DECLARATION

Unless otherwise acknowledged in the text, this thesis represents the original research of the author.

The total word count for this thesis, excluding footnotes, bibliography, and appendices, is 74,244 words.

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16 August 2018
ACKNOWLEDGEMENTS

The Centre for Arab and Islamic Studies at the Australian National University, under the leadership of Distinguished Professor Amin Saikal, provided institutional support and a vibrant intellectual environment for this research which greatly stimulated my growth as an aspiring scholar.

I owe an unrepayable debt to my two supervisors. Associate Professor Mathew Gray's resolute support, often irrespective of time and physical location, has been invaluable. His belief in me and the research project, and his judicious incisive guidance have required nothing less than the best that I could give. Dr Kirill Nourzhanov became my supervisor in the later stages of the thesis and has been a thoughtful and stalwart bastion of scholarly standards with humour and grace in the collegial den.

I am also greatly indebted to several other distinguished academics, who have provided key advice and guidance at crucial stages in the development and implementation of this project. Professor Nina Caspersen at the University of York in the United Kingdom, Associate Professor Jacinta O'Hagan, Director of the Graduate Centre in Governance and International Affairs at the University of Queensland, and Dr Mathew Davies, Director of the Coral Bell School of Asia Pacific Affairs in the Department of International Relations at ANU, have all assisted with generous time and insights on relevant theories and gave valued feedback on sectional drafts.

My sincere gratitude to all my formal interviewees, and to many other individuals in Nagorno Karabakh, Somaliland, and Kurdistan who selflessly contributed their time and expertise to help this research (some in challenging circumstances) and made me welcome in their countries. I hope you feel that I have tried to do scholarly justice in difficult terrains with honesty, fairness and cultural respect.

A special thank you to Dr Raihan Ismail, Dr April Bicum, Dr Jessie Moritz and Kieran Pender at ANU who provided friendship and encouragement, occasional sanity checks and reliable reference points for scholarly values, when it really mattered. I would also like to pay tribute to the work and support of Jacky Sutton, fellow student, whose untimely and tragic death deprived us all of a valued colleague and friend at the Centre. Jacky's presence and assistance in facilitating meetings in Kurdistan, her willingness to share her knowledge, and her concern for my personal safety will always be remembered.

My family's support has been unwavering. My parents instilled a love of learning and a passion for thought and creative work from the cradle, my two sisters Rosie and Jess illustrate the fact that families exist to ensure you never take yourself too seriously, and their love has been my constant.

My research and living costs while undertaking the research were covered by an Australian Postgraduate Award. I also received other grants for fieldwork and travel from the Australian National University, and I consider myself fortunate to have studied there.
ABSTRACT

This thesis makes an original contribution to the field of de facto state studies. The robustness and durability of de facto states in the post-Cold War era has defied scholars’ earlier predictions of likely impermanence. In the de facto states literature that followed, a focus on rational choice approaches permeated the analysis of these states’ international engagement, however the concept of de facto state identity and how it shapes the relationship with international society has yet to be fully explored and analysed. A recent trend towards examining the legitimation strategies of de facto states has been restricted by an under-conceptualisation of the social system that they inhabit, restricting the explanatory utility of legitimacy as an analytical lens.

Rather than an abnormality, non-recognition has been the norm in the relationship between de facto states and international society. A stasis has formed. The under-conceptualisation of the relationship has remained a partial void that has limited the understanding of a phenomenon that continues to challenge central concepts in the discipline of International Relations. The core objective of this thesis is to address that conceptual need by synthesising constructivist and English School approaches to build a conceptual framework of normative standing that enables a clearer articulation of the relationship between de facto states and international society. It employs a constructivist methodology to examine the recognition narrative of de facto states, in order to conduct constitutive analysis of their state identities, and to build the foundations of a theory of normative standing.

Three case studies, with varying degrees of international engagement and parent state relationships, were selected for the examination of the application of the conceptual framework. Together, they provide for an effective generalisation across the spectrum of de facto states. The three case studies — Nagorno Karabakh, Somaliland, and the Kurdistan Region of Iraq — were informed by fieldwork interviews conducted in situ. The theory of normative standing proposed by this thesis proves to be a useful tool to explain de facto states' endurability, how de facto statehood has itself become a role identity in the international system, and the stasis of the relationship between de facto states and international society.
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Chapter One: Introduction

1.1 Overview

The resilience of de facto states in the post-Cold War era has defied scholars' initial predictions that these territorially defined, politically autonomous entities seeking external verification and recognition of their political independence, and legal protection, were destined for a transitory existence. In the ensuing de facto states literature, rational choice approaches have dominated the analysis of de facto states' international engagement, but the nuances of state identity and how it shapes the relationship with international society have yet to be fully examined and understood. A recent turn towards examining the legitimation of de facto states has been restricted by an under-conceptualisation of the social system that they inhabit, limiting the explanatory utility of legitimacy as an analytical lens.

Rather than an anomaly or an aberration, non-recognition has become almost the status quo for the relationship between de facto states and international society; the state of non-recognition has proven to be an enduring and endurable condition. Yet, the under-conceptualisation of the relationship between de facto states and international society remains a partial vacuum that has prevented this stasis from being understood in the level of detail deserving of a phenomenon that continues to challenge central concepts in the discipline of International Relations. This thesis attempts to address that conceptual need and synthesises constructivist and English School approaches to build a conceptual framework that enables a clearer articulation of the relationship between de facto states and international society.
1.2 The De Facto States Literature

In the field of International Relations, de facto states are still a relatively understudied phenomenon. Following the release of Scott Pegg’s watershed 1998 book, *International Society and the De Facto State*, a distinct literature emerged, much of which offers insights using the analytical lenses of identity politics, conflict resolution, and comparative politics. The post-Cold War context has also seen the post-Soviet de facto states studied in isolation as a specific regional phenomenon. Comprehensive texts such as Pegg, Kingston and Spears, Bahcheli *et al*, Geldenhuys, Lynch, and Caspersen, provide valuable case study analyses drawing on original empirical research that has developed a deeper understanding of the commonalities

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and differences of the varying unrecognised state-like entities that exist in the post-Cold War international arena.\(^7\)

The resilience and endurability of de facto states has elicited scholarly curiosity about the strength of their state institutions and governing apparatus.\(^8\) Where Fairbanks once described de facto states as "the weakest of the weak",\(^9\) and Kolstø claimed that they were condemned, at best, to "transmute into recognized quasi-states" lacking internal authority and functionality",\(^10\) current Freedom House ratings consider Northern Cyprus and Taiwan to be 'free', while Nagorno-Karabakh, Abkhazia, and Somaliland are all considered to be 'partly-free'.\(^11\)


This has led to a growth of studies examining the processes of state-building and internal legitimacy construction in territorially defined, politically autonomous, unrecognised entities, inspiring more nuanced and inclusive models of statehood. Caspersen even claims that "unrecognized statehood can be seen as a new form of statehood".\textsuperscript{12} For as long as standards of desirable statehood have continued to change, excluded entities have existed within the system. Although these entities are socially excluded and cast onto the fringe, historically the system has "lived with them".\textsuperscript{13} Such an existence leads to a qualitatively different statehood, stuck between the existential need to secure enabling forms of external support, to maintain their de facto independence, while effectively governing the people who legitimise their status and who will inevitably be unsatisfied so long as their country is denied recognition of its sovereignty.\textsuperscript{14} The innovative forms of state-building that this condition has given rise to is one of the most insightful developments in the de facto states literature, uncovering beacons of success and relative stability in places previously referred to as "pirate" states.\textsuperscript{15} The unique forms of state-building have challenged the conventional, indivisible view of sovereignty, yet at the same time reiterated the centrality of it as the integral organisational unit of the international system.

\textsuperscript{12} Caspersen, \textit{Unrecognized States}, 11.
\textsuperscript{14} Caspersen, \textit{Unrecognized States}, 118.
This resilience shown by de facto states, defying the initial predictions of scholars, has inspired an important focus in the literature on their external relations as well.\(^{16}\) Following his comprehensive analysis of de facto state-parent state relations,\(^{17}\) James Ker-Lindsay has rigorously detailed the “spectrum of activity” that para-diplomatic relations of unrecognised entities can take, shedding light on the importance of intent, implication, and appearance, in his analysis of bilateral and multilateral engagement.\(^{18}\) Meanwhile, Caspersen has built on the existing thread in the literature that focuses on the “recognition game” that de facto states play in their quest for sovereignty.\(^{19}\) Caspersen has mapped the potential recognition-seeking strategies, providing a timely contribution that distils the dynamics of recognition seeking and international engagement in the aftermath of the partial recognition of Kosovo. Analysis of de facto states’ external relations has thus largely centred on either the ongoing quest for recognition or empirical analysis of international engagement as a fixed interest. Theorising de facto state relations at a systemic level, however, is still at an embryonic stage. The next section will outline the major theoretical contributions to the field, highlighting critical areas that this thesis seeks to address and develop.


\(^{18}\) Ker-Lindsay, “Engagement without recognition”, 284.

1.2.1 Theoretical Engagement in the De Facto States Literature

Scott Pegg was an insightful and prescient pioneer of the de facto state literature. His book *International Society and the De Facto State* gave a detailed overview of the relationship of the de facto state according to international law, and as the title suggests, began to define the de facto state by its status as an autonomous entity excluded from international society.\(^\text{20}\) Pegg provides illuminating coverage of the challenges that non-recognition presents, laying down a crucial foundation upon which all of the following analysis has been built, and drawing much needed focus to the anomalies of the international system that challenge the assumption that "the surface of the earth is portioned into territorially differentiated independent countries".\(^\text{21}\) Pegg established a strict, overly detailed definition of the de facto state that he claimed was not supposed to "serve as a definitive statement on the subject", but rather "a starting point...that future scholars following on from it will seek to add to, modify or challenge its various premises".\(^\text{22}\) Pegg's definition has served as a launch pad for continuous debate about how to conceive of, and define, state-like entities that lack international recognition.

The ambitious scope of Pegg's book has limited his analysis in key areas, one of which this thesis seeks to expand upon significantly. Pegg grounds his analysis in the theoretical framework of the English School, however, there is a theoretical lacuna in his conception of the international system and international society. Pegg


provides a clear definition of international society, drawing on Terry Nardin, Hedley Bull, and Thomas Franck, to define it as a "society of states" that is "a practical association with the mutual recognition of sovereignty as its foundation", and "is based not on shared goals or purposes, but on a set of minimal rules that allow each state to pursue its own particular aims, subject only to mutually reciprocal constraints on how those aims may legitimately be pursued". This is a compelling and widely accepted definition of international society, which clearly locates the de facto state as the excluded entity. However, Pegg does not accompany it with a clear definition of what constitutes the international states system that he frequently refers to. At times Pegg even appears to conflate the two, claiming that the "entire states-system is premised upon this mutual recognition of sovereignty", and referring to "how the members of the states system choose to deal (or not deal) with specific de facto states". Chapter Seven is even titled "The De Facto State in International Society". The lack of a clear distinction is puzzling, given that the analysis is grounded in the English School, for Hedley Bull outlined with clarity the difference — in his view — between a society and a system of states. This ambiguity results in Pegg conceiving of a social structure that de facto states are excluded from, but without simultaneously conceptualising the social structure that they inhabit, therefore limiting his theory of their relationship with international society.

Where Pegg was the early pioneer, Nina Caspersen has become a recent authority. Caspersen’s coruscating book, Unrecognized States: The Struggle for Sovereignty in the Modern International System, delivers one of the major theoretically insightful

23 Ibid., 14-15.
24 Ibid., 16.
25 Ibid., 173.
26 Ibid., 173.
examinations of how the existence and resilience of de facto states influences conceptions of statehood and sovereignty. Investigating major themes relevant to better understanding what she terms unrecognised states, Caspersen’s detailed analysis draws on her extensive fieldwork in the Balkans and the Caucasus, and combines it with a deep knowledge of other de facto entities. Caspersen’s analysis provides valuable excursus on: how state-like entities inform notions of statehood and sovereignty; the major challenges besetting unrecognised states; possible trajectories for the unrecognised states; and the process of state-building in a condition of non-recognition. *Unrecognized States* has significantly furthered the research agenda, however, although this vivid examination of the relationship between internal state-building and the external condition of de facto states has helped to conceptualise statehood with greater accuracy and attention to the varying forms, the precise details of the social system of which de facto states are a part are still vague, and the structural effects are mostly confined to the logistical challenges that they face. Furthermore, following a trend that pervades the literature, the relationship between de facto states and international society is conceived of through a lens of instrumental rationality; the nuances of normativity are glossed over, and state identity is equated to state interest.

Nina Caspersen and Gareth Stansfield’s edited volume, *Unrecognized States in the International System*, seeks to shift the focus away from empirical case-study analysis and toward theorising unrecognised states.²⁷ One of the most valuable contributions of this book is to compile a series of perspectives that reframe the

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emphasis, treating de facto states as, "if not more 'regular' features of the international system, at least ones of a more perennial rather than anomalous nature".  

As this quote reveals, the de facto state is construed as existing within an international states system, alongside recognised states, but without clearly demarcating the concepts of system and society, as demonstrated by the opening line of Harvey and Stansfield's chapter: "Unrecognised states are anomalous features of the international system and international society".  

Harvey and Stansfield, and Closson, make important contributions that extend our understanding of the complexities of sovereignty and how de facto states inform this conceptual quagmire. Chorev, Mulaj, and Owtram all provide original analyses of the external relations of de facto states, respectively focusing on their relationship with globalisation, the role of the international community in creating these entities, and their foreign policy goals. This is a substantial development in the breadth and direction of the de facto states literature, embracing the need and expected utility of greater theoretical engagement. Even so, the systems-level structural effects that condition the perception and identity of de facto states are still to be elucidated. That theoretical vacuity is where this thesis intends to make an original contribution to knowledge by establishing a clear delineation between the international system and international society that locates the de facto state, and establishes a framework

28 Ibid.  
within which the relationship with their social constituency, and its normative fabric, can be examined.

1.3 Research questions, approach and methodology

1.3.1 Research questions

The primary research question of this project is: how does de facto state identity contribute to the stasis of the relationship with international society? Put simply, why has the relationship between international society and de facto states in the post-Cold War era remained essentially constant and relatively stable, contrary to the literature's early predictions? As the literature outline above has shown, the under-conceptualisation of the relationship between de facto states and international society requires a consequent research question to be answered first:

How can the relationship between de facto states and international society be conceptualised to account for the international legitimisation of de facto states?

An accurate articulation of this relationship must be able to account for the normative and political components of this relationship. The right to self-determination and the recognition of sovereignty have historically intertwined normative and political dynamics: who ought to be a member of international society is an inherently normative question however the process of sovereignty recognition has proven to be a heated political contest.

1.3.2 A note on terminology

This thesis argues that these territorially autonomous entities are part of the international state system, but excluded from international society. While the terms 'de facto state', 'unrecognised state', 'quasi-state', and 'contested state', have all been
used to refer to this corporate apparatus, this project chooses to employ the term 'de facto state' to focus on what the state has achieved, rather than what the state is being denied. This decision was made after answering the consequent research question, clearly articulating the social system that the de facto state inhabits and clearly delineating the society from which it is excluded. The term 'international society' will be used to refer specifically to international society as it is defined in Chapters Two and Three. The term 'international community' or 'members of the international community' will be used to refer to the recognised states that have legitimate membership in international society. As will become apparent in the following theoretical chapters, the two terms are not interchangeable; international society refers to a specific social structure that is constituted by the existence of certain norms, rules, and institutions.

Nagorno Karabakh will be used to refer to what is otherwise called Nagorno-Karabakh, Nagorny Karabakh, or Artsakh. The Nagorno Karabakh Republic (NKR) will be used interchangeably with Nagorno Karabakh to refer to the de facto state in the period following its declaration of independence. The same logic of usage will be applied to Somaliland and the Republic of Somaliland. This thesis is not trying to preference one side's interpretation over another and is instead using commonly understood or widely accepted terms in English. The Kurdistan Region of Iraq (KRI) will be used to refer to the de facto state, distinctive from the Kurdistan Regional Government (KRG), which refers specifically to the government of the de facto state.

31 Artsakh is the Armenian term.
In the case of Somali orthography, the decision was made to follow the lead shown in the works of Ioan Lewis, whose various books on the Somali experience have chosen to follow standard Somali usage without indicating long vowels or the Arabic letter *ayn*, which is written as 'c' in popular Somali script. The stated rationale, applicable and preferred in this case, is that this “avoids unnecessary linguistic puzzles” and makes text readily accessible to both English and Somali speakers because it does not distort the spoken sound for English speaking readers, and is easily pronounced and understood in context by Somali speakers.\(^{32}\)

### 1.3.3 Selected case studies

Three specific case studies have been selected to examine the theoretical conceptual framework proposed: the KRI, Nagorno Karabakh, and Somaliland. Nagorno Karabakh and Somaliland have been included in comparative case studies of de facto states, however since the KRI became a federated region of Iraq in 2005, it has not featured in the literature as frequently as, for example, the post-Soviet states of Abkhazia or South Ossetia. Although it is legally a region of Iraq, the powers that the KRI holds according to the Iraqi Constitution give it the same corporate body, territorial authority and social capacities of a de facto state. By focusing on the social attributes common to three contrasting state apparatuses – one of which is a federated region – the characteristics of statehood that qualify social entities to operate in a state-like manner will be clearly delineated from the juridical definition that currently defines them.

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The main independent variable that was used in the case study selection was the parent state relationship. A parent state refers to the recognised sovereign state that de facto states are trying to secede from. The parent relationship has been shown to be the most influential factor in enabling the conduct of de facto states in the international system. In order to understand the structural conditioning of de facto states, it is therefore logical to choose three case studies that have different degrees of enablement through their parent state relationship. Nagorno Karabakh is the least enabled, as it is in a perennial state of 'no peace, no war' with the parent state of Azerbaijan. Somaliland has managed a higher degree of international engagement, largely because its parent state is the failed state of Somalia. The KRI has the highest degree of international engagement, stemming from the unique status of a federated region of Iraq that it has managed to utilise to great effect.\textsuperscript{33} Choosing case studies that have varying degrees of international engagement, enabled or disabled by their parent state, allows the thesis findings to be more generalisable across a higher number of case studies within the spectrum of de facto states.

There are further benefits from this unique comparison of case studies. The relationship between legitimacy and legality is not only important to understanding legitimacy in the abstract, it is a crucial consideration for theorising the conceptual space that de facto states occupy; recognition provides legal protections and rights under international law. The legal frameworks that encompass the varying legal positions of de facto states have therefore also shaped the choice of case studies. The KRI is currently a legally federated region. Somaliland currently has no international recognition, but it was a recognised state in 1960 and this historical precedent is the

\textsuperscript{33} The specific details of this arrangement are explored in detail in Chapter Two.
foundation of its claim to statehood. Nagorno Karabakh has never been recognised by any recognised state.

1.3.4 Methodology

The research question addresses the recognition narrative and systems-level identity of de facto states as agents, and the social conditioning that exists within their social structure. As such, the project needs a methodology that bridges agency and structure without giving ontological priority to either. Pouliot’s sobjectivism was therefore employed. This methodology best suits the question this project is trying to answer because it bridges agency and structure, captures the subjective understanding held by agents, objectifies these meanings in their structural context and provides the tools to explain the evolution of these meanings.

