an international treaty that outlines the characteristics of a state. Article 1 of the Convention notes that “[t]he state as a person of international law should possess the following qualifications: permanent population, a defined territory, government, and capacity to enter into relations with other states”.<sup>62</sup> For the purposes of this paper, the characteristics of defined territory and capacity to enter into relations with other states would be most appropriate. I will get to discussions on international law in greater detail, later on in the paper.

International law aside, what does the political theory of territory inform us about the notion of state and statehood? Kolers contends that Anglo-American political theory defends statehood by arguing that it “appeals to a particular set of essential functions for which a state is necessary.”<sup>63</sup> The ‘public goods argument’ as posited by Kolers is based on the conception that the primary purpose of a state is to “resolve collective-action problems and provide public goods that markets or nonstate modes of coordination could not provide”.<sup>64</sup> Within the public goods argument, the idea of self-determination forms an integral part of the rhetoric. The idea of self-determination puts forward the notion that a political community’s self-determination is asserted as a public good and can only be achieved in their homelands.<sup>65</sup>

However, Kolers questions this hypothesis by arguing that it is problematic to assume that self-determination is possible only within the homelands of a political community. He argues that when analyzing the idea of self-determination in settler states, it is clear that European settlers were able to assert their autonomy outside of Europe, which created new national identities.<sup>66</sup> Therefore, as per Kolers argument, national identities are not only closely tied to the idea of self-determination, but if self-determination were to be construed as

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<sup>62</sup> Montevideo Convention on the Rights and Duties of States, 165 LNTS 19; 49 Stat 3097.

<sup>63</sup> Kolers, Avery. 2009. *Land, Conflict, and Justice: A Political Theory of Territory*. Cambridge, UK; New York;: Cambridge at 34.

<sup>64</sup> *Ibid.*

<sup>65</sup> *Ibid* at 37.

<sup>66</sup> *Ibid.*

a public good, it is because “it permits members collectively to shape their evolving identity” despite being present outside of their home country and their inability to assert their national identity.<sup>67</sup>

Though the Montevideo Convention clearly outlines the characteristics of a state, it is equally important for international law to acknowledge that assumptions on territoriality cannot be viewed in isolation and must take into account questions of autonomy, identity, secession and self-determination of peoples. As Kolers argues, people’s attachment to a territory occurs in the context of state legitimacy and also within the concept of “right of substate regions to secede”.<sup>68</sup> By basing his analysis on Buchanan’s argument on political theory of territory, Kolers argues that legitimacy of a state is understood as a moral justification that there is a credible attempt to achieve self-rule and enforcement of laws within a given jurisdiction.<sup>69</sup>

However, Kolers acknowledges that this form of “internal legitimacy” alone is not sufficient since territorial legitimacy is reinforced only with “recognitional legitimacy” which recognizes any given entity, substate or state as being “a member in good standing within the system of states”.<sup>70</sup> Recognitional legitimacy also construes such units as being inherently entitled to certain rights, liberties and immunities which are extended to them and the people inhabiting such states by the international system.<sup>71</sup> In summary, recognitional legitimacy binds outsiders to respect the territorial claim of insiders i.e., respect for internal legitimacy and by international law standards, also enables a territory to enter into relations with other members in the international system. Therefore, any give state or nation is able to operate as a

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<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid* at 41.

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid* at 42.

<sup>71</sup> *Ibid.*

full member of the international system, only if their legitimacy is recognized by other members.

### **7. Recognition of statehood and implications on identity**

Based on Article 1 of the Montevideo Convention, both defined territories of states and their capacity to enter into relations with other states, are critical in the context of this paper, since these two factors tend to have implications on a state’s existence, in addition to a number of other factors, which I will analyze.