Sobjectivism is based on three processes. The first process is capturing the subjective meaning of social agents through inductive technique. Theorisation imposes preconceived categories and meanings on the reality as it is understood by the agents being studied, therefore inductive methodology is required to accurately capture the subjective meanings. The second process is to objectify these meanings in their intersubjective context through techniques such as archival research and secondary research. This is adopting an interpretive approach, which is necessary because intersubjective meanings require interpretation to develop understanding. As Pouliot, following Geertz\textsuperscript{34} points out, "a twitch is not a wink";\textsuperscript{35} a difference that

\textsuperscript{34} Clifford Geertz, \textit{The Interpretation of Culture: Selected Essays} (New York: Basic Books, 1973) 6.


is entirely social and based on intersubjective understanding. The last process is explaining the evolution of these meanings through historicisation, using techniques of process tracing or constitutive analysis. Historicisation is crucial because meanings are never fixed or static, they evolve over time. Process and sequence are imperative because social life is inherently temporal. No social realities are natural, they are the result of political and social processes, which is why historicisation and process tracing must be employed. It is important to note that these stages are not conducted in chronological order. To thoroughly and accurately explore, and articulate these meanings the three processes should be conducted in conversation with one another.\footnote{Ibid., 374.} For logistical purposes, the first process of capturing subjective meanings was performed after the other two had been under way for some time.

The core focus of performing processes two and three in preparation for conducting process one was mapping the continuity and change in the recognition narratives of the case studies.

To effectively and accurately conduct constitutive analysis of de facto state identity, this project will heed the institutionalist suggestion that actors are influenced by their institutional context in both preference generation and preference change. Sobjectivism is built on a constructivist "style of reasoning", \footnote{Ibid., 361.} specifically constructivism informed by a postfoundationalist metatheory, based on three tenets. The first is that knowledge is socially constructed. The second is that social reality is constructed. The third is that knowledge and reality are mutually constitutive.\footnote{Ibid.} The metatheoretical grounding is important because this reveals that sobjectivism
shares the same ontological assumptions as constructivist institutionalism, a logical foundation for adopting this institutional framework. Furthermore, historical institutionalism is inadequate for theorising change and sociological institutionalism puts too great an emphasis on structure over agency.

1.3.5 Interview selection and methods

The notion of state agency that underpins the research is developed at length in Chapter Two. To outline the importance of why government individuals have been one of the main interview sources, a summary of the notion of state agency that this thesis adheres to can first be provided. This thesis accepts Wendt’s notion of state agency as being constituted by the commitment of a state’s individual members to acting on behalf of the state’s collective beliefs, giving states their causal powers\(^ {39} \). It is important to note that they only have to be committed to acting on behalf of a collective belief. By this logic a statement made by an official representative of the state can evidence a self-understanding, because as a representative of the state they are employed to represent that state’s collective beliefs. As such, interviews with de facto state representatives have formed the basis of much of the first objectivist process. It also examined diplomatic statements made by each case study in press releases, press conferences, and official speeches, all of which were potential sources of the de facto state’s subjective perspective. It is important to make clear at the outset that the central goal of this research is not to uncover radically new information about each of these case studies. Rather, it is about

\(^ {39} \text{Alexander Wendt, Social Theory of International Politics (Cambridge: Cambridge University Press, 1999) 219.} \)
informing the development of a new framework to better understand their relationship with international society: to conceptualise this relationship.

It must also be acknowledged at the outset that de facto states’ ongoing desire to prove their statehood, and often democratic credentials, means that official documents tend to overstate the government’s ability to fulfil the criteria of these credentials. This has not affected the accuracy of the research because the aim is to discern why these autonomous political entities think that their claims will be deemed legitimate by international society. Therefore, the accuracy of the data (for example, any claims made) is not paramount; it is the concepts and qualities that de facto states are emphasising, and how they are emphasising them that are the central concerns.

The interviews cited in this research include interviews with foreign diplomats representing a number of different states in the Kurdistan Region of Iraq. The term 'Senior diplomat' is used in citations to describe a diplomatic official of high rank, with ten or more years of experience in representing their country. This clarification is required because many of the diplomats agreed to be interviewed on the condition their name and the name of the country they represent be excluded from the citation.

1.4 The scope of the thesis

This thesis is centred on de facto states’ recognition narratives and seeks to understand the components of state identity that are relevant to those narratives, as a means of establishing a comprehensive understanding of the relationship
between de facto states and international society. The recognition narratives and their constituent identity components will at times require the consideration of foreign policy, however, this project is not conducting comprehensive foreign policy analysis.

Similarly, as many de facto states have grown from or been the product of nationalist self-determination movements, the topic of nationalism will feature throughout the identity articulation of the case studies. However, a thorough theoretical consideration of nationalism is beyond the scope of this thesis. The relationship between nation and state cannot be avoided when studying de facto states. While this thesis may raise questions about this relationship, it is not the central avenue of inquiry. This thesis draws on epistemologically compatible frameworks from constructivism and the English School in order to answer the consequent research question. However, this thesis is a contribution to the field of de facto state studies; it uses an original synthesis of theories to develop a deeper understanding of the relationship between de facto states and international society, but it is not proposing theoretical challenges to the fields of constructivism or the English School.

Historicisation is a key process in the chosen methodology of sobjectivism. However, this thesis is not a contribution to the field of history, therefore it will focus only on the historicisation of the events and developments that are central to the state identity and recognition narrative of each case study. Some of the case studies share similar state identities and relevant components. The depth and breadth of the examination of each of these components will be specific to the case study, and the degree to which it was emphasised. For example, members of the Kurdistan
Regional Government emphasised the development of civil society as a key indicator of democratisation, therefore the civil society of the KRI has been examined in depth. This contrasts with Somaliland, where elections were emphasised as a key indicator of democracy, and therefore the integrity of Somaliland's elections is examined in depth, whereas civil society is not addressed in the same depth.

Chapter Three develops the theory of normative standing, incorporating three conceptual pillars of legality, morality, and constitutionality. The theory is applied to three case studies, which requires the legal standing of each case study to be considered. Chapter Two positions de facto states in the international system and proposes a refined definition of de facto state. This definition requires an entity to meet criteria that map closely to the functions and abilities outlined by the criteria of the 1933 Montevideo Convention on the Rights and Duties of States. As such, when considering the legal pillar of each case study, this thesis will not focus on the applicability of the Montevideo criteria, for meeting these criteria is antecedent to being a de facto state as defined in Chapter Two.

1.5 The structure of the thesis

Following this introduction to the thesis in Chapter One, the next two chapters form the theoretical core of the thesis, and address the research question: How can the relationship between de facto states and international society be conceptualised to account for the international legitimation of de facto states? Chapter Two examines existing approaches to defining de facto states, including conceptions of statehood.

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and sovereignty, and proposes a refined definition. It critiques current approaches and models in the literature for locating de facto states in the international system and their relationship with international society, including recent constructivist theories about identity applied to de facto states. In synthesising relevant components from previous theoretical contributions, the chapter identifies the need for a systems-level framework to better account for de facto states, and positions the concept of legitimacy as a promising cornerstone for such an analytical framework.

Chapter Three examines existing approaches to legitimacy as a subject of scholarly enquiry, its extension into international jurisdictions, its meaning and implications for de facto states, and the limitations and strengths of previous empirical and normative approaches to the issue in the existing literature. The chapter proposes a definition of international legitimacy that forms the foundation of an enhanced theoretical framework for interpreting the relationship between de facto states and international society.

Chapters Four, Five and Six utilise the framework constructed in Chapters Two and Three to address the primary research question: how does de facto state identity contribute to the stasis of the relationship with international society? To achieve this it presents three selected case studies with varying degrees of international engagement and contrasting parent state relationships.

Chapter Four presents the case of Nagorno Karabakh; Chapter Five presents the case of Somaliland, and Chapter Six presents the case of the Kurdistan Region of Iraq. In
each case study the formation and development of state identities is examined, informed by fieldwork research conducted in each of these de facto states. Insights gained from applying the analytical lens of state identity are then used to assess normative standing using the framework that has been presented in the earlier theoretical chapters.

Chapter Seven concludes the thesis by presenting the findings from applying the theoretical framework across all three case studies, and outlines the insight that this has provided into better understanding the stasis of the relationship between de facto states and international society. The conclusion then considers the contributions of the thesis and the impact of the ideas generated on prior theoretical approaches considered in the earlier chapters, and considers the research implications arising from this work.
Chapter Two: De Facto States and the International System

Firstly, this chapter will review existing approaches to locate de facto states in the international system, and use this to put forward a refined definition of the de facto state. Secondly, it will build a states system model, situating de facto states in the systems-level framework and articulating the identity complex that will be employed in this thesis. Thirdly, it will establish the current social and political position of de facto states, contextualising their position vis-à-vis the international system, demonstrating the problematic limitations of analysing de facto states through a single lens of either international system or international society; both are required to accurately discern de facto and de jure states. Finally, this chapter will conclude that, due to the combination of normative and political reasons for which de facto states are excluded from international society, the concept of legitimacy is the most appropriate platform from which to begin theorising the relationship between these socially excluded entities and the club they seek to join. This task will then be taken up in Chapter Three.

2.1. De Facto States and Sovereignty

A key component of the de facto state research that grounds its importance within the discipline of International Relations concerns how the existence of de facto states informs conceptions of statehood and sovereignty. Since the end of the Cold War and the dissolution of the Soviet Union and Yugoslavia, contrasting
interpretations of sovereignty have proliferated.\textsuperscript{41} For this thesis to take a definitive position on the situation of the de facto state in the international system, it must settle on a sound and clear conception of sovereignty. An exhaustive analysis of the evolution of interpretations of sovereignty is beyond the current scope; it is the conceptualization of sovereignty in relation to de facto states that is crucial.

The classical view of sovereignty perceives it as an absolute and exclusive authority covering a clearly demarcated territory.\textsuperscript{42} This view is mirrored by the constitutive approach to international law, claiming that if a polity's juridical independence is not recognised, then it cannot be a state.\textsuperscript{43} Supporters of this view, such as Holsti, claim that sovereignty is an externally recognised legal status that is an “absolute category and not a variable”.\textsuperscript{44} Others, such as Jackson, analyse the internal and external components of sovereignty, but claim that it is not divisible because external recognition is intrinsic and enabling, claiming that, “supremacy and independence cannot exist separately”.\textsuperscript{45} Jackson's view enables the analysis of juridical states lacking internal sovereignty, which he refers to as “quasi-states”.\textsuperscript{46}

The existence of autonomous unrecognised territories challenges the classical perception of sovereignty. The Kurdistan Region of Iraq (KRI) is a de facto state that

\textsuperscript{41} For a comprehensive overview see Hent Kalmo and Quentin Skinner, eds., \textit{Sovereignty in Fragments} (Cambridge: Cambridge University Press, 2010).
\textsuperscript{42} Caspersen, \textit{Unrecognized States}, 4-5.
\textsuperscript{43} Ibid., 13.
\textsuperscript{44} Kalevi J. Holsti, \textit{Taming the Sovereigns: Institutional Change in International Politics} (Cambridge: Cambridge University Press, 2004) 114.
\textsuperscript{45} Jackson, \textit{Sovereignty}, 12.
has not even declared independence, yet due to the empowered position of wielding a relatively stable state-like entity in a rather anarchic neighbourhood, it is not only reshaping the regional balance of power between Iraq, Iran, Turkey, and the government of Syria, but the extensive foreign support in Syria means that the KRI is now also wedged between the great power struggles of the US and Russia. This exemplifies the need to challenge the classical view of juridical states as the only territorially defined, authoritative agents in international politics. Post-Cold War scholarship has paralleled the opposing legal opinions represented by the constitutive and declaratory approaches to statehood. Attempts to develop a more sophisticated comprehension of de facto states has led to the belief of sovereignty as indivisible and absolute being challenged in the de facto states literature.

Pegg uses Jackson’s notions of positive and negative sovereignty to ground his analysis of de facto states. Positive sovereignty is a political and logistical rather than legal quality, describing a government that “possesses the wherewithal to provide political goods” to its populace. Negative sovereignty refers to external recognition by other states, in theory providing assurance of non-intervention. Pegg’s definition of de facto states classifies them as having achieved the former but not the latter. This distinction has been employed elsewhere, referred to as empirical sovereignty and juridical sovereignty.

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47 The KRI did hold an independence referendum in September 2017, however it was non-binding and at the time of writing a declaration of independence has not been made.
49 Jackson, Quasi-states: Sovereignty, International Relations and the Third World, 29.
50 Ibid., 27.
51 Pegg, International Society and the De Facto State, 26-30.
Caspersen and Geldenhuys divide sovereignty into internal and external categories. Caspersen’s external sovereignty is the same as Jackson’s negative sovereignty: the recognition of juridical independence. Caspersen’s definition of internal sovereignty is similar to Jackson’s positive sovereignty, though it moves beyond “formal authority” to include “the supply of public services and the enjoyment of popular legitimacy”.53 Similar to those who consider domestic sovereignty and legitimacy to be inseparable, and occasionally deemed as popular sovereignty, recognition by the populace and not just control is a key component of Caspersen’s internal sovereignty.54 Where Jackson has shown the existence of states possessing external sovereignty without its internal counterpart, thus allowing the view of sovereignty as indivisible because only recognition matters, Caspersen shows that internal sovereignty can exist without external recognition.55

Divisibility of sovereignty is closely associated with the work of Krasner, especially his seminal text *Sovereignty: Organized Hypocrisy*. 56 In their analysis of unrecognised states, Harvey and Stansfield utilize Krasner’s division of sovereignty into the components of international-legal, Westphalian, domestic and interdependence.57 International-legal sovereignty is the legal recognition by other states and international organizations.58 Westphalian sovereignty refers to the

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57 Harvey and Stansfield, “Theorizing unrecognized states”, 11.
authority of an entity to prohibit the interference of actors over the domestic authority structures within their territory. 59 Domestic sovereignty refers to structures of authority within a state and their ability to regulate behaviour. 60 Interdependence sovereignty is the ability of states to control their borders and movement across them. 61 Krasner contends that the different components are not mutually constituted; one can exist on its own or in combination with others. 62

Krasner also challenges the notion that sovereignty is absolute, underpinning his contention that states have never been as sovereign as has often been assumed. 63 Krasner argues Westphalian sovereignty has been compromised through contracts, conventions, coercion and imposition. 64 The latter two are also violations of international-legal sovereignty, whereas the former two confirm it because entering into a convention is voluntary and the state has the right to exit a contract. 65 Any variation on these circumstances would equate to imposition or coercion.

Krasner’s Westphalian, international-legal and domestic sovereignty are concerned primarily with authority. Interdependence sovereignty refers only to control. Although Krasner’s segmenting of sovereignty deviates from the classical conception from which the term originates, this thesis argues that to create a category of sovereignty purely about control is a bridge too far. Positive, negative, internal, external, domestic, Westphalian, and international-legal are categories of

59 Ibid., 20.
60 Ibid., 11.
61 Ibid., 12.
62 Ibid., 9-10.
63 Ibid., 24.
64 Ibid., 25-27.
65 Ibid.
sovereignty that are employed in an attempt to comprehend the evolution of the concept. These terms all have one characteristic in common: the primacy of authority. The focus of Krasner’s *Sovereignty: Organized Hypocrisy* is Westphalian and international-legal sovereignty. Krasner dedicates barely two pages to analysing interdependence sovereignty, telling how scholars have claimed that the decreasing ability of states to control the movement of people, goods, diseases and ideas across borders has been described as a loss of sovereignty. In alignment with Holstï’s interpretation of authority as the defining characteristic of sovereignty, this thesis argues that interdependence sovereignty is not sovereignty at all. Krasner has developed a phrase to describe an idea that stemmed from misguided interpretations.

The resilience of de facto states has inspired a sustained problematisation of the condition of sovereignty, a nebulous concept that de facto state experts continue to grapple with. A final stance on sovereignty will be reached shortly; a position on this defining agential criterion cannot be reached separately from the structure that it mutually constitutes.

### 2.2 De Facto States in the International System

In order to provide a comprehensive explication of the relationship of de facto states with international society, the foundation of a clear framework detailing where they

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66 Ibid., 12-14.
67 Holsti, *Taming the Sovereigns*, 114.
are situated in the international system must first be constructed. The de facto states' literature refers to "international society",69 the "international system",70 and the "international community"71 almost interchangeably. Pegg grounds his analysis in a Grotian-inspired, English School interpretation of international society, which, although more specific than much of the literature, does not state precisely what it is that de facto states inhabit.72 Berg and Kuusk offer an "empirical approach" to international society that provides a more detailed systems-level schematic,73 however, this thesis argues that their approach is premised on a misunderstanding about what constitutes a society.74 Chapter Three explores the concept of an international society specifically, settling on Ian Clark's legitimist interpretation, which provides the most insightful explanation of the social constituency that de facto states are excluded from; detailing the social system that they actually inhabit is the task to which this thesis now turns.

73 Berg and Kuusk, "What makes sovereignty a relative concept?".
2.2.1 Defining the De Facto State

Defining the social system in which de facto states are a functioning part requires first asking: what exactly constitutes a de facto state? The growing body of literature that examines territorially defined, self-governing entities that lack juridical recognition in the international system, has developed with minimal definitional consensus to encompass the growing number of anomalous entities. Providing an important and recognised “starting point”, Pegg centres his definition of the de facto state on secessionist origins.\(^75\) Pegg’s definition is one of the most widely cited:

Organized political leadership which has risen to power through some degree of indigenous capability; receives popular support; and has achieved sufficient capacity to provide government services to a given population in a specific territorial area, over which effective control is maintained for a significant period of time. The de facto state views itself as capable of entering into relations with other states and it seeks full constitutional independence and widespread international recognition as a sovereign state. It is, however, unable to achieve any degree of substantive recognition and therefore remains illegitimate in the eyes of international society.\(^76\)

Lynch’s terminology and framework mirror that of Pegg, while Bahcheli et al. avoid the issue and interchange “de facto state” with “unrecognized state”\(^77\). Kingston and Spears centre their study on “states-within-states”, which they have deliberately “left imprecise” in order to broaden the parameters of the evolving dialogue.\(^78\) Geldenhuys introduces the phrase “contested states”, strictly limiting his study to entities seeking recognition.\(^79\) Kolstø’s "unrecognized quasi-state" must also be seeking international recognition, as well as maintaining control over most of the

\(^{76}\) Ibid., 13.
\(^{79}\) Geldenhuys, *Contested States in World Politics*, 4.
territory to which it may lay claim, and it must have been active in this "state of non-recognition" for at least two years.\textsuperscript{80}

Actively seeking recognition is the major definitional point of departure. Caspersen, Harvey and Stansfield use the term unrecognised states to refer to entities that have: established de facto independence including territorial control for at least two years; have received no or only partial recognition by international society; and demonstrated a desire for independence, “either through a formal declaration of independence, through the holding of a referendum, or through other actions or declarations that show a clear desire for a separate existence”.\textsuperscript{81} Caspersen has added to her definition the criterion of attempting to develop state institutions.\textsuperscript{82}

Requiring only the desire for independence rather than official declaration provides a broader conceptual base for analysing state-like actors. Although this thesis focuses on multiple case studies, it also promotes an English School-inspired distinction of the international system as different to the international society, which in combination with Wendt’s identity framework will be used to better understand individual de facto states as well as their collective position within the international system. Therefore Caspersen’s inclusive definition and terminology will be used as a starting point for this thesis’s definition, with one key adjustment; a crucial platform for theorising an increasingly important subject in a context that has been largely devoid of systemically conscious theorising.