‘Defined territory’ suggests that the state or the people within the state have made certain efforts to enable the assertion of legitimate control over the limits of a given territory.<sup>72</sup> However, as Rothwell et.al suggest, for newly formed states, the capacity to have a comprehensive legal regime within the defined territory is limited. They also argue that newly emerging states in the international system may face other issues that could make their legitimacy all the more difficult.<sup>73</sup> If there are pre-existing territorial disputes with neighboring states, or with other entities that are also claiming recognition, the state in question could have problems asserting its authority in the international system. As Rothwell et.al outline, this is exemplified by the case of the dissolution of former Yugoslavia in which conflict over territorial limits of respective splinter states created problems with legitimacy.<sup>74</sup>

The capacity for a state to enter into relations is not consistent across the world. While some states are able to engage in effective foreign relations, many other states lack the legitimacy to do so. For example, certain states fulfil the criteria as noted in the Montevideo Convention, such as a defined territory, a permanent population, and a stable government, but are unable to engage in relations with other states. Rothwell et.al note that Cook Islands for

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<sup>72</sup> *Supra* n. 62.

<sup>73</sup> *Supra* n. 58.

<sup>74</sup> *Ibid.*

example do not engage in relations with other states, since the responsibility lies with New Zealand to do so, since they form a part of the Realm of New Zealand (other states being Niue, Tokelau and Ross Dependency in Antarctica).<sup>75</sup>

However, the characteristics of a state that are outlined in Montevideo Convention does not fulfill the criteria of a state’s legal existence. Recognition of a state by other states is essential for any of the other characteristics to be valid and for a state to be construed as a legitimate unit within the international system.<sup>76</sup> In fact, Article 3 of the Convention does outline that political existence of a state is independent of its recognition. Article 6 reads that “[t]he recognition of a state merely signifies that the state which recognizes it, accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable”. Article 7 goes into the politics of recognition by outlining that “[t]he recognition of a state may be express or tacit. The latter results from any act which implies intention of recognizing the new state”.<sup>77</sup>

The Montevideo Convention is problematic in its conception of what epitomizes a state. The Convention was established in 1933, much before the idea of universal human rights, international law instruments or other modern rights conventions were considered. Rothwell et.al. argue that, the Montevideo Convention neither provides for state practice in recognizing an entity’s statehood nor does it provide for particular contemporary concerns and requirements to be considered prior to recognizing a state i.e., human rights standards and democratic legitimacy.<sup>78</sup> Often, states emerge after years of struggle, conflict and violent self-determination or secessionist movements. Therefore, in the context of bilateralism or

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<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> *Supra* n. 62

<sup>78</sup> *Supra* n. 58.

multilateralism it is tough for any given state to gauge a new state’s intention to be beholden to international human rights standards or democratic legitimacy.<sup>79</sup>

#### **8. Unrecognized states: individual identity and international status**

Having outlined the international law mechanisms on statehood and some aspects of political theory of territory, I will now analyze some issues on asserting identity by inhabitants of unrecognized states, based on some scholarly research. Kolstø argues that identity is not based on external considerations of a state or a nation. He contends that development of a common national identity in unrecognized states or quasi-states has been asserted among their inhabitants “through symbols, propaganda, history writing, and the cultivation and ‘invention’ of traditions and national customs”.<sup>80</sup> Kolstø argues further that though unrecognized states continue to attempt to assert their position in the international system, their recognition does not have bearing on the inhabitants of these states, since most of them share a high degree of common identity as a nation.<sup>81</sup>

Common national identity in unrecognized states according to Kolstø is present due to three reasons. Nation building is premised on the events that preceded the establishment of a state, for example, memories of a civil war. Such memories could be perpetually exploited in reinforcing the efforts to build a nation.<sup>82</sup> The second reason he puts forth is that an image of a ‘common external enemy’ could be cultivated, which could reinforce the fact that the parent state or the challenger state “continues to exist and [attempts] to claim [its] jurisdiction over the breakaway region”, which could serve as a powerful tool for national unification.<sup>83</sup> The third reason he argues is that more often than not, an unrecognized state consists of a homogenized population which could have resulted from forced expulsions, population

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<sup>79</sup> *Ibid.*

<sup>80</sup> *Supra* n. 40.