\textsuperscript{80} Kolstø, “The Sustainability and Future of Unrecognised Quasi-States”, 725-726.
\textsuperscript{82} Caspersen, \textit{Unrecognized States}, 11.
The issue of recognition is inescapably important to understanding de facto states, however, centering the definition on recognition limits the explanatory power. So long as the subjects of the study have declared independence or harbour such aspirations, it is logical for a definition to include these components, but differentiating these entities based on how many states have recognised them is only useful if that recognition causes or constitutes some degree of significant qualitative change. The most enabling benchmark of recognition is the recognition required to gain entry into the United Nations. This empowers states by equipping them with the status required to obtain international legal protection, and it ensures access to major international organisations. This empowering status is considered to be the touchstone that erases any question about a polity’s rights as a state.\(^83\) Hence in practice the UN has become equivalent to a "collective arbiter of statehood".\(^84\)

On that basis, this thesis proposes making one key adjustment to Caspersen’s definition. Rather than specifying that an entity must have no or only partial recognition by international society, this thesis suggests an entity must not have recognition which is sufficient to gain entry into the United Nations.\(^85\) This simpler definition draws a clear distinction that removes any borderline cases. Under this definition Taiwan and Kosovo are considered to be de facto states because they do not have recognition sufficient to gain entry into the United Nations. Parsimony is not reason enough to adjust the definition. The primary reason for changing this

\(^83\) Joshua Keating, "How to Start Your Own Country in Four Easy Steps", *Foreign Policy* (February 2008).

\(^84\) Ker-Lindsay, *The Foreign Policy of Secession*, 131.

\(^85\) This may not work for a more historical analysis, a limitation this thesis accepts.
criterion is the conceptual clarity that it enables. In order for this thesis to unlock the analytical power of a more nuanced and thicker conceptualisation of the normative relationship between de facto states and international society, a clear distinction between those included and excluded from international society must be drawn. As Chapter Three demonstrates, a legitimate member of international society is one who has been empowered with rights, through the social sanctioning by rights holding constituents. An unambiguous distinction between rights holding constituents and everyone else is therefore essential. This does not mean reverting to a simplistic, reductionist confirmation of recognised states as the only kind of state. On the contrary, it is an enabling the move towards constructing a framework that allows for a deeper understanding of the relationship between recognised states, the society they form, and excluded de facto states.

To clarify, an entity is considered to be a de facto state in this thesis if:

1. It has established de facto independence including territorial control for at least two years.
2. It has not been recognised as a full member of the United Nations.
3. It has demonstrated a desire for independence.
4. It is in the process of developing state institutions.

2.2.2 De Facto States in the International System

The concept of an international system is deployed more frequently than it is clearly defined. Hedley Bull’s archetypal international system “is formed when two or more states have sufficient contact between them, and have sufficient impact on one another’s decisions to cause them to behave – at least in some measure – as parts of
a whole”. Bull’s demarcation of system and society is essentially a disaggregation of Martin Wight’s notion of a system, defined as “constituting a valid society of mutual rights and obligations”. Bull’s conception of an international system however is severely limited by a characteristic it shares with Kenneth Waltz’s materialist definition of the states-system as a distribution of capabilities: an under-conceptualisation of the social structures that exist within the system. A key difference between Bull’s theory and Waltz’s model is that Bull at least accounts for the importance of the inherently social rules, values, and institutions, in his framework of an international society. Barry Buzan and Chris Reus-Smit have each taken issue with the system/society distinction and subsequently offered solutions to this problem.

Buzan reworks the entire English school triad of international system, international society, and world society. His reconceptualisation of interstate societies, interhuman societies, and transnational societies, innovatively accounts for the forces of globalisation as no English School author had managed to do, with an analytical rigour that had been missing from the world society pillar. Although Buzan’s reconfiguration has significant explanatory utility, the interstate society pillar is insufficient for the purpose of this thesis. Buzan’s interstate society has six possible modes: asocial, power political, coexistence, cooperation, convergence, and

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90 Buzan, *From International to World Society*?. For his issue with the system/society distinction, see 98-101. For his reconceptualization of the English School triad, see 158-160.
The situation of the de facto state is foreign to all of them. For coexistence, cooperation, convergence, and confederation, the state’s sovereignty must have been recognised. Asocial describes a “rather rare condition, found mostly in science fiction”, where state engagement is always aggressive and diplomacy is non-existent. Power political is akin to the English School’s international system pillar, where states are motivated purely by survival, and although some minimal institutions do exist, including recognition, values are not shared. Not only does the institution of recognition exclude de facto states from this mode, the de facto states literature has shown they can share the same values as their recognised counterparts.

Reus-Smit’s issue with system/society distinction is “not conceptual, it is historical”. He argues that a close examination of the last six hundred years shows that rarely does a “textbook example” of Bull’s international system exist, “let alone one that transformed with the advent of mutual recognition into an international society”, which is what “conventional accounts suggest”. Reus-Smit proffers a model of the international system that “has always had fundamental social dynamics”, that did not emerge prior to international society, rather “system and society emerged simultaneously”. For Reus-Smit, the international system develops social structures, specifically “relatively stable constitutional norms and attendant reproductive practices that define the terms of legitimate statehood and...
the parameters of rightful state action”.\(^96\) International society describes the orders that evolve around these constitutional structures. Reus-Smit’s conception of the international system as encompassing the orders that coalesce as international societies, provides a logical and useful starting point for a framework in this thesis.\(^97\)

Reus-Smit’s model of the international system is conceived for the purpose of his investigation into the development of rights and the role this played in the evolution of the international system. This thesis’s focus on the identity of de facto states requires a model of the international system that follows Reus-Smit’s logic, but with greater detail that accounts for unrecognised statehood without resorting to an ambiguous position on the issue of sovereignty. The framework of Wendt’s states-system provides another related and appropriate contribution.

Wendt’s states-system is based on his refined model of the essential state, consisting of five criteria:

(1) An institutional-legal order
(2) An organization claiming a monopoly on the legitimate use of organized violence
(3) An organization with sovereignty
(4) A society
(5) Territory.\(^98\)

As the earlier discussion established, sovereignty is a heavily contested concept and Wendt employs a specific definition of sovereignty to underpin this model, a definition that this thesis accepts and adopts.\(^99\) Wendt divides sovereignty into

\(^96\) Ibid., 19.
\(^97\) As previously noted, the finer details of this distinction will be fleshed out in Chapter Three.
\(^99\) As the other four criteria are self-explanatory, only sovereignty is explored in detail here. The question of sovereignty and de facto states is addressed earlier in this chapter.
internal and external components. Internal sovereignty refers to the state having the ultimate authority within society; recognition is key. Internal sovereignty is about being recognised by society as having authority. Autonomy is not sovereignty: wielding forceful power over society is only internal sovereignty if that power is recognised by the people. This political bargain can take different forms with examples ranging from democratic, to rentier or totalitarian.

External sovereignty refers to the absence of any external authority that can supersede that of the state. Wendt claims that the recognition of external sovereignty by other states is not a prerequisite. Recognition bestows certain freedoms and establishes legal rights for a state, which is supremely enabling and therefore desirable, however external sovereignty is simply having independence from an outside authority. This aligns with Jackson’s distinction that posits recognition establishes juridical statehood, but without recognition there is still empirical statehood. Wendt’s refined model of the essential state therefore provides a fitting framework from which to theorize the socially constituted identity of a de facto state.

A clearly reasoned justification for using this framework is required, given that Wendt himself states that the purpose of the essential state is only to “provide the

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101 Wendt, Social Theory of International Politics, 207.
102 Ibid.
103 Ibid., 208.
104 Ibid.
105 Ibid., 209.
necessary platform or 'body' to begin doing systemic theory”.107 Wendt also admits that the state “has borderline cases”.108 The de facto state is the very definition of a borderline case. Theorising about agents that self-organise in anomalous circumstances is complex.109 Much of the de facto state literature has employed empirical approaches that are too exclusionary to provide a comprehensive framework for theorising the relationship between de facto states and international society. Excluding international-legal sovereignty from the defining criteria of the state is an approach echoed in Zaum’s analysis of sovereignty.110 The essential state is also similar to the 1933 Montevideo Convention on the Rights and Duties of States, which classifies a state as an autonomous entity with a permanent population that exists in a defined territory, consisting of a government that is legitimated by the recognition of its citizens, with the capacity to enter into relations with other states.111 The only significant difference is Montevideo’s inclusion of the capacity for foreign relations, which in the case of de facto states cannot be conducted through the conventional diplomatic avenues.112

Wendt’s framework is designed to explain the cultures of anarchy at a systemic-level, and is insufficient for revealing state-identity in its entirety because it does not account for domestic forces. Wendt acknowledges the importance of inner state workings; they are simply beyond the scope of his research.113 There are significant

107 Ibid., 201.
109 Pegg, International Society and the De Facto State, 229.
110 Zaum, The Sovereignty Paradox, 32-34.
111 Hurst Hannum, Autonomy, sovereignty and self-determination: the accommodation of conflicting rights, 15-16.
112 See Ker-Lindsay, “Engagement without recognition”.
components of the research in this thesis that consider sub-state level identity forces and domestic actors in the case studies, however, using Wendt’s framework is still justifiable because the thesis is not using this framework to explain these intra-state workings. Rather, it adopts this substantive framework, with a specific focus on the essential state as an entity to which identities and interest can be attributed, to form the first conceptual layer: the international system. In Chapter Three, Clark’s legitimist interpretation of international society will be employed, forming the second conceptual layer. With these two concepts firmly in place, the thesis will locate de facto states as units in the international system, excluded from the international society, and being heavily influenced by the culture and norms of the international society that they are seeking to join. This is the conceptual foundation upon which the thesis’s theory of normative standing - its primary contribution to original knowledge - will be proposed.

Adopting this framework also requires a thorough assessment of the KRI’s complex contextual positioning. Although the KRI has a formalised legal relationship with the Government of Iraq (GoI), the division of authority makes it more complicated than other de facto states to fit into models of sovereignty and statehood. Iraq’s Constitution recognises the authority of the KRI over all administrative requirements of the region including internal security. The laws of the Kurdistan region, implemented by the Kurdistan Parliament, bind the KRI. The KRI therefore clearly satisfies the criterion of an institutional-legal order. The claim to

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114 Wendt acknowledges the divisibility of his substantive framework from his theory of international politics: Wendt, “Social Theory as Cartesian Science”, 181.
having a monopoly on the legitimate use of organised violence is evidenced by the functioning of the Kurdistan police force, the internal security force known as the Asayish, and their military, the peshmerga. The vibrant Kurdish identity is displayed throughout society, and the KRI’s territorial authority over Dohuk, Erbil and Sulaymaniyah is recognised in the Constitution.116 The KRI clearly meets the criteria of society and territory. This thesis argues that the criterion of sovereignty is met but it is more complicated and requires in depth clarification.

The internal sovereignty of the KRI is indisputable. The institutional-legal order, effective provision of security and recognition displayed by the successful democratic elections of 2009 are testament to this. The KRI is not entirely free of external authority, however this thesis argues that the establishment and development of authority structures within Kurdistan represents relevant components of such freedom. Article 115 of Iraq’s Constitution clearly states that regions have the power to amend the application of federal law on matters outside the exclusive authority of the federal government,117 and Article 110 delineates those exclusive authorities. The fourth, sixth and ninth points of Article 110 are too minor to affect the authority structures of the KRI. The third and seventh points show that the GoI can influence the financial and business sectors in Iraq, but power and influence do not equate to authority.118 The three points that specify GoI supremacy are:

\begin{quote}
Article 110: 
The federal government shall have the exclusive authorities in the following matters:
\end{quote}

117 Ibid.
118 On this point see: Holsti, *Taming the Sovereigns: Institutional Change in International Politics*, 114.
First: Formulating foreign policy and diplomatic representation; negotiating, signing and ratifying international treaties and agreements; negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade policy... Fifth: Regulating issues of citizenship, naturalization, residency, and the right to apply for political asylum... Eighth: Planning policies relating to water sources from outside Iraq and guaranteeing the rate of water flow to Iraq and its just distribution inside Iraq in accordance with international laws and conventions.

These points outline the GoI’s supremacy over the KRI in managing foreign relations. The KRI’s capability to conduct diplomacy and manage citizenship is limited, and these limitations show the GoI’s authority over the KRI’s relations with other states and international organisations. The GoI has no authority over the structures that govern the domestic affairs of Kurdistan. The authority that the GoI holds over the KRI is directly related to the GoI’s international-legal sovereignty. These are empowering functions that recognition bestows, the same recognition that other more commonly accepted de facto states are also denied. The KRI’s limited ability to conduct diplomatic foreign relations does not diminish its authority over the political and legal structures within its territory. The KRI therefore has the external sovereignty required for the definitional purposes of this thesis.

2.2.3 De Facto State Identity in the International System

The ‘social turn’ in International Relations has spawned a vast and diverse array of constructivist theories about identity. International Relations scholarship over the last thirty years is replete with complementing and contrasting sociologically grounded theories. The importance of identity has become a staple, from foreign policy analysis through to systems-level theorising. A baseline point of agreement for many constructivists is the claim that the basis of state interests is state
An extensive review of the entire constructivist library is beyond the scope of this project, rather, what is required is an understanding that will enable a rigorous assessment of de facto states' relationship with international society by providing the tools to study their state identity. This thesis will utilise Wendt's multi-layered identity framework, for the same reason that his essential state model has been embraced: the explanatory utility for illuminating the social positioning of de facto states at the system level. This chapter will now proceed to detail this framework, and defend the Wendtian approach against recent criticism that, this thesis argues, can actually be embraced for the task at hand to complement and improve Wendt's state identity model.

Wendt considers identity to be a “property of intentional actors that generates motivational and behavioural dispositions”. Identity is grounded in the self-understanding held by an actor, which has an intersubjective character because the meaning of that self-understanding is often reliant on whether other actors reflect that meaning by representing them accordingly: identities are created by ideas held by the Self and the Other. Both internal and external structures constitute identities. Wendt divides identity into four kinds, built upon his essential state framework: corporate, type, role and collective. In the states-system the corporate identity is considered to be pre-social, while the last three are socially constructed.

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120 Wendt, *Social Theory of International Politics*, 224.

121 Ibid.

Corporate identity is the foundation for other identities and consists of the properties that make an actor a distinct body, constituted by “self-organizing, homeostatic structures”. This includes the material foundation of an actor and, for intentional actors such as humans or states, having a state of consciousness and memory. Summed up aptly by Wendt, corporate identity is the “body and experience of consciousness”. Because the corporate identity is self-organising it is exogenous to the social structure within which it exists, hence Wendt classifies it as presocial. The classification of the corporate identity as pre-social is a problem that will be examined closely shortly.

Type identity is a category of shared traits that are social in content and meaning. The determining characteristics of type identities are intrinsic to the actor, meaning that although the trait must have social meaning to be identified as a type it must also exist whether or not another actor is there to recognise it. An actor can have multiple type identities but just because a characteristic is shared does not mean that it will create a type identity. For instance, the United Kingdom and New Zealand are both made up of islands, however this aspect of their corporate identity has no social meaning, whereas both states are democratic, which is of categorical social consequence in international society and therefore constitutes a type identity.

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123 Wendt, *Social Theory of International Politics*, 224.
124 Ibid.
126 Wendt, *Social Theory of International Politics*, 226.
127 Ibid.
128 Ibid.
Contrasting corporate and type identities, role identities are purely social, existing only in relation to the Other.\textsuperscript{129} To have a role identity an agent must fill a position in a social structure, behaving toward an Other according to the norms that constitute the former’s identity and the latter’s counter-identity.\textsuperscript{130} Role identities are based on shared expectations, which for many roles can be institutionalized in a social-structure before certain agents have interacted.\textsuperscript{131} The use of Mead’s concept of the “Me”, being “the self as it sees itself through the Other’s eyes”, is key to understanding the function of role identity.\textsuperscript{132} The internalisation of these expectations by an agent leads to that structure being reflected in the structure of the “Me”, a process called alter-casting.\textsuperscript{133} The existence of a role identity in the agent’s consciousness allows an agent to assume a role identity.\textsuperscript{134}

Wendt includes collective identity as the third social sub-class of identity. Collective identity is a unique configuration of type and role identities that has the “causal power to induce actors to define the welfare of the Other as part of that of the Self”.\textsuperscript{135} Collective identity is fundamental for Wendt in extrapolating his grand theory of international politics. However, it is peripheral to the purpose of this project, and as Cederman and Daase have highlighted in their critique of Wendt, role and corporate identities can exist in both individual and collective terms.\textsuperscript{136} As such, collective identity needs no further elaboration.

\textsuperscript{129} Ibid., 227.
\textsuperscript{130} Ibid., 227.
\textsuperscript{131} Ibid.
\textsuperscript{132} Ibid.
\textsuperscript{133} Ibid.
\textsuperscript{134} Ibid.
\textsuperscript{135} Ibid., 229.
The power of any identity cannot be fully understood separate from the interests it is attached to. Interest is founded in identity.\textsuperscript{137} Sometimes an identity may be selected to serve an interest, but in this case the interest concerned presupposes a stronger identity in the actor’s hierarchy of Self.\textsuperscript{138} Identities alone are not sufficient to explain behaviour, meaning interests are not reducible to identity: “Without interests identities have no motivational force, without identities interests have no direction”.\textsuperscript{139} The explanatory power of each is interdependent on the other and one alone cannot be fully understood in isolation.\textsuperscript{140}

There are two types of interest, subjective and objective. Objective interests are the elements that are functionally essential for the reproduction of an identity.\textsuperscript{141} This is applicable to the four identity types.\textsuperscript{142} For instance, if New Zealand relinquished its monopoly on organised violence it would cease reproducing the corporate identity of a state. If the Australian army overthrew the government by force Australia would lose its democratic type identity. These needs are objective because they are essential to an identity regardless of whether or not the New Zealand government recognises this.\textsuperscript{143} Actors have to continuously reproduce an internalised identity. To do so they must realise the needs that must be satisfied to reproduce an identity, before acting on that realisation.\textsuperscript{144}

\textsuperscript{138} Wendt, \textit{Social Theory of International Politics}, 231.
\textsuperscript{139} Ibid., 234.
\textsuperscript{141} Wendt, \textit{Social Theory of International Politics}, 232.
\textsuperscript{142} Ibid.
\textsuperscript{143} Ibid.
\textsuperscript{144} Ibid.
Subjective interests are the beliefs that actors hold about how to satisfy their identity needs. These are subjective because they rely on an actor’s perception, which may be inaccurate. Just because an actor tries to understand their identity needs does not mean that they will accurately discern them. An important distinction must be made here: a subjective interest is a preference for achieving a goal, not a preference as to how best to achieve that goal.\textsuperscript{145} Subjective interests are motives, not strategies therefore actions are not sufficient indicators of preferences.

\subsection*{2.2.4 The Ontological Status of the State}

The essential state model and the accompanying identity framework have been subject to much criticism, of which the most relevant regards the ontological status of the state. Wendt claims that "states are ontologically prior to the state system. The state is presocial to other states in the same way that the human body is presocial".\textsuperscript{146} This ontological claim provides the epistemological freedom required to execute his grand systems theory, however, as Kratochwil asserts, it excludes his theory from engaging with the changes in political boundaries and the politics of inclusion and exclusion.\textsuperscript{147} For a systems theory to be unable to address questions regarding how and why actors and systems get reconstituted is a significant shortcoming.\textsuperscript{148} The underlying issue is the "rump" materialist ontology that underpins Wendt's essential state, conceiving of the materialism-idealism question

\begin{thebibliography}{9}
\bibitem{145} Ibid.
\bibitem{146} Wendt, \textit{Social Theory of International Politics}, 198.
\bibitem{148} Hall, \textit{National Collective Identity}.
\end{thebibliography}
in a Cartesian separation of mind and body. Post-structuralists also criticise this point, arguing there can be no subject that ontologically precedes their experiences; experience constitutes the subject in the act of performativity.\textsuperscript{149} For these critics the problem is in the presupposition of a self that can interpret the world, and make decisions separate from it before enacting those decisions.

The response from post-structural critics to this is a linguistic-centric alternative. Ringmar’s criticism of this approach is apt, claiming that humans and states are "emphatically not made up of citations and reiterations".\textsuperscript{150} This response has gone too far and taken ideas 'all the way down'. Instead, Ringmar collapses the mind-body divide by using advances in neuroscience and cognitive theory to develop the proposition that meaning is not interpreted, as constructivists suggest, but rather it is lived, conceptualised as an "embodied experience", grounded in an alternative formulation of performance.\textsuperscript{151} This theory argues that meaning can be constructed at the level conceived of by constructivists, in discursive and cultural forms, however, all meaning construction can only take place because of the neurophysiological foundations; due consideration must be given to the effects that these foundations impart. Ringmar gives an insightful example of how this works at the individual level, based on the research of Antonio Damasio.

Damasio’s self-conscious self is structured on inter-communicating levels. The base level is the auto-organizing processes that "regulate various homeostatic states -

\textsuperscript{150} Ibid., 110.
\textsuperscript{151} Ibid., 118.
heart rate, oxygen levels, body temperature, endocrinal processes and so on". The next level is made up of the fundamental cognitive channels that provide the individual with "a sense of direction and a sense of being alive". Following this is the "core consciousness", which is constituted by more advanced cognitive functions that enable a self to be aware that it has feeling and instincts. The final level is the "autobiographical self", which is the self that is created and shaped by our interactions with others, a self of social performance. Ringmar’s accusation is that constructivists of all persuasions erroneously focus solely on the autobiographical self, without due consideration for the communication that happens between the lower levels.

This chapter will now compare Damasio’s model with Wendt’s identity framework, however, before doing so, it is important to note that Ringmar admits Damasio’s model cannot be transferred directly to anthropomorphise the state. Here the comparison is being drawn because it identifies precisely where this transfer falls down, the implications of which are instructive for moving forward with a final position on the essential state. Wendt’s corporate identity is constituted by “self-organizing, homeostatic structures” that include the material foundation of an actor and, for intentional actors such as humans or states, having a state of consciousness and memory. This “body and experience of consciousness”, is remarkably similar to Damasio's base layer and second layer combined. Type, role and collective identities all take place in the autobiographical self, which only leaves the level of

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153 Ibid.
154 Wendt, *Social Theory of International Politics*, 224.
core consciousness in between. Although one could stretch to draw a comparison between the core consciousness and Wendt’s structure of collective knowledge, common knowledge, and supervenience, this thesis suggests it is sufficient to concede that the core consciousness is the one component of Damasio’s model that does not translate *directly* to the state level. However, this only prevents a full neurophysiological analysis of the state, it does not mean that a monist ontology - the necessity of which is the central thrust of Ringmar’s criticism - cannot stand as the basis of the Wendtian identity framework. Furthermore, for the purpose of this thesis, it holds valuable explanatory utility.

The fact that Wendt considers consciousness and memory to exist in the homeostatic structures of intentional actors, is a strong indication that his model is amenable to a monist reinterpretation. *Social Theory of International Politics* is a theory of the states system, not the state, and as such Wendt treats states as units in the system. He acknowledges that they are made up of internal structures, and in a subsequent response to critics of *Social Theory* he states:

Like the human body, states are internally structured processes that can persist even if they are not recognized by their fellows (think of Taiwan). In short, state identity is about the production not only of difference from without, but of sameness within. The latter cannot be reduced to the former, and can indeed be expected to resist outside efforts to destroy the boundary (by attempted conquest, for example). To that extent, even as it is constitutionally dependent on difference, state agency is also exogenous to it.\(^{156}\)

Wendt draws a line around the state for the purpose of systemic theorising, however he admits that this ”is not to say that we cannot study how these internal structures

\(^{156}\) Wendt, “Social Theory as Cartesian Science”, 208.
reproduce themselves, just as we can study how the body sustains itself". The metaphor of the body is hardly coincidental. Although Wendt's justification of focusing on systemic theorising is sound for the purpose of his theory, the separation of "difference from without" and "sameness within" is where, for this thesis to capture state identity, the barrier must be broken down. A definitive separation of the internal and external, claiming that state agency is exogenous, disregards the potential effects of the external on the internal, and the internal on the external. Domestic decision makers thinking about international action will not only consider the causes stemming from, and the consequences flowing into, the international sphere. It is unclear whether or not Wendt recognises this problem, for in order to theorise the system he does not need to. To study de facto state identity, however, this thesis must go a layer deeper.

Positing the state as cogito is indefensible outside of a systems theory. Ringmar points out that the question of recognition "presupposes recognisability", a point that can be colourfully illustrated using de facto states. One cannot point to a time when any de facto state was a tabula rasa; de facto states are - as all states are - the products of multi-dimensional political and ideological struggles. De facto states, however, are defined in the eyes of international society as unacceptable pariahs because of the nature of those formative transformations. This thesis examines the relationship between the systems-level interactions of de facto states and the consequences they have on the internal processes, and vice versa. Given that de

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157 Ibid.
158 Ringmar, "How the world stage makes its subjects ", 104.
159 For a detailed analysis of the domestic and international forces contributing to the creation of secessionist entities and de facto states, see Ryan D. Griffiths, The Age of Secession (Cambridge: Cambridge University Press, 2016).
facto states are secessionist movements, most of which have developed with or from a strong foundation of sub-state or trans-state nationalism, and considering that their proclaimed systems-level identity has been rejected by the society within which they seek to establish themselves, overcoming this divide is imperative.

This thesis examines the relationship between specific units in the international system, and the relationship that exists between these units and international society. In order to effectively appraise this, it must address both unit and system level influences. Wendt's identity framework will therefore be utilised at the systems-level, for as this chapter previously pointed out, the type, role, and collective identities are all still directly applicable. In order to study the key components of sub-state identity, the corporate identity will still be accepted as a corporate identity, however the structures, processes, and forces that constitute the internal workings of the corporate identity, and specifically how they shape the state identity, will also be considered.

Achieving this requires a clear statement on the ontological status of the state and its relationship to the system. The state is not pre-social, and rejecting the claim that it is 'ideas all the way down', does not require committing to a separation of the cogito and the persona. This thesis accepts that the internal structures and processes that take place to self-organise a state are composed of individuals who together hold a collective knowledge of the international sphere. Hence, at the point in time when the state has self-organised, satisfying the criteria of the essential state, the corporate structures already hold views and have developed collective knowledge about the international system, and the other units within it. In the contemporary
context, perceptions of the international system can in fact be formative influences in the process of state creation.

Furthermore, the state is not considered to be ontologically prior to the system. As Wendt admitted in an earlier extended quotation, conceding to the cogent arguments posed by critics,\textsuperscript{160} state identity largely concerns the differentiation of the Self from the Other. As such, claiming ontological priority is indefensible. However, this thesis argues that the state, and consequently the states system, is ontologically prior to an international society. The distinction between system and society will be fleshed out and finalised in Chapter Three. Briefly, in order to progress, it is sufficient to state that this thesis agrees with Wendt’s states system, composed of states that are intentional actors, and the system itself is anarchic. At this stage, this thesis will not commit to Wendt’s proclamation that the system’s structure is defined in cultural terms. Wendt’s conception of the system is built for trans-historic theorising, in a way that transcends the distinction between international system and international society that, as this thesis will argue, can take place in a specific form at a fixed place in time.

Wendt’s cultural system is defined by the type of ideas that are shared in the system, replacing Bull’s distinction of society as the degree of shared knowledge that exists across the system. Since 1945, those shared ideas have included a very narrow definition of who should be empowered with the rights of sovereign statehood. As such, the system of self-organizing units has continued to reconstitute itself

\textsuperscript{160}Cederman and Daase, "Endogenizing Corporate Identities"; Kratochwil, "Constructing a New Orthodoxy?".
alongside an international society enforcing strict rules about who is a legitimate member. Following Reus-Smit’s logic, the system and society exist simultaneously, a condition that is crucial for understanding the socialisation of de facto states. Hence, this thesis will draw a clear distinction between the system and society. A key characteristic of this distinction that must be identified at this point is that the difference between a system and a society is purely social. Although there is much debate about the different qualities that can be considered definitive of an international society, the one criterion that is widely agreed to be intrinsic is that an international society is formed of member states who recognise each other’s sovereignty, empowering them with the right to act in that society.\textsuperscript{161} Identifying the key principle of difference as a purely social act based on intersubjective meaning, draws focus to the need for the history of the practice of recognition to be outlined. This is a vital step for understanding the conditionality of membership, and the context in which de facto states’ normative claims have been made and subsequently rejected. The history of recognition is also, in part, a history of international society.

2.3 International Society and the Politics of Recognition

2.3.1 De Facto States in International Law

International law is widely accepted as an institution of international society. De facto states exist in a frontier between international politics and international

law. It is therefore imperative to understand how statehood, the central frame of reference, is conceived in each body of thought. The two poles in the "great debate" of understanding statehood are the declaratory and constitutive approaches. The declaratory approach claims that, for a state to be a state, it must fulfil certain criteria. The criteria most widely used as a frame of reference are derived from 1933 Montevideo Convention on the Rights and Duties of States, which classifies a state as an autonomous entity with a permanent population that exists in a defined territory, consisting of a government that is legitimated by the recognition of its citizens, with the capacity to enter into relations with other states. According to the declaratory approach, recognition is a purely political act; a state is constituted by these essential empirical attributes.

The constitutive approach to statehood claims that a state is constituted by other states recognising its sovereignty. Recognition is more than supremely enabling political support, it is an "absolute category" of legal status, from which the concept of statehood cannot be untethered. Where the declaratory approach conceives of statehood as objective status recognition, the constitutive position views statehood as an intersubjective status creation. Proponents of the constitutive approach argue

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162 This thesis disagrees with Martti Koskenniemi's notion of international politics and international law as inseparable. See Martti Koskenniemi, Politics of International Law (Oxford: Hart, 2011).
164 Erman, "The recognitive practices of declaring and constituting statehood".
166 Hannum, Autonomy, sovereignty and self-determination,15-16.
168 Holsti, Taming the Sovereigns, 114.
that although a political entity can function like a state without being recognised, others must verify an entity’s self-understanding in order for it to be validated and maintained.¹⁶⁹

The difference between the constitutive and declaratory theories has been widely accepted as a distinction between empirical facts and social reality, a distinction that has led to the development of both theories stagnating and securing an impasse.¹⁷⁰ The very nature of this debate illuminates the political and existential quagmire that de facto states inhabit. Declaratory theorists argue that if statehood is not understood as the satisfaction of empirical criteria, the empowering act of recognition will become the pawn of great power politics, to be wielded as the rulers of the day see fit. Constitutive theorists counter this argument by claiming that rendering statehood as a purely empirical establishment fails to grasp the inherent normative basis of statehood; recognition is reserved for those entities who ought to be empowered with the rights and protections afforded by the status.

For the field of International Relations, the declaratory and constitutive theories are both insufficient theories of statehood, given that quasi states and de facto states both exist as exceptions to these theories. Indeed, this thesis argues that there can be no single theory of statehood that is so strict in its parameters. This thesis also rejects the categorisation of the constitutive as the normative theory and the declaratory as the empirical theory, for these are untenable in International Relations. This thesis argues that there can be no one theory of statehood, for there

¹⁷⁰ Erman, “The recognitive practices of declaring and constituting statehood”, 135.
is no one statehood. The international states system has evolved over time, just as the parameters of international society have shifted along normative and political lines. The practical way forward is to suggest a single theory of statehoods that appreciates and accounts for the difference between the co-existing international state system and international society.

2.3.2 The Practice of State Recognition

The waves of decolonisation and new state creation that were the fertile ground giving seed to contemporary de facto states took place in the post-1945 chapter of the twentieth century. The narrative of recognition and self-determination that was central to how this unfolded is often restricted to this time period as well. However, understanding the background to this journey helps to elucidate the complexities of the post-1945 recognition discourse.

The Latin American independence movements of the early nineteenth century played a crucial part in building the foundation of contemporary practices of state recognition. The question of, ‘who is allowed to join the family of nations?’, was thrust upon international society by the Spanish American Revolutions, consequently giving rise to two practices that have remained central to state recognition ever since: de facto statehood and *uti possidetis juris*. De facto statehood saw that, although an established state was rightful in demanding that other states respect its territorial integrity, this right was forfeit if the established state was
internally replaced by a de facto state.\textsuperscript{171} Fabry offers a tight summary of what this practice soon meant:

The \textit{de facto} state has a right to independence vis-à-vis international society. As such, it has the right to obtain foreign recognition and third parties have a corresponding obligation to extend it. A third party can postpone recognition, but neither arbitrarily nor indefinitely: there must be compelling reasons for the delay.\textsuperscript{172}

The significance of de facto statehood as the defining criteria of nascent states marked the definitive shift away from dynastic legitimacy.

The guiding principle of \textit{uti possidetis juris} was adopted in conjunction with the pillar of de facto statehood. The principle is derived from the Roman property law, '\textit{uti possidetis, ute possideatis}', meaning 'as you possess, so you may possess'.\textsuperscript{173} In the context of nineteenth century Latin America, the US and Britain applied this principle to incipient states, determining their borders to be the jurisdictional borders they had previously held as non-sovereign entities.\textsuperscript{174} This was designed to protect the territorial integrity of all the polities that had established de facto statehood, hence the two concepts are considered to have gone hand in hand in this period (the contemporary practice of \textit{uti possidetis juris} has changed considerably, and will be explored in detail soon). \textit{Uti possidetis juris} did not play a part in deciding which entities were to be recognised, rather it demarcated the juridical boundaries of emerging polities and protected their infantile sovereignty, helping to secure order in the wake of political tumult.

\begin{flushright}
\textsuperscript{172} Ibid.
\textsuperscript{174} Fabry, \textit{Recognizing States}, 76.
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The next key turning point in the practice of state recognition came in the aftermath of World War One, following the Wilsonian re-conceptualisation of self-determination. Although when the narrative of contemporary self-determination is recounted it often begins with Woodrow Wilson, Wilson was responsible for the internationalisation of the concept, not the formulation of the concept itself. While the idea has deep roots in the liberal political tradition, it was Lenin who first "conceptually and politically" introduced the concept of self-determination into the wartime antagonism. Knudsen even goes so far as to suggest that Lenin's focus on self-determination was a key-motivating factor for Wilson's attempt to shape the international self-determination discourse. Wilson sought to establish a perception of the concept as being strictly rooted in the liberal purview, a stark contrast to Lenin's radical self-determination of the socialist ilk.

In moving to own the internationalisation of the concept, Wilson attempted to reshape its meaning altogether. Where inceptive states in the nineteenth-century practiced self-determination as a negative right, Wilson sought to progress towards a twentieth century conception of self-determination as a positive international right. No longer were the established members of international society to simply respect foreign self-determination projects by not intruding in the trajectory of realisation. Now, Wilson postulated that states had a duty to aid fledgling polities in bringing their desired status to fruition. Wilson's ideology, however, was quickly

176 Knudsen, "Moments of Self-determination", 89.
177 Fabry, Recognizing States, 118.
perceived to risk opening a Pandora’s Box of nationalist claims, prompting Wilson’s secretary of state to famously exclaim:

The more I think about the President’s declaration as to the ‘right to self-determination’, the more convinced I am of the danger of putting such ideas into the minds of certain races. It is bound to be the basis of impossible demands on the peace congress, and create trouble in many lands...In the end it is bound to be discredited, to be called the dream of an idealist who failed to realize the danger until too late to check those who attempt to put the principle into force.\(^\text{178}\)

A considerable disconnect eventuated between Wilson's indeterminate, idealistic self-determination rhetoric, and the actual practice of state recognition. The key change that saw the interwar period as a turning point in the history of recognition was not the realisation of self-determination as a positive right, but rather the elimination of the right of conquest. This was the first time that the process of state creation was considered integral to a state's case for recognition. What soon became known as the Stimson Doctrine - stemming from the US Secretary of State Henry Stimson and his announcement of the US's policy of non-recognition of the 'State of Manchukuo' - was recognised in an addendum to the League of Nations Article 10; states should adopt a policy of non-recognition towards entities that are created through invasion or forced adjustment of borders.\(^\text{179}\) This meant that, despite Wilson's radical rhetoric, the practice of recognition in the interwar period built on the practices of the past, consisting of two main distinguishing features of state recognition in the wake of World War 1. First was their prior de facto emergence. Secondly, they formed an integral juridical section of the state from which they originated. The contours of international society had experienced a definitive shift beyond the age of conquest.

\(^\text{178}\) Secretary of State Robert Lansing, quoted in Fabry, Recognizing States, 138.
\(^\text{179}\) Ibid., 135.
During the interwar period the right to self-determination was still withheld from the non-settler colonies of Africa and Asia on the basis that they were deemed to fall short of what was known as the 'standard of civilisation'. The 'standard of civilisation' is a concept that has manifested in a diverse array of societies, dating back to ancient Greece, and evident in the history of China and Islamic empires.\textsuperscript{180} Most commonly, and in the context of international relations, it refers to the admission and recognition of new states into international society.\textsuperscript{181} Put simply, the gatekeepers of international society had to be satisfied that a prospective entity satisfied certain governing and cultural practices. It is most colourfully illustrated by the Western-colonial international society of the nineteenth century, where colonised people were considered to be "under tutelage" on matters such as law, human rights and good governance, while non-colonised entities such as China and the Ottoman Empire were not recognised and admitted until international society had deemed them to have satisfied the standard.\textsuperscript{182} During the interwar period, even Wilson himself ironically held this belief; the man who deliberately promoted the rhetoric of self-determination and spurred the consequent discourse, still took this degrading stance.

It was only in the early 1960s that, accompanying the acknowledgement and acceptance of colonialism as illegitimate, the 'standard of civilisation' was abandoned, superseded by the belief in the self-determination and independence

\textsuperscript{182} Buzan, “The 'Standard of Civilisation' as an English School Concept”, 583.
for people who had been the victims of colonisation. This gave way to an enormous wave of new sovereign states being created through the process of decolonisation. Not only was the ‘standard of civilisation’ abandoned, none of these entities were required to demonstrate the basic de facto statehood that had been so crucial to the practice of recognition since the beginning of the nineteenth century. In fact, United Nations Resolution 1514 stated that, “inadequacy of political, economic, social, or educational preparedness should never serve as a pretext for independence”.183 The ability to govern had been shed as a deciding factor, replaced instead by a narrow focus on the origins of the state.184 As Jackson aptly put it, "to be a sovereign state today one needs only to have been a formal colony yesterday".185 This opened the door to the most rapid expansion of states being confirmed as members of international society. In 1945 there were 51 member states of the United Nations; by 1970 this number had surged to 127.