<sup>81</sup> *Ibid* at 730.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid.*

exchanges and ethnic cleansing, that may have preceded secession.<sup>84</sup> Based on Kolstø’s arguments, common national identity is impervious to recognition of a state.

In Europe, Kolstø’s contentions of unrecognized states have been a reality over the last few decades. Supporters of a number of secessionist movements who used to live in parent states or other states, have moved to a newly emerging unrecognized state. For example, the region of Nagorno-Karabakh was cleansed of virtually its entire Azeri population and Armenians living in Azerbaijan fled to Armenia.<sup>85</sup> The Turkish Republic of Northern Cyprus (TRNC), a self-declared state, entirely consists of Turkish population who formerly used to be scattered around Cyprus, but have had to relocate due to fear of violence. Therefore, based on Kolstø’s arguments, common identity of peoples has been built over the years through the process of nation building, solidarity, fraternity and struggles against a common enemy.<sup>86</sup>

However, Baldacchino argues that “identity is relational”. He argues that “a strong sense of the self can depend on a strong sense of ‘otherness’”.<sup>87</sup> Based on his analysis on the EU–Malta relationship, he contends that the fact that Malta fulfils all the criteria of a state both under international law and a traditional sense, nationhood or identity has yet to be determined. He views the issue of the European Union’s relationship with Malta as “a classic case of an unfolding ‘core–periphery’ relationship”.<sup>88</sup>

Baldacchino brings about a very interesting argument that dispels the idealism inherent in building of identity being contingent on recognition by other states. He argues that, while the opportunity to be a member of the EU could present a sense of ‘Europeanness’

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<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid* at 731.

<sup>86</sup> *Ibid.*

<sup>87</sup> Baldacchino, Godfrey. 2002. A Nationless State? Malta, National Identity and the EU. *West European Politics* 25 (4): 191-206.

<sup>88</sup> *Ibid* at 201.

amongst the Maltese, it is in itself “a step towards a different, supra-national basis of identity”.<sup>89</sup> He argues that this prospect could compel many Maltese to “think of themselves in relation to an external other” i.e., other Europeans, which is “something they have very rarely been obliged to do”.<sup>90</sup> He argues further that this crisis of whether or not the Maltese should identify themselves within the context of Europeanness could play a part in impeding a “smooth transition to the acceptance of a paternal, benign, external other”. His argument is more along the lines of purity of cultural identity which he believes could be a threat as Malta may be willingly incorporating itself “into the cultural, if not economic and political, ambit of a larger state” i.e., the European Union.<sup>91</sup>

However, the issue of identity does little to enhance the position of unrecognized states in the international system. Caspersen argues that irrespective of the kind of states that are branched out in an attempt to achieve autonomy, unrecognized states continue to be deemed as illegitimate entities in the international system. However, the right to self-determination has constantly been asserted as a rationale for secession by many breakaway states.<sup>92</sup> Abkhazia for example appealed to the international community to recognize their independence on the basis that they have the right to self-determination. Such assertions for self-determination have, as Caspersen argues, been made on the ethnic definitions.<sup>93</sup>

Apart from ethnic divisions forming the predominant rhetoric of self-determined states, many unrecognized states have also adopted a more civic form of nation-building according to Caspersen. She argues that states like Somaliland and Transnistria have a number of ethnic groups residing in their territories. With almost an equal proportion of Moldovans, Russians and Ukrainians making up 90% of the population of Transnistria, other

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<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid* at 202.

<sup>92</sup> *Supra* n. 6.