This new approach led to a markedly different interpretation of *uti possidetis juris* being employed in the post-1945 era. Jackson offers an encompassing formulation that outlines the constitution of recognition practice since 1945:

(i) existing interstate borders are legitimate, legal, and inviolable;
(ii) change of borders by force is illegitimate and illegal;
(iii) if borders are to be changed, all states affected by the change must give their consent;
(iv) in the absence of general consent to change borders, if secession is to occur international boundaries of seceding states should follow the internal administrative boundaries of the state from which they seceded;

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185 Jackson, *Quasi-states*, 17.
(v) ethnonations have no inherent right of self-determination, and the only recognized nation-state is the population group residing within borders defined by juridical boundaries, that is, the political or civic nationality.\textsuperscript{186}

The exception to this practice during the Cold War was the case of Bangladesh. The recognition of Bangladesh was the first instance of what has since become to be known as remedial secession. Pakistan, by committing gross human rights violations against its own people, was deemed to have forfeited its sovereignty; its right to govern was removed by the international community. The ethnic distinction and geographic separation from the rest of Pakistan aided the case for self-determination, however, Crawford points out that there is evidence to suggest that the UN perceived the recognition of Bangladesh as an inevitability, rather than as a case of self-determination, effectively preventing any precedent from being set.\textsuperscript{187}

2.3.3 Recognition after the Cold War

The end of the Cold War was a significant turning point for state recognition. For the duration of the Cold War, international society was "closed at both ends" to all entities that were not former colonies.\textsuperscript{188} New, non-colonial states did not form, and incumbent states did not fail, regardless of their capacity to govern.\textsuperscript{189} The dissolving of the Soviet Union and the dissolution of Yugoslavia, however, saw the right to self-determination being granted to polities that had a non-colonial background. Far from creating an open door policy, the right was now more specifically extended to former republics, legitimising state dissolution as a path to

\textsuperscript{186} Jackson, \textit{The Global Covenant}, 328.
\textsuperscript{187} Crawford, \textit{The Creation of States}, 415-16.
\textsuperscript{188} Caspersen, "The Pursuit of International Recognition After Kosovo", 394.
\textsuperscript{189} Jackson, \textit{Quasi-states}, 17.
statehood. Theoretically, the republics’ statehood was conditional on meeting certain normative criteria, a policy that came to be known as "standards before status". The baseline standards put forward by the Badinter Arbitration Commission that had to be met by the Yugoslav republics concerned human rights, general democratic criteria, and the protection of minority rights. Even though these normative criteria have since featured in the policy that enabled Kosovo’s formation, not to mention their steadfast roots in international society’s democratisation discourse, these standards have regrettably never been applied consistently.

The partial recognition of Kosovo has been the most significant provocateur in post-Cold War debates about state recognition. Serbia was not in the process of dissolution, and although Kosovo had been an autonomous region in the former Yugoslavia - autonomy that had strong legal grounding - it was not the same full republican title that had enabled the other former Yugoslav states to attain recognised statehood. The "standards before status" policy was put forward by the UN mission in Kosovo in an attempt to coax the authorities into improving their governance and protection of human rights to align with the UN’s ideal of best practice, using conditional recognition as the promised fruit. While these standards were supposed to be progressing, mediation efforts with Serbia continued but to no avail; the parent state refused to agree to any solution that gave

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191 Caspersen, “Separatism and Democracy in the Caucasus,”.
Kosovo the right to full independence. A motion was put to the UN General Assembly recommending that Kosovo be given independence but on the provision that the UN oversaw its development towards meeting the previously outlined standards of practice.\textsuperscript{194} By June 2008, 42 states including the US and most European states, recognised Kosovo’s independence.\textsuperscript{195} It is important to note, as Caspersen points out, that in the recognition of Kosovo, the Western powers focused primarily on the exceptionality of the case.\textsuperscript{196} This echoed the Bangladeshi case, for even though the Kosovo people were victims of gross human rights violations, the primary foundation for recognition was its unique situation, warranting and facilitated by external intervention.\textsuperscript{197} Kosovo is yet to obtain recognition sufficient to gain entry to the United Nations, and is categorised by many as a 'borderline case' in the de facto states literature.\textsuperscript{198} Although there was disagreement by the major powers about Kosovo's right to self-determination, the one component of this question upon which a consensus was clear was that Kosovo did not set a precedent.

There has always been a balance between the normative ideals and political reality that shape the practice of state recognition, but Kosovo's partial recognition put politics front and centre of the debate. Kosovo's failure to achieve the standards that

\textsuperscript{196} Caspersen, \textit{Unrecognized States}, 20. For an insightful overview of the shift in focus from autonomy to independence by external powers, see: Ker-Lindsay, "The 'Final' Yugoslav Issue". For a compelling case against the exceptionality of Kosovo's case, see James Ker-Lindsay, "Preventing the Emergence of Self-Determination as a Norm of Secession: An Assessment of the Kosovo 'Unique Case' Argument," \textit{Europe-Asia Studies}, 65:5 (2013) 837-856.
\textsuperscript{197} Ibid.
\textsuperscript{198} Caspersen, \textit{Unrecognized States}, 12; Harvey and Stansfield, “Theorizing unrecognized states”, 11.
were supposed to come before its status did not inhibit the Western powers from recognising its independence. Furthermore, in the wake of the 2008 war with Georgia, and emboldened by the mono-hemispheric recognition of Kosovo, Russia recognised the independence of South Ossetia and Abkhazia. This was a significant change in position, as Russia had previously positioned itself to respect the sovereignty of parent states and had practiced adherence to the norms of international law. Russia did not reference any normative criteria, nor did it extend this right to self-determination to Somaliland, Nagorno Karabakh, or the TRNC. If there was any doubt about the political nature of this move, Russia quashed it when it directly compared its recognition of the Georgian secessionist movements to the West’s recognition of Kosovo, stating that if Kosovo was a credible exception, then so too were Abkhazia and South Ossetia. Consequently, the practice of state recognition outside of the _uti possidetis juris_ framework stipulated by Jackson, outlined above, is now seen by many to be predominantly the manoeuvring of pieces on the political chessboard of great powers.

The history of recognition shows that the conditions allowing a polity the right to self-determine have evolved along with the norms and practices of international society. As a right, self-determination is inherently normative, however, it cannot be untethered from the political contestations of great powers. When there is agreement and unanimous recognition, such as South Sudan in 2011, these cases are in alignment with conventions and expectations that have been spawned and

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199 Closson, “What do unrecognized states tell us about sovereignty?”, 60.
shaped by great power politics. As noted earlier, there is even a strong argument claiming that Wilson’s desire to project self-determination into the international arena was initially, in part, a pre-emptive move to stunt the prospect of a Leninist notion of self-determination taking root.\textsuperscript{203} Prioritising stability and order over justice, international society has long been cautious of granting a generous open-door approach to self-determination. The post-Cold War era demonstrates an especially steadfast stasis, leading Abulof to quip that “modern states may have pulled the normative rug from beneath their own feet, suspending their system in moral mid-air”.\textsuperscript{204} So long as the international state system sustains this stasis, de facto states will continue to navigate the amorphous intersection between international politics and international law, suspended in the unwavering volatility that requires new and innovative analytical lenses to develop a more comprehensive understanding of their existence and relationships.

\textbf{2.4 Conclusion}

The resilience of de facto states has led to a steady growth of literature in a still relatively understudied but developing field. Scholars such as Pegg, Caspersen, Ker-Lindsay, Harvey and Stansfield, have laid a solid foundation of penetrating theory that has challenged basic assumptions of International Relations, and drawn much needed academic attention to a political phenomenon that reveals important insights about the international political arena, from the level of sub-state social mobilisation through to challenging systems-level models. However, de facto states have yet to be accurately factored in to a systems-level framework, placing a severe

\textsuperscript{203} Knudsen, "Knudsen, "Moments of Self-determination", 89.
\textsuperscript{204} Uriel Abulof, "We the peoples? The strange demise of self-determination", \textit{European Journal of International Relations} 22:3 (2016) 559.
limitation on observers’ understandings of their relationship with international society. This chapter has made a concerted move towards establishing a systems-level framework that accounts for de facto states, employing the Wendtian essential state model, and adopting Reus-Smit’s international system logic. Adjusting and utilising the Wendtian identity framework then positioned this thesis to more accurately theorise the state identity of de facto states, by enabling it to consider systems-level and sub-state level influences. Finally, reviewing the politics of recognition highlighted the competing forces of political interests and normative ideals that determine the rules of membership in international society. This revealed the need for a more complete conception of the international society and international system relationship to embody these qualities. Legitimacy is a social phenomenon that encompasses both the political and the normative, and is therefore a suitable lens through which to construct the final conception of this relationship; the task of Chapter Three.
Chapter Three: Theorising International Legitimacy

Firstly, this chapter will outline the basic tenets of what is meant by legitimacy, through an examination of the empirical and normative approaches, and scrutinizing the relationship between legitimacy, authority, and obligation. Secondly this chapter will consider current theories of international legitimacy in detail, specifically drawing focus to the concepts of community upon which each is built. Thirdly this chapter will engage the current treatment of legitimacy in the de facto states literature, shining a revealing light on the need for a more comprehensive conceptual development. This chapter will then extract the key features from the existing theoretical landscape to establish a practicable theory of international legitimacy. Finally, the chapter will draw on the definition of international legitimacy to propose a theory of normative standing that will provide the framework for the empirical investigation.

3.1 What is Legitimacy?

Legitimacy is frequently used to describe political status and conduct, yet it remains a nebulous concept. Although this thesis aims to answer questions surrounding the prospect of international legitimacy, in order to achieve this, tracing the study of legitimacy, the varying contexts in which it exists and how it has been conceived in those contexts is necessary to understand its contemporary applications. Legitimacy is a relational concept and the dynamics of the international field within

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205 An exhaustive interrogation of these dynamics would be arduous and prolix. This review will be limited to covering the most significant and relevant contributions for this field of inquiry.
which legitimacy lies are distinct from the relations of government and the governed. However, theories of legitimacy were spawned from studies of state society relations, therefore an examination of the subject must by default begin in the domestic sphere. In order to account for the many influences that have shaped understandings of legitimacy, this overview will extend beyond restrictive confines of political science and international relations to include sociological and philosophical contributions to the subject as well.

3.1.1 Classic Empirical and Normative Approaches

The majority of literature examining legitimacy is focused on the domestic political sphere.\(^{206}\) Weber's conception of legitimacy has proved to be an enduring frame of reference, a concept that "theorists have found themselves unable to live comfortably either with, or wholly without".\(^{207}\) Weber describes social action as being "guided by the belief in the existence of a legitimate order".\(^{208}\) He describes a political regime as legitimate when its subjects believe it to be so: "the basis of every system of authority, and correspondingly of every kind of willingness to obey, is a belief, a belief by virtue of which persons exercising authority are lent prestige".\(^{209}\) Weber famously claimed that this belief in the legitimacy of a regime arises from three main sources: the longstanding status of the regime (tradition), the charisma

\(^{206}\) The literature on political legitimacy is vast. For a solid introduction see Richard E. Flathman, "Legitimacy", in Robert E. Goodin and Philip Pettit, eds., *A Companion to Contemporary Political Philosophy* (Oxford: Blackwell, 1993).


of the ruler, or because of its rational-legal basis.\textsuperscript{210} Weber's greatest contribution to the study of legitimacy, however, is his move to locate legitimacy in the belief of the people. While much of his theory has been debated and rejected, the centrality of belief as both a vehicle for, and source location of legitimacy, has endured, and has become central to definitions ranging from psychological interpretations to justice-centric theories.\textsuperscript{211}

A frequently overlooked component of Weber's conceptualization is the relationship between legitimacy at the group level and legitimacy at the individual level. When a group considers norms, values, and practices as legitimate, Weber refers to this as "validity";\textsuperscript{212} it forms the foundation of a valid social order. This order becomes an object in itself that regulates the behaviour of the people. For Weber, legitimation is therefore inherently collective. As Zelditch states, for Weber "legitimacy is a collective product of many psychologies, not one".\textsuperscript{213} Even for an individual who does not believe in the order's legitimacy, the individual knows that it regulates the behaviour of the group, and is aware of how their own behaviour relates to the norms, values, beliefs and practices of that social order. The order is binding by nature. What begins as intersubjective understanding is then objectified through externalisation, becoming lasting, and pervading the form and function of
that society. Compliance often becomes habitual, but it can also be motivated by expedition,\textsuperscript{214} which is precisely where Weber's critics take aim at his theory.

Weberian notions of legitimacy, and the empirical approaches they have inspired,\textsuperscript{215} have been criticised for their inadequate consideration of the moral fibre that legitimacy denotes. Normative approaches argue that by studying the beliefs of the people, observers erroneously draw the focus away from the rightfulness of the regime's actions, consequently hollowing the concept of moral substance.\textsuperscript{216} This risks equating legitimacy to something as fickle and equivocal as sentiment.\textsuperscript{217} Grafstein offers an accurate summary:

\begin{quote}
The concept should properly signify a normative evaluation of a political regime: the correctness of its procedures, the justification for its decisions, and the fairness with which it treats its subjects. In Weber's hands, however, legitimacy no longer represents an evaluation of a regime; indeed it no longer refers directly to the regime itself.\textsuperscript{218}
\end{quote}

The early champions of this approach argue that legitimacy ought to be measured against a set of normative standards, rather than reducing it to simple acquiescence or consensus. It is argued that legitimacy is not the same as consensus; rather, it is a unique kind of consensus to which \textit{the right} to rule is intrinsic.\textsuperscript{219} Empirical approaches, it is argued, obfuscate the right to rule by confusing it with a regime's ability to "persuade members of its own appropriateness",\textsuperscript{220} which risks justifying

\textsuperscript{214} Ibid.
\textsuperscript{215} Empirical legitimacy is sometimes referred to as 'descriptive'.
\textsuperscript{220} Schaar, "Legitimacy in the Modern State", 109.
the authority of a regime that manipulates its people to perceive its potentially immoral power as adequate.\footnote{Helmut Breitmeier, The Legitimacy of International Regimes (Farnham: Ashgate, 2008) 19.}

As the legitimacy literature unfolded, the concepts of authority and legitimacy were so closely linked that, until relatively recently, a disregard for the need to discern and clarify them as being pragmatically distinctive pervaded the scholarship. This is understandable given the logic underpinning the widely accepted Weberian approach to this matter, which interprets authority to be the status of the relationship between an institution and an actor when the actor deems that institution to be legitimate.\footnote{Weber, Economy and Society, 212-217.} Political authority, according to this view, is therefore the marriage of power with this "legitimate social purpose";\footnote{John Ruggie, Constructing the World Polity: Essays on International Institutionalization (London: Routledge, 1998) 64. A more thorough interrogation of the relationship between legitimacy and power will be conducted later in this chapter, for it is most relevant to this thesis in the international context.} to classify an institution as having legitimate authority would therefore be tautological.\footnote{Nicholas Onuf and Frank F. Klink, "Anarchy, Authority, and Rule", International Studies Quarterly 33:2 (1989) 152.}

Normative approaches take a very different stance to their empirical counterpart on the relationship between legitimacy and authority, viewing authority as a distinct concept. For instance, Simmons deems the political authority of the state to come from its moral validity: "we can justify the state by showing that some realizable type of state is on balance morally permissible (or ideal) and that it is rationally preferable to all feasible non-state alternatives".\footnote{A. John Simmons, Justification and Legitimacy: Essays on Rights and Obligations (Cambridge: Cambridge University Press, 2001) 126.} The legitimacy of the
government is, however, the right that it has to be the “exclusive imposer of binding duties on its subjects”. According to this view, legitimacy is a condition in which consenting subjects have obligations and the state has the ability to introduce and enforce new duties. Authority, a necessary precursor for legitimacy, is simply the moral justification for the state itself. Although Raz proposes a more abstract and complex relationship between authority and legitimacy, his reasoning also leads to the conclusion that legitimate authority produces a binding obligation. Similarly, Edmundson classifies authority as an independent condition that becomes legitimate when morally justified, generating normative duties to be fulfilled.

The most prevalent view on the relationship between legitimacy, authority, and obligation, is that legitimate authority creates political obligations for the subjects of that authority. This perspective was originally derived from Locke’s conception of political obligation. In the legitimacy literature, Weberian empiricists, who perceive the effect of the legitimacy of a regime to be the obligation that it elicits at the individual level, have perpetuated it further. Even for those who make the distinction between authority and legitimacy, it is commonly accepted that so long as both have been established, binding obligations have been created. This view is particularly prominent within the distinct school of thought that considers justice to be fundamental to the conception of legitimacy. This distinction between

226 Ibid., 130.
227 Ibid., 135-137. The conventional wisdom in liberal theory has been that citizens have an obligation to obey the law because they consented to it.
230 *Political obligations* is generally accepted to include moral obligations.
legitimacy and authority is irrefutable for Buchanan, for instance, who considers authority to exist when the subjects of its jurisdiction have "an obligation to that entity to obey it". However, he claims that legitimacy is a prerequisite for political authority, which can only exist in addendum.

For Buchanan, who explicitly rejects the descriptive belief-centric interpretation, a regime is legitimate when it is "morally justified in wielding political power", which can only be achieved by meeting a "minimal standard of justice, understood as the protection of basic human rights". Similarly, Coicaud's earlier work also considers justice and legitimacy to be inextricably linked, positing "the right to govern" as being constituted by the "just exercise of political command". Rawls also ties his notion of legitimacy to a conception of justice that can reasonably be expected to be acceptable to the subjects of authority. Valentini goes one step further, and argues that justice and legitimacy should not be considered as separate values. The central thrust of all justice-grounded approaches to political legitimacy is that establishing and protecting justice must be the moral purpose of political power.

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233 Ibid.
234 Ibid., 234-235.
238 Eva Erman, "Global political legitimacy beyond justice and democracy?", International Theory 8:1 (March 2016) 38.
nature underpins this perspective; for justice scholars, only achieving and upholding justice can justify the wielding of coercion.\textsuperscript{239}

Normative theorists' problematisation of the relationship between authority and legitimacy has consequently led to the function of obligation being questioned. Simmons for instance, having made a clear distinction between authority and legitimacy, reconceptualises obligation as a softer, "good reason for acting in a certain way".\textsuperscript{240} From this foundation he argues that the stronger social force is the subjects' moral impetus to not behave destructively, and that the state is still justified in upholding moral norms, even in the absence of the stronger notion of citizen obligations.\textsuperscript{241} Similarly, Edmundson argues that legitimacy can exist even without a general duty to obey the law.\textsuperscript{242}

One view is that obligations are derived from one's membership in a collective, either a "biological or social group", rather than from their relationship with a regime.\textsuperscript{243} This does not discount the existence of a general obligation to obey a political authority, but this obligation arises from the normative binding of the community, not as a direct duty to the authority. Some justice scholars permutate this further.\textsuperscript{244} Rawls argues that a "natural" binding duty exists within a just

\textsuperscript{239} The relationship between coercion and legitimacy is explored further later in this chapter.
\textsuperscript{241} Ibid. Simmons, after many attacks, defends this view in A. John Simmons, \textit{Justification and Legitimacy: Essays on Rights and Obligations} (Cambridge: Cambridge University Press, 2001).
\textsuperscript{242} Edmundson, \textit{Three Anarchical Fallacies}.
community, rather than an explicit duty to obey the law purely because it has been implemented by the state.\textsuperscript{245} For Rawls, this duty to "support and comply" with institutions only exists if the institution is "just (or fair)" and the individual has "voluntarily accepted the benefits of the arrangement or taken advantage of the opportunities it offers".\textsuperscript{246} In this instance, subjects can be obligated to a legitimate authority, but such an obligation is not automatic. In response to these rejections of any general principle of obligation, Klosko argues that the idea of a general principle is in itself the problem; there are multiple principles of obligation that exist in varying moral and political relationships between government and those governed.\textsuperscript{247} For a concept now widely accepted by social scientists as being multifaceted, it is fitting that if the function of obligation is to be included, it is only one piece of the puzzle and not the essential defining criterion.\textsuperscript{248}

### 3.1.2 Beyond the Normative/Empirical Divide

The empirical and normative approaches to legitimacy have been deemed by many to be insufficient and problematically narrow in their conception. Habermas agrees with the "normativist" critique of the Weberian inspired approaches, recognising the ease with which it can be operationalized, but finding the absence of grounds for "validity" to be insufficient.\textsuperscript{249} The purely normative understanding, however, in his opinion is indefensible because of the metaphysical framework underpinning it, resulting in a "peculiarly abstract" justification.\textsuperscript{250} These interpretations are too

\textsuperscript{245} Rawls, \textit{A Theory of Justice}, 111-115.
\textsuperscript{246} Ibid.
\textsuperscript{247} Klosko, "Legitimacy, Authority and Political Obligation", 72.
\textsuperscript{248} This thesis will take a clear position on this issue later in this chapter.
\textsuperscript{249} Jurgen Habermas, \textit{Communication and the Evolution of Society} (London: Heinemann, 1979) 204.
\textsuperscript{250} Ibid.
imprecise for practical application and do little to clarify an already nebulous subject.