<sup>93</sup> *Ibid.*



smaller ethnic groups also exist in the territory.<sup>94</sup> Caspersen argues that considering each of the three majority ethnic groups have their own nations outside of Transnistria, it is highly unlikely that the nationalism asserted within this territory is ethnically defined. Therefore, Caspersen contends that nationalism and self-determination in such settings are asserted based on historical continuity. Transnistrian nationalism is asserted on the historical idea that they gained statehood in 1924 much before any of the major states such as Moldova.<sup>95</sup>

However, more often than not, internal legitimacy alone has not provided unrecognized states with an improved position in the international system. As mentioned earlier, recognitional legitimacy plays a major role in this. The relationship of breakaway or de facto states with parent states or states that support their cause also determine the extent to which the former’s position is legitimized. Caspersen points out that unrecognized states in the Caucasus have experienced severe trade restrictions, sanctions and embargoes from the neighbouring states. The Commonwealth of Independent States, a regional organization that was formed after the collapse of the Soviet Union, imposed sanctions on Abkhazia in 1996.<sup>96</sup> This has an obvious effect on Abkhazia’s status. Armenia for long has been at the end of trade restrictions from Turkey that has affected the status of Nagorno-Karabakh which is dependent on Armenia for its existence. Therefore, relationship of larger patron states, that has created a sense of dependence on breakaway states, with many other international players, tends to affect the status of unrecognized states. Many a times, supranational organizations tend to have disagreements with certain causes of self-determination that result in them imposing sanctions on unrecognized states.<sup>97</sup>

## **9. The role of diasporas in secessionist movements**

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<sup>94</sup> *Ibid* at 37.

<sup>95</sup> *Ibid*.

<sup>96</sup> *Ibid* at 41.

<sup>97</sup> *Ibid*.

The role of diasporas in the struggle for secession brings a very interesting element to the discussion on statehood, collective identity and nation building. Laoutides argues that “diasporas often support separatist movements to arm and, consequently, to escalate conflicts into fully fledged wars”.<sup>98</sup> In addition to financing the conflict and providing arms to secessionist fighters, support from diaspora groups have continued to play a prominent presence even in nation building exercises.<sup>99</sup> Laoutides contends that more than championing the struggle for secession itself, diasporas tend to have a greater significance in the aftermath of such conflicts. Nagorno-Karabakh, an enclave present within the confines of the borders of Azerbaijan, was established with assistance from the Armenian diaspora and have continued to help in the maintenance of this territory.<sup>100</sup>

However, struggles for secession, maintenance of territory and assertion of common national identity is not sufficient in the international system. The lack of recognition of these states has not only created a “context of fragility for these entities in their struggle for survival” but has also impacted the benefits they could receive that are contingent of international recognition.<sup>101</sup> Despite successful secession from a parent state, many of these non-states have had to depend on them to “secure resources and revenue in their efforts at development and state-building” in addition to their dependence on diaspora groups.<sup>102</sup> Laoutides argues that this characterizes a sense of double fragility, wherein the political agenda of respective actors (both diaspora groups and parent states) has “create[d] another layer of fragility and vulnerability for these entities” in addition to the pre-existing sense of fragility rooted in the absence of international recognition.<sup>103</sup> Therefore, the notion of this new nation being an ‘imagined community’ becomes relevant. This double-fragility tends to

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<sup>98</sup> *Supra* n. 15 at 76.

<sup>99</sup> *Ibid.*

<sup>100</sup> *Ibid* at 77.

<sup>101</sup> *Ibid* at 80.

<sup>102</sup> *Ibid.*

<sup>103</sup> *Ibid.*

have serious consequences on those inhabiting unrecognized states, which I will cover in the next section.

### **10. Recognition of statehood and impacts on nationality**

In the discussions at the beginning of this article, I briefly outlined the idea of political integration and building of a political community in the context of a supranational set up. But what does citizenship signify in Europe? Is there a clear understanding of European citizenship? Ullmann argues that in the context of the European Union citizenship is “a rather vague and idealistic concept”.<sup>104</sup> Based on his references to a discussion that took place in the Institutional Affairs Committee of the European Parliament in 1996, Ullmann points out that the prevailing opinion then was that national citizenship tends to bestow individuals with greater legal security rather than an undefined concept of citizenship of the European Union.<sup>105</sup>

Ullmann asserts that as much as national citizenship in Europe may possibly be construed as providing greater legal security to persons who possess it, it is significant to note that a special European identity exists that is acceptable across the region. From cultural and historical elements to political and social structures in Europe, a thread of commonly accepted aspects of European identity is shared amongst individuals in the region.<sup>106</sup> However, Ullmann also asserts that while some of the commonalities could be identified as integrating Europeans in general, it may not be as fundamental. While he argues that “Europeans have in common their origin in Antiquity, Christianity and Germanic pre-Christian traditions”, it may not be fair to make a generalization in this respect.<sup>107</sup> This particular aspect may not apply in the context of unrecognized de facto states. States with

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<sup>104</sup> Ullmann, Wolfgang “*Identity, Citizenship and Democracy in Europe*”, in Malcolm Crook, Joe Andrew, and Michael Waller (eds.) **Why Europe?: Problems of culture and identity.**, Palgrave Macmillan, 2000, 48-52.

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

limited recognition have mushroomed in Europe as a result of struggles for self-determination and secession, from bigger parent states. While a common identity may tie European nations together, it may not be accurate to say that those who seceded from larger states could identify themselves with the common European identity. The rationale for such assertion will be covered later in the article.

The idea that there exists a “common heritage of all European nations” as Ullmann suggests, and a common historical identity, is a contentious argument. Revolutions, the active presence of the church in monarchies of medieval Europe and struggles for emancipation, are some of the factors that foregrounds the development of modern European nations.<sup>108</sup> Ullmann views the German Reformation from 1517-1555, which brought about “a distinction between Latin and German Scandinavian Europe, the latter being beyond the jurisdictional influence of the Pope or his representatives”, the British Revolution of 1641–88 bringing about “a distinction between absolute and constitutional monarchy”, and the French Revolution of 1789–1815, which established the separation of “monarchy and democracy, and unitarian national and multi-ethnic states”, as some of the major events that built modern European nations.<sup>109</sup>

Finally, Ullmann argues that “conciliarity – the ability to co-ordinate different and non-contemporary traditions, reformation – the freedom to change constitutions without restraining or removing fundamental rights, and enlightenment – free access to all kinds and levels of culture”, are some of the aspects that people belonging to European nations must participate in, in order to be in line with the conception of European identity.<sup>110</sup> He argues that the strength of any given national identity in Europe is dependent on the extent to which there is participation in the abovementioned aspects and therefore “a conflict between

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<sup>108</sup> *Ibid.*

<sup>109</sup> *Ibid.*

<sup>110</sup> *Ibid.*

national and European identity” is flawed since the weakening of a supranational identity weakens the strength of the national identity in question.<sup>111</sup>

Having engaged in a discussion on what brings together European nations, and rationalizing it based on common identities and historical experiences, Ullmann argues that the concept of European citizenship is based on such commonalities. EU citizenship for example has quite simply been based on the national citizenship of any one of the member states that gives individuals the freedom of movement within the EU, and many other associated rights such as voting and diplomatic protection.<sup>112</sup> However, since the beginning of the ‘refugee crisis’ in the EU, limits and limitations have been imposed on the freedom of movement. Borders have been reintroduced and third country nationals continue to be excluded from the same rights provisions as EU citizens or citizens of one of the EU member states. With such crises mushrooming once again, any hope for states with limited recognition to be brought within the ambit of the EU or the European region loses steam.

In *Liechtenstein v Guatemala*, the International Court of Justice defined nationality ‘as a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties.’<sup>113</sup> Grossman defines nationality as a “politico-legal term denoting membership of a state”. However, the issue of nationality of inhabitants of unrecognized states is still a contentious subject and definitions of citizenship or nationality has not provided leeway in understanding membership of those who inhabit such states.<sup>114</sup> The risk of statelessness is imminent for individuals living in such states. Weis in his work contends that ‘statelessness is

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<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

<sup>113</sup> *Nottebohm Case (Liechtenstein v Guatemala)* [1955] I.C.J 4.