Beetham echoes Habermas in his critique of the normative-empirical binary. Beetham recognises that in their criticism, the normativists overstate their case by making a flawed distinction between "people's beliefs" and their "grounds or reasons" for holding these beliefs, for these could well be morally founded.\footnote{David Beetham, The Legitimation of Power (Atlantic Highlands: Humanities Press, 1991) 10-12.} He recognises the important role that beliefs can play, and the potential for them to be grounded in moral reasoning, a position that has now gained widespread agreement, and is demonstrated in definitions of legitimacy such as Hurd’s.\footnote{Ian Hurd, After Anarchy (Princeton: Princeton University Press, 2007) 7.} Applbaum not only supports this approach, but goes one step further to claim that empirical legitimacy presupposes moral legitimacy.\footnote{Arthur Isak Applbaum, "Culture, Identity, and Legitimacy", in Joseph S. Nye and John D. Donahue, eds. Governance in a Globalizing World (Washington D.C.: Brookings Institution Press, 2000) 325.}

Beetham’s critique of Weberian empiricism argues that it misrepresents the relationship between legitimacy and people's beliefs: "A given power relationship is not legitimate because people believe in its legitimacy, but because it can be justified in terms of their beliefs".\footnote{Beetham, The Legitimation of Power, 11.} The values and standards of the people are the measure of the regime. This interpretation avoids the ambiguities of the abstract normative approaches, while embodying the very moral substance that they have sought to install. For Beetham, if a political system conforms to the normative expectations of the people, then and only then can it be considered to be legitimate. Habermas also
suggests a middle ground, a "reconstructive" answer that historically sequences the disaggregated levels of justification, and reconstructs them using a "developmental-logical nexus" drawn from cognitive developmental psychology.\textsuperscript{255} As pioneering as this may be, Habermas’s middle ground does not account for the logic of legitimation, a shortcoming that Beetham takes issue with and seeks to rectify using a more sophisticated disaggregation that embraces the multi-faceted nature with his tri-dimensional framework of legitimacy.\textsuperscript{256}

In this framework, the rules of power form the first level, referring to the legal validity of the means through which power is obtained and the practices through which it is exercised. The second level is the justifications for the rules of power based on the beliefs of the society. This encompasses the competence of the power-holder, the source of their authority, and the ability of the system of power relations to serve the common interest. The third dimension is the consent of the subordinate, which must be evidenced by an explicit action. The event of explicit action is a crucial component that this thesis argues must be incorporated into any theory of international legitimacy. The nature of legitimacy in a social structure devoid of the governed/government relationship demands such overt statements because the dynamics and political context of the international society are far more fluid than the domestic sphere. At an international level it is not consent that is being expressed, it is the agreement or approval of other actors' behaviours that needs to be explicit.

\textsuperscript{255} Habermas, \textit{Communication and the Evolution of Society}, 205.
\textsuperscript{256} Beetham, \textit{The Legitimation of Power}, 15-20.
3.1.3 Sources of Legitimacy

The analytical distinction between procedural and substantive legitimacy permeates studies of legitimacy. The former refers to an outcome that is deemed legitimate due to adherence to procedural factors, frequently referred to as "input legitimacy". In the domestic sphere this generally refers to the mechanisms that convert the beliefs of people into political action. Elections are a prime example of a mechanism that, in a democratic context, provides people with an instrument to exercise their preferences through explicit action. Hence, one criterion of a legitimate democracy is the practice of free and fair elections. The significance of procedural factors is central to legal-rational conceptions of legitimacy, where rules or authority are accepted because of the "formal legality" that is affixed to them.

Substantive legitimacy, also commonly described as "output legitimacy", refers to the acceptance of a rule, institution or outcome because it embodies certain principles or ideals, or because it achieves a desirable result. For instance, Scharpf considers the extent to which a government performs effectively to be a fair measure of its output legitimacy. If an institution is satisfying the basic functions that it exists to serve, then it is substantively legitimate. This correlates to the

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259 Spencer, "Weber on Legitimate Norms and Authority", 133.


262 Kratochwil, "On Legitimacy", 302.

requisite competence and common interest in the second level of Beetham's framework, which clearly infers that the effectiveness of government contributes significantly to its legitimacy.

It is important to note that both procedural and substantive conceptions of legitimacy can be normative in nature, and indeed most are. This is the case when rules or institutions derive their input legitimacy through the perception of certain procedures satisfying the requirements to be a "rightful source of authority". Just as it is the case when output legitimacy is obtained because of the "fundamental extra-legal values" that the rule or institution appeals to. Similarly, procedural and substantive notions are not mutually exclusive. Although there have been many efforts to identify which brings the greatest legitimacy in varying situations, prominent theories of legitimacy such as those of Beetham and Franck incorporate both. The applicability is contingent on the social constituency and the central issue of legitimation.

The concept of consensus is integral to legitimacy. The notion of consensus as a legitimating force dates back to the work of Aristotle, and permeates the social contract theories of Locke and Rousseau. At the consensus-relevant end of the spectrum, Rawls argues that an order is legitimate when it is guided by a collection of principles that are freely agreed upon by all parties involved.

265 Spencer, ”Weber on Legitimate Norms and Authority”, 133.
266 See Erik Voeten, ”The Political Origins of the UN Security Council’s Ability to Legitimize the Use of Force”, *International Organization* 59:3 (2005); Erman, ”Global Political Legitimacy Beyond Justice and Democracy?”.
of basic standards that, "citizens as free and equal may reasonably be expected to endorse", equating to an "overlapping consensus". It is important to note given the nature of Rawls's work that this "overlapping consensus" is not an abstract ideal, rather, it is an observable social phenomenon that can exist in liberal democratic communities. At the consensus-centric end of the spectrum, there are normative theorists such as Parsons and Lipset who have developed approaches based on the core component of the perception which is that the group interest, or consensus that reflects this group interest, defines what is rightful, and therefore legitimate.

As this chapter noted earlier, in acknowledging the key function of consensus, one must not make the mistake of reducing legitimacy solely to that. Legitimacy is not the same as consensus; it is a unique kind of consensus in which the right to rule is elemental. There are varying accounts of the role that consensus plays in legitimation, however, there is broad agreement that, no matter how its role is defined, it is indeed intrinsic. Even theorists who do not explicitly state the centrality of consensus, such as Hurd, focus on the perceptions of the subjects, and in effect, study the patterns of normative beliefs and the degree to which they correspond with one another. This pattern signifies, at the very least, a degree of consensus and demarcates its purview. At the international level, the element of consensus becomes even more important because the overtly hierarchical

270 Friedrich, Man and his Government, 23.
272 Hurd, After Anarchy.
relationship of government and governed does not exist. International legitimacy, in this sense, exists between subjects.

Coercion and legitimacy are separate modes of social control, however, some proponents have considered coercion to be a feature of legitimate government. Coercion describes a situation when an imbalance of power between actors is exploited to manipulate the behaviour of the weaker agent. The compliance of an actor through coercion is derived from the weaker agent's fear of being punished or disempowered by the stronger party. A Hobbesian view of state-society relations foregrounds this primitive form of controlling society, placing faith in the centralisation of coercion as the primary ordering mechanism.\textsuperscript{273} Although it can be argued that Hobbes's prescription did not rely solely on coercion, due to the fact that the governed must consent to the authority of the Leviathan,\textsuperscript{274} the need for coercion denotes an absence of that which is considered here, and by the contemporary literature, to be legitimacy.\textsuperscript{275} Regimes may resort to coercion to compensate for the absence of empowerment that legitimacy brings.

The interplay between actors' interests and that which they consider to be legitimate, raises the question: can an observer discern if an actor is following rules, or acting in accordance with socially sanctioned norms, because of a self-interested motivation, rather than because they are complying with their society's

expectations? A clear distinction between contextually defined interest and self-interest is required to answer this question.

Legitimacy is an innately contested concept. As a quality, legitimacy can be used to describe a practice, behaviour, rule, or institution. As a status, legitimacy refers to an agent’s right to behave in certain ways and in specific forums. Although the normative/empirical divide is still present, the most accepted way forward is a hybrid approach that embraces the power of belief and recognises the normative grounding underpinning this belief. The study of deeply contested concepts spurs such divides. Embracing the utility of the descriptive approach enables scholars to study and understand a phenomenon that is now largely accepted to be normative in nature. These are the contours that this chapter will navigate in search of a theory of international legitimacy.

3.2 International Legitimacy

It is only recently that the concept of legitimacy has come to be closely examined in the international realm. The absence of scholarship on the subject was not academic neglect, but rather it was “a positive rejection of a concept widely considered inappropriate to an international setting”. Put simply, a concept that was commonly understood to mean 'the right to rule' was deemed redundant for analysing the dynamics of a system defined by the absence of government. While the dominant IR theories of the twentieth century focused on great power politics

\[^{276}\text{Clark, Legitimacy in International Society, 11.}\]
\[^{277}\text{John Williams, Legitimacy in International Relations and the Rise and Fall of Yugoslavia (London: Macmillan,1998) 1.}\]
and perceived the international sphere as being dominated by the amoral contest of competing national agendas, there was little interest in interrogating the beliefs of states as to how they should act, or assessing their actions against external normative yardsticks.

Much of the earlier work that broke ground on international legitimacy came from legal theorists, who followed the vein of Inis Claude. Claude’s seminal piece sought to snatch legitimacy out of the hands of the philosophers, and utilise it as a tool to better understand the processes of "collective legitimisation" that bore international approval, focusing on the underlying institutions and procedures of the United Nations.278 Claude’s work highlighted the positive and negative effects of the authority carried by the United Nations’ stamp of approval, and drew attention to the gap between international law and international legitimacy, concluding that the former does not necessarily equate to the latter. It was another twenty years before this gap received adequate scholarly attention, when Franck focused a distinct spotlight on it.279 This laid the foundation for subsequent legal theorists, who have since constructed more comprehensive models of international legitimacy.280

Buchanan brought analytical, moral, and political philosophy to bear on his examination of the relationship between the morality of international law and international legitimacy. As referred to earlier, Buchanan’s holistic theory grounds

280 For a more recent overview, see Jean-Marc Coicaud, "Deconstructing International Legitimacy", in Hilary Charlesworth and Jean-Marc Coicaud, eds., Fault Lines of International Legitimacy (Cambridge: Cambridge University Press, 2010).
his interpretation of international legitimacy in justice, expounding the argument that a legitimate institution is one that operates with just procedures for protecting the rights of individuals.\textsuperscript{281} This issue of justice and how it relates to legitimacy colourfully illustrates the division between purely empirical and normative approaches. The question of when an institution can be considered just is fundamentally grounded in an observer's judgement about "justness". This is a very separate question to that of when an institution is perceived as legitimate by those subject to it. Equating legitimacy with "justness" depletes the former of its explanatory utility.\textsuperscript{282} Shifting the focus from the belief of the people to the assessment of the observer is useful for the philosopher seeking universal explanations, or for the social scientist comparing the democratic credentials of domestic political systems against a global trend or norm. If the aim is to understand the motivations, behaviour, and relationships of actors within a social system, then a purely normative conception of legitimacy based on justice is inadequate. This does not mean, however, that to study legitimacy empirically, one must exclude any notions of morality. On the contrary, it is an inherently normative concept.

A more nuanced approach comes from Franck, another of the legal theorists, who divorces legitimacy from justice. In Franck's disaggregation he lays the moral foundation first, defining legitimacy as "a property of a rule or rule-making institution which itself exerts a pull towards compliance on those addressed


\textsuperscript{282} Hurd, \textit{After Anarchy}, 32.
This adopts the Weberian notion of an actor's subjective belief, but then extends it to include the moral grounding as constitutive of the normative compliance pull. It is important to note here that Franck is not strictly referring to states as "those addressed", but includes any major international actors, including international organizations and leadership elites. Franck proceeds to add a significant qualifier: "the perception of those addressed by a rule or rule-making institution that the rule or institution has come into being and operates in accordance with generally accepted principles of right process". The compliance pull is driven in part by the procedural correctness that confers the rightful authority. This echoes the justification found in Beetham's second tier, but conceived in more procedural terms.

Franck seeks to understand legitimacy at a deeper level than simple institutional and procedural approaches. His layered framework claims to uncover the sources of what he accepts to be a value judgement. Franck's articulation of legitimacy is founded on rules that are built on four layers. The first criterion is determinacy, which states that rules must be as explicit and univocal as possible. The second is symbolic validation, addressing the degree to which a judgement has been made through "proper channels". Coherence forms the third layer, describing the extent to which a rule adheres to accepted and honoured conventions. The final layer is adherence, concerned with the motivations of states: have they abided by the rule because of an elemental, latent identification as a member of a community?

284 Ibid.
285 Ibid., 19.
The practice of legitimacy is at the heart of Franck’s framework: validations of the past set expectations for validation in the present and future. The idea of how international actors should behave is built on the improvement of previously approved behaviour. International society, as a project, is therefore continuously refining legitimate practice, rather than classifying that which is legitimate by measuring actions and decisions against an exogenous set of values. Williams’s critique of this is insightful, claiming that Franck sees “legitimacy as being clouded by the introduction of value systems, despite these providing the foundations for the mechanisms, which he sees as constituting legitimacy”.286 Williams’s charge against Franck is that his move to detach value judgements from "value systems" is arbitrary and problematic. Williams views the system of values to be a requisite metaphysical framework upon which a value judgement draws. Franck’s choice to separate legitimacy from justice explicitly rejects such a position. Focusing on the practice of legitimacy reveals a political locus that is divorced from the ideals of a universal morality. This thesis agrees with Franck and argues that political competition is intrinsic to the contours of international legitimacy. The politics of recognition, as explored in the previous chapter, demonstrate the omnipresent political undercurrents that saturate international legitimation debates and contestations.

Disregarding an overarching value system does not mean jettisoning the role of values; legitimacy is, after all, a value judgement. This is particularly clear in Franck’s later work, where he contends that an important output of legitimate institutions and practice is a belief in the fairness of their outputs.287 Chayes and

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Chayes also focus on the relationship between fairness and legitimacy, however, they suggest an inverse relationship to that of Franck, claiming that it is the actors beliefs in the fairness of a rule or institution that elicit compliance.\textsuperscript{288} Fairness, in their interpretation, is a fundamental value that exists in the procedures, application, and output of legitimate institutions. Legitimacy is only achieved in the wake of fairness.

This thesis chooses to separate legitimacy from fairness, just as it chooses to divorce legitimacy from justice. Fairness is a value that may play a vital part in certain processes of legitimation, and indeed in certain situations it may be a legitimate or desired outcome. However, this thesis argues that it is not intrinsic to the legitimation process because legitimacy is discernible from any value based on its constitution by social recognition. Reus-Smit illustrates this poignantly in relation to justice: "An actor might plausibly describe his or her actions as \textit{just}, regardless of the level of social endorsement".\textsuperscript{289} Hurd supports this position, stating that one should not conflate the question of "When is an institution legitimate", with "When can we say that an institution is just?".\textsuperscript{290} This thesis applies the same logic to any and every value that may be relevant or present in the process of legitimation. As Beetham cogently points out, "Legitimacy for social scientists is always legitimacy-in-context, rather than absolutely, ideally, or abstractly."\textsuperscript{291} The values pertaining to any given legitimation process or contest will be contingent on the context, especially the norms and legitimate practices of the relevant social constituency. In

\textsuperscript{290} Hurd, \textit{After Anarchy}, 32.
\textsuperscript{291} Beetham, \textit{The Legitimation of Power}, 14.
this instance, Franck's original logic is adhered to; normative judgements do not require omnipresent value systems. It is in the interplay of values and norms that legitimacy is contested, a contestation that is subject to political manoeuvring.

The legitimacy of international regimes has been a fruitful subject of inquiry that has inspired significant contributions to understanding international legitimacy. An insightful proponent is Hurd, who defines legitimacy in a Weberian vein, as an "actor's normative belief that a rule or institution ought to be obeyed". With belief still as the kernel of legitimacy, Hurd discards Weber's creation of obligation because it is the actor's "feeling" of a "compliance pull" that guides behaviour, not a mandated political duty. The belief in the rightfulness of a norm and the consequent action of following that norm has no inherent relationship with abiding by the law or generally complying with a regime's regulations. Legitimacy can in fact drive an individual to break a law because that law asks them to act in a manner contrary to their own normative persuasion. This is the predominant motivation behind acts of civil disobedience such as the famous actions of Rosa Parks. It is only when the laws of the state are deemed to be in accordance with the normative convictions of the people that legitimacy contributes to state-backing law and order. This notion of the compliance pull is very much aligned with Beetham's second tier, where a regime must justify the rules of power in alignment with the beliefs of the people. Furthermore, this thesis argues that the notion of a compliance

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292 See also Breitmeier, *The Legitimacy of International Regimes*; Buchanan and Keohane, "The Legitimacy of Global Governance Institutions".
294 Ibid., 7-8.
pull rather than a mandated obligation is the most applicable notion in an anarchical valid social order.297

For Hurd, legitimacy is explicitly subjective and normative, manifesting as a feeling that shapes the perception of an actor or group of actors. The fact that one actor deems a rule legitimate has no implication for how that rule is perceived by other actors as it is held internally. Legitimacy can of course still be intersubjective. The motivation for complying with a rule is a sense of “rightness and obligation”; the essential action of legitimation, for Hurd, is the internalisation of an extrinsic principle that causes the actor's interests to be reconfigured in light of the rule.298

In order to forward this approach, centred on subjectivity, Hurd accepts the possibility of conflicting perceptions of legitimacy being held by different actors. Hurd's internalisation thesis is well designed for analysing rules and institutions, but its explanatory utility is limited to this task. The focus on internalisation as the key mechanism of legitimacy, and the consequent behaviour as the key marker, cannot extend to explaining the behaviour between actors and is consequently insufficient for understanding legitimacy within an international society or community. The central reason for this needs explanatory justification given that this thesis agrees with other key components of Hurd's approach.