<sup>114</sup> Grossman, Andrew. 2001. Nationality and the Unrecognised State. *International and Comparative Law Quarterly* 50 (4): 849-76.

undesirable from an individual’s point of view, but the existence of stateless persons is undesirable from the states’ perspective as it leads to friction between states.<sup>115</sup>

New and emerging states of the world, many of which are breakaway political units from a parent nation state, are unfortunately overlooked when international conventions or frameworks asserting the need for citizenship are established. Though the Universal Declaration of Human Rights, Convention Relating to the Status of Stateless Persons, International Covenant on Civil and Political Rights, the European Convention on Nationality, and many other human rights frameworks have emphasized the need to protect every individual’s right to nationality, they were not established in anticipation that new states could emerge in the future. This essentially, advertently or inadvertently, disregards the welfare of unrecognized states struggling for a place in the international system.

Grossman argues that anomalies have arisen over the years about nationality of those living in unrecognized states, which has had an impact on their ability to access certain rights since the state as a unit is struggling to assert its statehood.<sup>116</sup> He contends that the conception of nationality comprises a number of exceptional groups with variable significance and this has resulted in serving as a pretext for governments elsewhere to deny such groups certain rights.<sup>117</sup> A number of factors including access to economic benefits, public goods, travel authorization, and many other individual rights are severely curbed or impeded with when states do not recognize breakaway states. Of course, analyzing each of these aspects is outside the scope of the paper.

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<sup>115</sup> Paul Weis *Nationality and Statelessness in International Law* (Aalpen aan den Rijn: Sijthoff & Noordhoff International Publishers, The Netherlands, 1979) at 162.

<sup>116</sup> *Supra* n. 114.

<sup>117</sup> *Ibid.*

But in any case, the relationship between statehood and nationality, as Grossman argues, is tenuous.<sup>118</sup> He argues that individuals’ affiliation to a territory that lacks recognition as a friendly state or has had blockades and embargoes imposed on them, has anomalous results on them and tends to affect long term sustainability of their legal status and their position in international law.<sup>119</sup> Repressive measures that are aimed at gaining political supremacy over certain states, seriously affects the individuals who may not have any direct involvement with the political crisis.

Grossman suggests that based on empirical evidence and case law relating to nationality of individuals, lack of sovereignty or recognition of particular territory will impede with some, but not all of the rights and obligations of individuals belonging to it.<sup>120</sup> Assertion of nationality of a new state, for example people belonging to Abkhazia struggling to be identified as Abkhazians, has unfortunately not been achieved. Grossman argues that taking into consideration the case of ethnic Albanian Kosovars, they continue to find themselves associated with Yugoslavian nationality; “conflicts could occur with persons falling within the scope of the nationality laws” of states that have wider recognition in the international system.<sup>121</sup>

Finally, individuals affiliated to unrecognized states may be treated at borders as stateless persons. Grossman argues that when it comes to visa, migration or refugee purposes, it deprives such individuals of certain essential rights such as family reunification, the right to seek benefits from the host state and other individual liberties.<sup>122</sup> Their acceptance into the state could also depend on the political concerns they may have towards such unrecognized

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<sup>118</sup> *Ibid* at 864.

<sup>119</sup> *Ibid*.

<sup>120</sup> *Ibid* at 871.

<sup>121</sup> *Ibid*.