Firstly, although this thesis accepts the Wendtian agent-structure framework and notion of state agency that underpins Hurd's theory, Hurd has misinterpreted one key feature of Wendt's theory of state identity. He claims that adopting this

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297 The reasons for this will be discussed in detail later in this chapter.
298 Hurd, After Anarchy, 30-31.
approach "suggests that states, by virtue of being corporate entities, have strong beliefs about their interests, and they pursue strategies to maximize them". Thus far, we are in agreement. However, he continues: "But they are also corporate entities only by virtue of the social recognition of that identity by the community, and so their understandings of their interests are shaped by the expectations of the community". Hurd is correct in claiming that the social recognition by the community shapes their understanding of their interests, however, Wendt states that the corporate identity of the state is constituted by “self-organizing, homeostatic structures”. Because the corporate identity is self-organizing it is exogenous to the social structure within which it exists, hence Wendt classifies it as pre-social. As Chapter Two pointed out, the corporate identity exists prior to recognition, and to confuse this point is to make a mistaken ontological statement about the state system and state creation. Hurd’s misinterpretation makes it impossible for his theory to understand the social currency of agents with varying levels of recognition, but it is also problematic for analysing the dynamics of a community or society; it is only capable of explaining the internalization of a rule, norm, or authority, because this internalisation influences the agent’s behaviour. Although internalisation is the key mechanism for Hurd, his object of study is the consequent behaviour. In many situations a state is capable of making an internal normative appraisal without necessarily acting on it. Conversely, using Wendtian logic, states are incapable of forming their interests without considering the

299 Ibid., 76.
300 Ibid.
301 Wendt, Social Theory of International Politics, 224.
302 Hurd, After Anarchy, 32.
motivations and actions of other states, which is incompatible with Hurd's "operative process" of a consequent reconfiguration of "his or her interests".  

To effectively analyse the legitimacy of actors in relation to one another, there must be a separation between the adjustment of one's own interests in relation to those of others, and the explicit normative appraisal of another's identity that leads to such an adjustment. Reus-Smit captures this when he claims that "An actor can be said to command legitimacy, therefore, when its decisions and actions (and I would contend identities and interests) are socially sanctioned".  

For such an identity or interest to be socially sanctioned, it is not the appraisal of single actors that equates to this; it is, "when society ordains this quality", that an actor can be said to command legitimacy.  

Consensus is fundamental. Expression of this consensus through explicit action is crucial. Positing that legitimacy gives an agent the right to act means that some form of consensus must be present, because, "the very idea of a right presupposes the existence of a community".  

An actor's belief in the rightfulness of their action is not the same as a community appraising it as legitimate. This is evidenced by the approach of contemporary international society to norms of territorial integrity and nuclear non-proliferation. The community's recognition of an agent's right to act is most accurately described as a "process of consensual empowerment".  

The relationship between power and legitimacy, therefore, needs closer examination.

303 Ibid., 31.
305 Ibid., 159.
Reus-Smit led an interrogation into the relationship between international legitimacy and power, in a pioneering agenda that sought to define the contours of that which can be considered a "crisis of legitimacy", a phrase frequently used yet infrequently clarified. Prior to this, scholars of international relations typically made a clear distinction between power and legitimacy, viewing the former through a Waltzian lens of material capability, and the latter as a mere mantle of social acquiescence sought to justify the wielding of this might. Reus-Smit problematises this distinction by first dismantling the reductionist assumption that power is equal to the sum of resources commanded. Drawing on Weber, he defines a powerful actor as one who has "the capacity to realise their objectives", and a powerful institution as having "transformative capacity" with the "ability to engender behavioural change in those within its jurisdiction". Material factors are relevant to power, but they are rarely defining of it, rather, they demarcate the limits of possibility. The meaning of the material is contingent upon the intersubjective norms and beliefs of the society. Legitimacy is an appraisal made by members of the society, about the actions and identity of other members in reference to the intersubjective norms that exist within the society. Legitimation contests are, therefore, integral to the social fibres and dynamics that condition "the nature and exercise of power". Establishing oneself as rightful, and acting in accordance with established norms, means that an actor can draw on the support of other legitimate members, they can expect compliance from those members.

308 For an example see Claude, "Collective Legitimization as a Political Function of the United Nations". For a discussion see Reus-Smit, "International Crises of Legitimacy".
309 Reus-Smit, "International Crises of Legitimacy". 162.
310 Ibid. draws on Wendt, Social Theory of International Politics to make this point.
311 Reus-Smit, "International Crises of Legitimacy". 162.
pertaining to legitimated practices or rules, and they can operate with minimal resistance from the community. As indicated earlier, legitimacy is empowering. Clarifying the intrinsic relationship of empowerment to legitimacy, and outlining the process of legitimation, lays the foundation for Reus-Smit’s definition of a crisis of legitimacy: “that critical turning point when decline in an actor’s or institution’s legitimacy forces adaptation (through re-legitimation or material inducement) or disempowerment.” The temporality of crises can be short and intense, or they can be extended. Actors can be conscious of their crisis of legitimacy, but they do not have to be. An actor can very easily misperceive the basis of their legitimacy, just as an illegitimate actor can misinterpret the legitimation processes of the community within which they seek to be legitimised. The political sphere within which an entity seeks to act will determine the social constituency that the entity needs in order to engage in a process of legitimation. Hence, for an actor aspiring to legitimacy, their position could be outside of this political arena and they may be operating with a resultant ignorance of crucial norms and practices, or of ideational barriers blockading their quest for legitimacy.

3.2.1 Rightful Membership and Rightful Conduct

One of the enduring conceptions of legitimacy in international relations scholarship has been the recognition of sovereignty by other states. Martin Wight was one of the

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312 Ibid., 163.
313 Ibid., 167.
314 Ibid., 168. He refers to this respectively as "acute" and "chronic".
earliest scholars to focus on international legitimacy, putting it at the centre of his analysis of the evolution of the international state system, and as a grounding force for understanding the constitution of international society:

Let us define international legitimacy as the collective judgement of international society about rightful membership of the family of nations; how sovereignty may be transferred; how state succession should be regulated, when large states break up into smaller, or several states combine into one. It concerns the presuppositions of the region of discourse that international lawyers seek to reduce to juridical system when they write about the recognition of states.\(^{315}\)

Wight sought to trace how this practice of reciprocal recognition has developed throughout history. He propelled the idea of recognition as being more than just an expression of the acceptable standards of statehood; it is the empowerment of a polity with international legitimacy.\(^ {316}\) This view strongly supports the constitutive interpretation of sovereignty, explicitly stating that sovereignty is not a status or condition that a state can simply achieve through its own volition. Rather, it is a reciprocated appraisal.\(^ {317}\) This mutuality is not only defining of the condition, it is a telling insight into the "very nature" of international society.\(^ {318}\) Since Wight first made this claim, equating recognition with rightful membership into the 'family of nations' has been widely agreed upon as one clear measure of international legitimacy by scholars of international society, and those who support the constitutive theory of statehood.\(^ {319}\) Of course this is only a measure of status, and implies little about practice.

\(^{315}\) Martin Wight, "International Legitimacy", *International Relations* 4:1 (1972) 1.
The distinction between legitimate status and the practice of legitimacy is at the heart of Clark’s theory of legitimacy in international society. Clark promotes the Wightian premise that "the core principles of international legitimacy express rudimentary social agreement about who is entitled to participate in international relations", but importantly he adds that it is "also about appropriate forms in their conduct". Clark’s theory seeks not only to clarify international legitimacy, but also to articulate a clearer conception of international society, which he describes as "a set of historically changing principles of legitimacy", that are "not necessarily expressed as institutions", and are "often too informal to be classed as rules". For Clark, the existence of legitimacy denotes the existence of international society. International society is the subject of international legitimacy; legitimation is the ongoing process that, in part, constitutes that society. Put succinctly, "legitimacy lies at the very heart of what is meant by an international society". Clark states that an argument about international legitimacy cannot be made outside of the framework of international society, "or near equivalent". As an inherently social concept, this is seemingly hard to argue with, and it aligns with the requisite relationship between legitimacy and community, discussed earlier.

Clark’s conception posits legitimacy as a "first-order" quality of international society; it is necessary for an international society to exist. The "second-order" rules
describe the activities that the society will permit.\textsuperscript{324} There is a clear distinction between legitimacy as constituting international society, and the norms that pertain to the second-order behaviour. Clark details the interplay of three second-order cognate concepts that are central to this understanding: the international norms of legality, morality, and constitutionality. Legality, in the most basic sense, refers to the widely held view that international legitimacy indicates adherence to the law. For an action or decision to be legitimate, it must be in accordance with international law. This is a logical starting point, given the word legitimate has etymological roots in \textit{legislate}.\textsuperscript{325} Legality is an important force in the dynamics of international legitimacy, but the two are by no means synonymous. An illustrative example of this can be found in the Independent International Commission (IIC) on Kosovo, which stated that the military intervention by the Northern Atlantic Treaty Organization (NATO) in 1998-99 was "illegal but legitimate"; illegal because it was not approved by the UNSC, however, it was legitimate because "all diplomatic avenues had been exhausted and because the intervention had the effect of liberating the majority population of Kosovo".\textsuperscript{326} International law, in this case, is clearly an insufficient source for mapping the terrain of international legitimacy. Rightful action was guided by principles of morality as well.

The pillar of morality can be understood in a similar vein to the justice-grounded theories of legitimacy. In Buchanan’s analysis of the Kosovo intervention, he highlights the shortcomings of international law, as it does not allow, "what morality

\textsuperscript{324} Ibid., 24.
\textsuperscript{325} Reus-Smit, "International Crises of Legitimacy", 158.
In Buchanan's portrayal of the gap between the law and morality, he moves to equate legitimate action with this moral imperative. The example of Kosovo does lend itself to conceiving legitimacy in terms of extrajudicial morality, however, it is only one example and the limitations of this approach have already been highlighted. The 2003 USA led invasion of Iraq provides a more contentious example, where the moral arguments in support of the intervention have split observers. Clark claims that, even though the moral arguments were perceived as "ambiguous and indeterminate", the crisis of legitimacy arose from the invasion's incongruity with the norm of constitutionality.

Constitutionality is a more amorphous phenomenon than the other two cognate concepts, but one that has considerable explanatory utility for those who perceive legitimacy to be more than the relationship between legality and morality. Constitutionality refers to the reciprocated political beliefs and assumptions of international society that influence behaviour and are not enshrined in law, nor are they equivalent to moral principles. Clark succinctly argues, it is "the political realm of conventions, informal understandings, and mutual expectations". Constitutionality, this thesis argues, largely encompasses Franck's layer of coherence, and it incorporates his component of adherence. For a state to take action that is contrary to the conventional, consensually expected behaviour of international society, it must either be constitutionally legally permissible or morally justified.

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329 Clark, Legitimacy in International Society, 221.
330 Ibid., 220.
international society is to shun part of its identification with that community. In this sense, whether states are abiding by these expectations or acting in discordance, constitutionality is inherently political. As such, it is the most complicated component because it can be subject to swift changes in the global system, and is always contingent on the power relations within the society. Constitutional behaviour can maintain a state’s position of power, but the constitution itself is conditioned by the distribution of power and the actions of those who wield it.\textsuperscript{331}

The 2003 USA led invasion of Iraq is a clarifying example of a crisis in constitutionality. The legal case for military intervention in Iraq was no stronger than the one presented for Kosovo, and it is arguable that the moral case was equally problematic. The facts of the case for invading Iraq placed before the members of international society were more troubling than those for Kosovo, not only because of the ambiguities, but because the proposal fell against a backdrop of increasing unilaterism in US foreign policy; "The crisis over Iraq would not have been so serious had it not been regarded as the \textit{culmination} of a tendency, rather than as an isolated departure".\textsuperscript{332} Considerations of supporting the intervention happened in a political context that was already riddled with concerns about the increasingly unilateral US foreign policy, exacerbated by its 'war on terror'. This reveals the inherently political nature of legitimacy, expressed as "the exercise of choice in a realm of indeterminate values".\textsuperscript{333}

\textsuperscript{331} Ibid., 221.  
\textsuperscript{332} Ibid., 225 (emphasis in the original).  
\textsuperscript{333} Ibid., 208.
Constitutionality has powerful explanatory utility because it captures this contextual contingency of legitimacy, embracing its political locus without rejecting the normative dynamics embodied by the pillars of morality and legality. International legitimacy indicates the presence of these norms, and a substantive degree of harmony between them. Yet, it can also be that which exists in between the tension of these norms when they are at odds with one another. It is important to be clear about this key feature: the tension, which can result in questions arising about the legitimacy of the relevant subject, is between each of these norms, not between any one norm and legitimacy itself. To frame such a crisis as being between that which is legitimate, and that which is legal or moral, is a contradiction in terms. This is a clear point of difference between Franck’s framework and that of Clark, for Franck describes the IIC report on Kosovo as "bridging the gap" between legitimacy and legality.334 Exploring another key component of Clark’s theory will help to elucidate this complex relationship between legitimacy and these cognate norms.

In addition to the balance held between these normative standards, international legitimacy is still deeply connected to the notion of consensus. Legitimacy has already been shown to exist in relation to the norms of legality, morality and constitutionality, but it is not the mere sum of these parts, nor is it so closely related that each norm is indistinguishable from legitimacy itself. Rather, legitimacy includes the crucial quality of political negotiation and compromise, establishing an accommodation between the contesting normative poles, expressed on a spectrum

of consensus. This consensual component denotes the standing of legitimacy as distinct and distanced from these norms upon which it draws.\textsuperscript{335}

In this sense, consensus is not inherently valuable as a stand-alone phenomenon. Consensus is valuable, and integral to international legitimacy, because it marks a political accommodation that corresponds to the norms that guide rightful international practice. The centrality of consensus and its normative grounding challenges the traditional normative theories, for it posits that legitimacy "does not possess its own independent standard against which actions can be measured".\textsuperscript{336}

By acknowledging the political dynamic of legitimation contests, and embracing the normative foundations upon which they rest, Clark's central thrust of equating international society with the existence of international legitimacy becomes abundantly clear.

Theories of international legitimacy have developed to embrace its moral fibre, but in a more practical manner than the moral philosophers, contextualising legitimacy's meaning in the dynamics of a specific social structure at a given time. Clark has achieved this convincingly with his theory of legitimacy in international society, though Beetham, Franck, Hurd, and Reus-Smit have all provided useful theoretical tools with which to interrogate the legitimacy of an international entity. Before this thesis can draw on these insights to clearly outline the framework that it will use to question the notion of a de facto state's international legitimacy, it will

\textsuperscript{335} Clark, \textit{Legitimacy in International Society}, 226.
\textsuperscript{336} Ibid., 207.
first need to explore the use of legitimacy as an elucidatory concept within the de facto state literature.

3.2.2 De Facto States and International Legitimacy

The recent move by scholars of de facto states to elaborate their analyses by introducing the concept of legitimacy as an illuminating lens has developed without yet fully engaging the rich tapestry of legitimacy theory. The work so far has carved out a path upon which this thesis seeks to fruitfully expand by engaging the literature on legitimacy to explore and detail the place of de facto states in international political systems. Insights from the forays into the international legitimacy of de facto states provide a logical starting point, and must first be mapped and examined.

International legitimacy, commonly referred to as external legitimacy in the de facto states literature, has predominantly been examined in relation to internal legitimacy, the object of study being how the lack of external legitimacy impacts the development of internal legitimacy, and vice versa. A 2012 special issue of *Communist and Post-Communist Studies* led the charge into this investigation in the post-Soviet de facto states, bringing their internal political developments to the fore. Following Pegg's initial distinction of internal and external legitimacy, this issue equates external legitimacy with international recognition, and focuses on the success of domestic legitimation in the absence of recognition. Pegg and Kolsto's

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337 This distinction and labelling is derived from Pegg's clarification of the two.
astute analysis of Somaliland’s robust internal legitimacy follows this vein, embracing what is a common position in the literature.\textsuperscript{339}

Some attempts have been made to separate external legitimacy from international recognition, by focusing on the extent of economic, cultural, and diplomatic engagements that de facto states have managed to secure.\textsuperscript{340} It is important to note that the literature focusing on the international engagement of de facto states addresses behaviours and activities that are specific to the practice of para-diplomacy. Para-diplomacy is defined by Cornago as:

\begin{quote}
non-central governments’ involvement in international relations through the establishment of permanent or ad-hoc contacts with foreign public or private entities, with the aim to promote socioeconomic or cultural issues, as well as any other foreign dimension of their constitutional competences.\textsuperscript{341}
\end{quote}

This thesis accepts this definition, and consequently perceives all relations between a de facto state government and any foreign private or public entity to be a form of para-diplomacy. As such, all discussion of international engagement, and its relationship to legitimacy, by extension, encompasses the practice of para-diplomacy as a perceived form of legitimation.

Ker-Lindsay has thoroughly interrogated the dynamics of international engagement, and although Ker-Lindsay’s work is not centred specifically on legitimacy, he claims

\begin{itemize}
\end{itemize}
that the creative measures that recognised states are willing to use to engage de facto states, does confer "a degree of legitimacy", without going "as far as to extend formal recognition".\textsuperscript{342} Caspersen has since used this notion of degrees of legitimacy, as a springboard to launch a detailed analysis of the tensions that exist between internal and external legitimation strategies. Caspersen’s analysis draws much needed attention to the difficulties that the pursuit of different forms of international engagement can pose for de facto state leaders and their means of securing popular domestic support. Although Caspersen’s examination of this relationship is insightful and a significant contribution that elucidates the struggles of de facto states, Caspersen’s conceptualisation of legitimacy is restrictive, significantly limiting its theoretical utility and explanatory power.

Caspersen defines external legitimacy as "support from external sources, be it from state or non-state actors", adding the criteria that there is no single measure of support, and that the support must be "active, voluntary support".\textsuperscript{343} Caspersen addresses the distinction between normative and empirical legitimacy, acknowledging that "normative criteria... affect both external and internal legitimacy", and stating, "the extent of this impact and the type of normative standards that matter are expected to depend on the audience in question".\textsuperscript{344} This is a suitably pragmatic definition for answering what Caspersen considers to be "an empirical question".\textsuperscript{345} This thesis recognises that the question asked is indeed empirical, and acknowledges the utility of examining the tension between internal

\textsuperscript{342} James Ker-Lindsay, \textit{The Foreign Policy of Counter Secession: Preventing the Recognition of Contested States} (Oxford: Oxford University Press, 2012) 14.
\textsuperscript{344} Ibid.
\textsuperscript{345} Ibid.
legitimation and external engagement. However, this thesis argues that to equate external legitimacy with international engagement is to oversimplify legitimacy; they are not one and the same.

Caspersen's Weberian conception of support is problematic at the international level for two reasons. Firstly, support can be motivated strongly by the supporter's own political interest. This is not inherently problematic, however, as demonstrated by the case of Russia's recognition and support for Abkhazia and South Ossetia; this support can actually be disempowering, which directly contradicts the very heart of what legitimacy is, and the reason that de facto states are seeking it. Secondly, this definition does not specify the role of the community within which this legitimation is happening, a crucial limitation given their symbiotic relationship outlined earlier. Even Hurd, who operationalises a similarly Weberian notion of legitimacy that focuses on the subjective perspective of supporters, considers a community to be a number of actors that “share a common definition of what is legitimate”.346 Even when asking an empirical question, for support to be considered a measure of legitimacy, the role and function of that support within the community must be explicit. To discard the notion of a valid social order, or a community, or a society, is to nullify the concept of legitimacy.

Legitimacy is an innately contested concept, and inherently complex. But, this thesis argues, that is no reason to try and simplify it. On the contrary, simplifying

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346 Ian Hurd, "Legitimacy and Authority in International Politics", *International Politics* 53:2 (1999) 388. Coicaud goes so far as to claim that problems of legitimacy and its contestation only take place in a setting where actors are “integrated into a given community, so that they identify with it and are aware of their rights and duties”. Coicaud, *Legitimacy and Politics*, 205.
legitimacy only limits the extent to which the subjects engaged in the practice of legitimacy, or legitimation strategies, can be understood. This is particularly pertinent for the more ambiguous political entities such as de facto states. Existing in exclusion from international society does not preclude them from engaging in processes of legitimation. On the contrary, their ongoing legitimation struggles are defining of their very existence and are constitutive of their identity. De facto state experts have made a valuable move in opening the door for research into the international legitimation of these entities. However, for the question of their external legitimacy to be raised, the following question must also be asked: what is the social constituency within which they are embedded?