<sup>122</sup> *Ibid* at 874.

states. With respect to refugee law, most importantly, they are not extended the benefit of non-refoulement or the principle of non-return to a place where they may face persecution.<sup>123</sup>

Therefore, a state’s non-recognition, brings up a number of contentious issues to the surface that needs closer examination. While individuals have some of their rights deprived by being affiliated to such unrecognized states, there are certain internally guaranteed rights and obligations, that are unaffected. However, since the idea of statehood is invested in its close relationship to international law principles, fragile positions of unrecognized states are still concerns that the international community needs to look into.

### **11. Conclusion**

In this paper, I have presented some initial research on the issues that unrecognized states face. The examination of every issue that the inhabitants of such states face needs deeper engagement with the current research and greater focus on specific issues of concern. Having said that however, unrecognized states continue to survive in very difficult political contexts, and have had severe impediments to develop as full functioning members of the international system. Their struggle for survival has telling effects on the status of individuals belonging to them and with increasing threats across the world, their lack of recognition has only furthered their fragility and vulnerability. As Laoutides contends, unrecognized states have limited options of survival and sustainability as political concerns from neighbouring states have dramatically constrained stable development to the citizens of these entities.<sup>124</sup>

As Caspersen argues, statehood and sovereignty are not elements that are ruled out by the absence of international recognition. However, non-recognition of states continues to impact a state’s sustainability. Though internal systems may appear to be robust, external constraints imposed upon states fighting for self-determination and autonomy may continue

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<sup>123</sup> *Ibid.*

<sup>124</sup> *Supra* n. 15 at 86.



to face shortcomings such as ineffective multilateral relations, absence of foreign investments and foreign aid, higher cost of living due to trade embargoes, and most importantly lack of protection from international rights frameworks.<sup>125</sup> As Caspersen argues, unrecognized states may have built functional structures internally; however, they continue to exist as transient sub-state units and entities that chase elusive goals of international and regional recognition.<sup>126</sup> She argues that, since unrecognized states are born out of a restrictive right to self-determination, prospects for such states to gain any form of recognition in the future continues to remain constrained and struggles for long term survival.<sup>127</sup> Statehood, Caspersen argues, need to ensure external support, while simultaneously securing domestic recognition from patron states and assert their de facto independence.<sup>128</sup>

The question of identity and personality has given rise to some very interesting observations. Individuals’ identity intersects with the presence of a parent state who in some cases have provided financial support for their struggle to secure access to the benefits of the international system, while simultaneously the power relations between the breakaway states and parent states have created a sense of dependence.<sup>129</sup> This may not only have effects on the identity of these individuals which is at risk of being subsumed by the larger and more powerful state, but also affect the sustainability of the new territory.<sup>130</sup> While diaspora communities have been instrumental in supporting the struggle for an unrecognized state’s autonomy, diverse and divergent political interests of these communities have made their participation questionable.<sup>131</sup>

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<sup>125</sup> *Ibid* at 111.

<sup>126</sup> *Ibid.*

<sup>127</sup> *Ibid* at 119.

<sup>128</sup> *Ibid.*

<sup>129</sup> *Supra* n. 15 at 86.

<sup>130</sup> *Ibid.*

<sup>131</sup> *Ibid.*

As Laoutides argues, “[t]he suffering and lack of opportunity for the peoples of de facto states can only be thoroughly addressed if the international community decides to reassess the question of statehood and state recognition”, since short term solutions have only served specific political agendas of the groups that were involved in supporting such movements.<sup>132</sup> In addition to this, a harmonized policy recognizing the international legal personality of new and breakaway states needs to be established to avoid any further hardship that the individuals may face. While national identity has been reinforced internally, and has not caused ruptures in the sense of self-determination and autonomy of these individuals, external factors still seem to play a prominent role in international political structures. As Baldacchino argues, in contexts of supranational membership like that of the European Union, it is critical that appeals to sovereignty and recognition should not be viewed as actions intended on replacing the pre-existing identity of a state with an identity driven by regionalism or ‘supra-nationalism’.<sup>133</sup> There is still a lot to be examined and researched before arriving at any solid conclusions.

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<sup>132</sup> *Ibid.*

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