The constitution of the relative social constituency is of central importance to understanding any notion of legitimacy; there is scholarly consensus that legitimacy is hollowed of substance in the absence of community.\textsuperscript{347} The importance of the social constituency to legitimacy is straightforward given legitimacy cannot be understood separately from the notion of rights, which are by definition a relational phenomenon.\textsuperscript{348} This is clearly outlined in Suchman's definition, drawn on by both Hurd and Reus-Smit in the development of their own conceptions of legitimacy: “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions”.\textsuperscript{349} The complexity lies in articulating those qualities of the social system at any given point in time, and how they relate to actors’ perceptions of legitimacy, or the practices of legitimacy that are being adhered to. As Chapter

\textsuperscript{347} Franck, \textit{Fairness in International Law and Institution}, 26.
\textsuperscript{348} Coicaud, \textit{Legitimacy and Politics}, 11.
Two demonstrated, de facto states are functioning within the international states system, but this is a self-organizing system that does not inherently produce the cohesion of community or order for the existence of legitimacy to be assumed. Clark's conception of legitimacy within international society, previously discussed, clearly demonstrates this.

Clark argues that international society exists when the state system has formed a club of rightful members that recognise each other's sovereignty, and are partaking in the legitimation of practices of rightful conduct. Rightful conduct therefore presupposes rightful membership. Working deductively, this means that the absence of rightful membership denotes the absence of international society and the existence of only the states system.

Given the evident realities of the modern world, the consequent questions inevitably follow: what is the status of a state-like entity that is a functioning component of the state system, and is in the legitimating process of trying to become a member of the recognised states society but has not yet attained that status? If a state located in this void adheres to practices of rightful conduct, does this make them any more or less legitimate? What is the social structure of which they are a part, and can this be considered a community? These questions are the core of enquiry in this thesis, and they require the articulation of a clear framework of international legitimacy from which they may be addressed.

This thesis embraces Clark's legitimist definition of international society, however, it does not accept his legitimacy framework as complete or exhaustive. Clark admits
that his theory is insufficient for analysing that which happens outside of international society. In order to examine the prospective legitimacy of de facto states, this thesis draws upon the discussion so far to construct the following framework as a starting point from which to conduct this investigation:

1. Legitimacy is a consensual appraisal within a community that empowers actors and sanctions actions.

2. Legitimacy is intersubjective, normative, and its contestation can be political.

3. Legitimacy is irreducible to any norm or combination of norms.

4. The community of legitimate practice is binding, to the extent that it is an object of cognitive orientation.

5. The right to act is constituted by recognition from other rights-holding constituents.

The framework follows Clark's logic of legitimation, as is evident in the irreducibility of legitimacy to any combination of norms. This framework includes a permutation of Weber's validity, but only to an extent of being binding, not eliciting strict obligation because it accepts the conditions of rightful conduct are continuously being contested; variations in the form or substance of legitimacy are always contingent. On these same grounds it rejects Franck's layers of symbolic validation and coherence. It also rejects Franck's concept of determinacy, which is not applicable because it is grounded in a steadfast concept of rules, which can only apply as a second-order product. Franck's layer of adherence, however, has been incorporated with Weber's validity to state that the community is an object of cognitive orientation.
3.3 A theory of normative standing

This thesis employs Clark’s triad of second-order norms of morality, legality, and constitutionality, as the framework upon which to assess a de facto state’s normative standing. How closely the conduct of de facto states within the international system aligns to these second order norms of international society is what from now on will be referred to as their normative standing. This begs the question: how can de facto states be assessed against the norms of a society from which they are excluded? This is where the fourth criterion of the definition of international legitimacy is crucial: *The community of legitimate practice is binding, to the extent that it is an object of cognitive orientation.* So long as this community is binding, in that any entity with the corporate identity of a state perceives it as a valid order, it can become a cognitive object of orientation regardless of whether or not that entity has been accepted as a legitimate member. Being bound to that order means that the institutions and norms of the order, also become cognitive objects of orientation. Put simply, the norms and institutions of international society observably govern the behaviour of de facto states.

The nexus of morality, constitutionality, and legality provides unique explanatory utility for analysing de facto states. The relationship between legality and morality is at the very centre of the de facto state problem. Legally, there are the opposing views of declaratory and constitutive statehood. Morally, there is the tension between the high ground that many de facto states take in comparing their democratic credentials to their parent state, but there is also contrasting morality relating to violent secession, territorial integrity, greater security and stability. Furthermore, the pillar of constitutionality provides a lens through which to
interpret the changing attitudes to secession. The most formal depiction of this is *uti possidetis juris*, but this category encompasses the attitude toward territorial integrity, and it is more appropriate than the legal category because the concepts of self-determination and secession fall under a legal grey area that is often determined by political practice rather than clear legal doctrine.

The distinction between international system and international society is the foundation upon which normative standing must be understood. The international system is still social, as articulated in Chapter Two. The definition of international system is in fact significantly more social than Bull's original English School definition. Although it is similar to the English School in that the system has ontological priority, the significant difference is that there is no sequential specificity. This difference allows for the coexistence of system and society that provides the conceptual clarity required to detail the relationship between de facto states and international society. De facto states are corporate entities in the international system, as are recognised states. Recognised states, however, are accepted and acknowledged members of international society. To refer directly to the definition of international legitimacy, they are socially sanctioned members. The international system has ontological priority over international society; the society cannot exist without the system, whereas, in theory, the system could exist without the society. When there is an international society, the system and the society coalesce. This distinction provides the conceptual clarity required to develop an in-depth understanding of the relationship between de facto states and international society.
An important distinction for the purpose of this investigation is to make clear that a recognition narrative and normative standing are not one and the same thing. De facto states appeal to principles of international law, moral norms, and political interests, with aspirations to influence the members of international society, but they can get this wrong. They can also manipulate their case and misread the political expectations of the time. An illustrative example of this is the case of Eritrea, which strategically delayed declaring independence to ensure the appropriate support was in place for a successful declaration. This can be compared to any of the post-Soviet de facto states, or indeed Somaliland, that have declared independence informed by an understanding of rightful membership that differed to the practice of rightful membership, as defined by the balance between morality, constitutionality, and legality, at that point in time. Further to this point, normative standing is not the same as the likelihood of successfully gaining recognition. This can change all too easily with a mis-calculation by a de facto state, or indeed by a change in the political dynamics within international society.

Normative standing is not a yardstick by which de facto states can be ranked, and the proposed theoretical approach is not intended to measure but rather to analyse, interpret and understand, and that will be evident as applied in the case studies that follow. To attempt to construct a metric by which to rank de facto states’ normative standing would be a reductionist treatment of the complex dynamics of the second order principles. Entities can be compared, and it may be fair to say that one case study makes a stronger case than another if there is significant differentiation. However, a definitive ranking would be conceptually negligent.
Institutions are the cognitive objects of orientation for de facto states; institutions observably govern their behaviour. This does not challenge the notion that de facto states adopt practices due to a perceived benefit of increasing their palatability as prospective members of international society. Institutions are the mode through which the norms of international society are communicated within the international system. The spectrum of actions that de facto states adopt in response to those norms is vast. The motivations behind these responses can be instrumental such as can be observed in the examples used by scholars who forward the notion of earned sovereignty. Motivations are also driven by interests that are constituted by type and role identities belonging to de facto states. The application of these concepts and the theorising of normative standing will next be presented and analysed in three distinctive case studies.
Chapter 4: The Nagorno Karabakh Republic

This chapter will consider the Nagorno Karabakh Republic’s (NKR) state identity and examine its normative standing in the international system. Firstly, NKR’s current role identity of victor, arising like a phoenix from the ashes of sustained, accumulated and disastrous victimisation, will be presented. The importance of perceived victimhood in Armenian nationalism throughout the twentieth century will be detailed, providing the historical backdrop required to understand the symbolic power of Nagorno Karabakh as a shift in the narrative of Armenian nationalism. Secondly, NKR’s type identity of a growing, successful self-determination movement will be explored, revealing the self-perception of an independent, self-styled emerging democracy. The significance of the incipient democracy image will be scrutinised, displaying the importance of this function beyond the idea of ‘earned sovereignty’ as a form of legitimation. This chapter will then assess the relationship between democratization and innovative international engagement strategies, uncovering the NKR’s subjective interests that are served by successful para-diplomatic relations, and challenging the reductionist account of international engagement as attempted legitimation. These crucial components of NKR’s state identity will be drawn together to contextualise their recognition narrative, the combination of which will be used as the foundation for clarifying its normative standing, providing a deeper understanding of the relationship between the NKR and international society.
4.1 NKR State Identity: Embodying Armenian Victory

4.1.1 The Origins of Armenian-Azerbaijani Enmity

The Caucasus forms a meeting point of Europe and Asia, which has made it a crucial location for competing Empires throughout history. Bernard Coulie has aptly described it as, "the revolving door between East and West: it exists both in Europe and in Asia and cannot be reduced exclusively to either". Nagorno Karabakh is in the middle of the South Caucasus and it has become a focus of geopolitical contestation and manipulation. Prior to the current dispute over the status of Nagorno Karabakh between Armenia and Azerbaijan, the Caucasus was the battleground for a major three-way power struggle between imperial Russia, the Ottoman Empire, and Iran. Russian rule over most of the Caucasus was consolidated after the Russo-Ottoman War of 1877-1878, and the three Caucasian countries of Armenia, Azerbaijan, and Georgia, were integrated into the Soviet Union in 1920, apparently ending the centuries-long cycle of great power struggles. But in that imposed seeming assimilation lay the seeds of future mistrust, dispute and hostility over Nagorno Karabakh.

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Initial tensions between Armenians and Azerbaijanis were the result primarily of multifactor political dynamics that began brewing during the Tsarist Russian regime. This tension notably began gaining momentum in the late nineteenth century, manifesting as a class division stemming from economic and social inequalities. The Armenians were reaping greater benefits from the booming oil industry centred on Baku, and were favoured among the ruling Russian elite, evident in their frequent selection for powerful economic and political positions in the major cities of the South Caucasus. These socioeconomic inequalities were fertile ground for anti-Armenian sentiment. Class and ethnicity underpinned the broiling contempt, and the divisive graphics of a fractured urban existence are captured by this illustrative description of Baku at the time:

This bustling industrial city was hardly a melting pot. Ethnic communities tended to live their separate lives in distinct neighbourhoods and the differences in their economic status perpetuated and accentuated barriers of culture, religion and language.

These cultural differentiations, along with the rise of a self-conscious Azerbaijani intelligentsia from 1880 onwards who sought to improve the lives of Muslims within the Russian empire, became accentuated and burgeoned with the rise of Pan-Turkism spreading throughout the region.

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Pan-Turkism was a secular nationalist movement that grew out of the waning Ottoman Empire in the last decades of the nineteenth century. Pan-Turkism championed a stronger pride in the national, linguistic, and historic community of all Turkic peoples throughout Europe, the Middle East, the Caucasus, and into Asia. The movement gained momentum in the Azerbaijani community of the Caucasus, partly as a reaction to the attempted Russification of Azeris by the Tsarist regime, and partly in an attempt to acquire support from Turkey to aid their aspirations for socio-economic and political development. The initially anti-Russification response quickly morphed into anti-Armenian sentiment because Armenia was perceived to be a geographic roadblock, severing the greater Turkic community. The anti-Armenian disposition was reinforced by a similar distrust and dislike that was only partly reactionary. The rise of Pan-Turkism made it very easy for the Armenians to consider the Azerbaijani Turks equatable with the Ottoman Turks, fuelling Armenian antipathy toward the Azerbaijanis. In the aftermath of the anti-Armenian policies of the Ottoman Turks, culminating in the 1895-1896 pogroms, Armenian nationalism was potent and incendiary, a force potentially likely to be directed toward any friend or kin of the Ottoman Turks. The nationalist and symbiotic mutual contempt increased in volatility until the Russian revolution of 1905 provided fertile conditions for the increasing tensions to boil over.

359 Ibid.
362 The depth and significance of Turkish-Azerbaijani relations to the identity of the Nagorno Karabakh identity will be explored in greater detail shortly.
Unrest and disorder spread across the South Caucasus after Baku was engulfed by riots in response to the death of an Azerbaijani at the hands of an Armenian policeman. What began as Azerbaijanis exacting revenge on the Armenian quarters of Baku, quickly turned to violent clashes in Tbilisi, Nakhichevan, Gyandzha, Yerevan, and Shushi. Thousands were killed and swathes of property were destroyed, including the burning of over a thousand of the region's oil wells. The disintegration of the revolutionary movement in Russia saw order slowly restored to the South Caucasus. By 1907 however, there were two crucial developments that could not be quelled so easily. Firstly, significant bloodshed had taken place between these two ethnic groups, solidifying an underlying hostility that could quickly be galvanized. Secondly, the laconic response by the Russians made it evident to both the Armenians and the Azerbaijanis that they each needed to develop their own independence and work toward being self-sufficient, given that they clearly had nobody else to rely on to guarantee their security or prosperity.

The need for each to be increasingly self-reliant, alongside mutual contempt, paved the way for the development of a territorial component to their dispute. As the Armenian Revolutionary Federation – commonly known as the Dashnaktsutiun (and often abbreviated to Dashnaks) - grew in size and strength, they began to focus their efforts on promoting the need for greater Armenian control over territory that they considered to be traditionally Armenian. This included the South Caucasus' territories of Nakhichevan and Nagorno Karabakh, both of which belonged to the

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364 Ibid. Goldenberg claims that it was specifically a Dashnak unit responsible for the death (see explanation of Dashnak in accompanying text)
Azerbaijani administrative units under the imperial Russian system.\textsuperscript{368} Nagorno Karabakh quickly became a generative bed for the Armenian nationalism that was taking root. Unsurprisingly, the Azerbaijanis perceived these claims to be a threat to land they considered to be rightfully theirs, increasing the intensity with which Azerbaijani nationalism flourished in the wake of the 1905 turmoil. Nagorno Karabakh had soon become the home of two staunch nationalisms, each rising in the heat of the others’ claims, and intensifying as they simmered in their own sense of injustice.

What is widely considered to be the defining and unifying event of Armenian nationalism in the twentieth century then took place against this volatile backdrop: the Armenian genocide. The 1908 Young Turk revolution saw a fierce Turkish nationalism destroy any hope of a multinational Ottoman identity. In early 1915, barely twenty years after the Hamidian massacres, the Ottoman government set up a secretive paramilitary body known as the Special Organization, whose sole purpose was to arrange the deportation of Armenians without being publicly identifiable as a government outfit.\textsuperscript{369} This furtive Special Organization then created killing squads known as \textit{chetes}, composed largely of convicted criminals who were engaged and organised to systematically slaughter Armenians; many of them were released from incarceration specifically to participate in the massacre.\textsuperscript{370} An estimated 30,000 ex-convicts filled the ranks of the \textit{chetes}, who relied on the military

\begin{itemize}
\item \textsuperscript{368} Ibid.
\item \textsuperscript{369} Geoffrey Robertson, \textit{An Inconvenient Genocide: Who Now Remembers the Armenians?} (London: Biteback, 2014) 46.
\item \textsuperscript{370} Richard G. Hovannisian, ”Intervention and Shades of Altruism during the Armenian Genocide”, in Richard G. Hovannisian, ed. \textit{The Armenian Genocide} (Basingstoke: Palgrave, 1992) 174.
\end{itemize}
and provincial police to arrest and deport Armenians.⁷¹ Using ex-convicts was not only considered to be an efficient means of dispatching the victims, it also equipped the government with a means of diluting or distancing their responsibility, or so they believed.⁷² Over 2 million Armenians were deported between April 1915 and July 1916, approximately 1.5 million of whom were slaughtered.⁷³

The genocide was catastrophic by any measure of historic or global scale, but it was also inevitably and understandably formative and defining for the Armenian national consciousness. Following the unrelenting and systematic atrocities, their importance was intensified by attempts to cover up, to mis-represent and in effect to deny their occurrence by several nation states. Although the atrocities committed against the Armenians were widely known at the time, in the years that followed the accounts of these events outside the Armenian community were disavowed, sanitised, and “subverted”.⁷⁴ Illustratively, many genocide scholars claim that by 1939, before invading Poland Adolf Hitler attempted to motivate his generals with the words, "Who speaks today of the extermination of the Armenians?".⁷⁵

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⁷¹ Peter Balakian, The Burning Tigris (New York: HarperCollins, 2003)183. Balakian draws on evidence from an American historian, a German historian, and a Swiss historian, whose estimates range from 30,000 to 34,000.
⁷² Ibid.
⁷³ Robertson, An Inconvenient Genocide, 46-56.
⁷⁵ Adolf Hitler, quoted in Hannibal Travis, "Did the Armenian Genocide Inspire Hitler?", Middle East Quarterly 20:1 (2013) 27. Travis acknowledges the "hot debate" about the authenticity of this quote, which, as stated, is widely accepted by genocide scholars, including Geoffrey Robertson.
In light of the contemporary contestation over what the Turkish refer to as “the so-called Armenian question” or “the events of 1915”, it is important to note that Geoffrey Robertson surveys what he declares to be a “mass of compelling evidence” that “any forensic investigation would find credible”. The prevalence of the human rights discourse over the past sixty years, the “prolonged amnesia” following the genocide, and the widespread reticence, equivocation and denial surrounding the recognition of a severe crime against humanity, have all bolstered the centrality of the genocide in the Armenian national consciousness and strengthened the self-perception of Armenians as victimized survivors.

4.1.2 Conflict in Nagorno Karabakh

The Russian retreat from the South Caucasus in 1918 left a vacuum of power that caused regional ethnic tensions to heighten. Azerbaijani forces joined the Turkish troops who sought to establish a clear passage from Turkey to Azerbaijan, at the cost of the Armenians situated in the middle, who fought to prevent their decimation at the hands of the Pan-Turkic "Army of Islam". With this latest conflict taking place then shortly after the Armenian genocide, the Armenians had every reason to believe that, if they were to fight and lose, they could well be facing the annihilation of their people. In the face of this looming possibility, the Armenians accepted the
Treaty of Batum, “Treaty of Peace and Friendship between the Imperial Ottoman Government and the Republic of Armenia” in June 1918, ceding the districts of Kars and Ardahan, and relinquishing claims to their "historic heartland of eastern Turkey". 381 Having followed Azerbaijan and Georgia in declaring their independence in May, Armenia by June had been reduced to a shell of its former self, desperate to hold on to the people and territory that had survived.

In the spring of 1918 Ottoman troops invaded Armenia, reaching the perimeter of Nagorno Karabakh by August. The Turks demanded that the Karabakh Armenians submit to the authority of Azerbaijan, and by October the Armenians were clearly going to be overpowered, and appeared to have little choice but to acquiesce to the Turks' request.382 Following a "terror campaign" of persecution that included public hangings and arbitrary arrests en masse, the Armenians reneged on their agreement with the Turks and formed an insurgency.383 The Armenian guerrillas managed to hold off a Turkish occupation of Nagorno Karabakh until Ottoman Turkey was defeated in October 1918, when the Turks agreed to withdraw their remaining troops from the South Caucasus.384 To be more precise, the Ottoman government did. Mustafa Kemal Ataturk, the Turkish field marshal who would become Turkey's first President, did not. The issue of disputed territories became paramount in the lead up to the Paris Peace Conference, which had been nominated by the Allied Forces as the forum in which any remaining territorial disputes were to be

negotiated,\textsuperscript{385} adding a sense of urgency to a volatile region awash with nationalist territorial struggles.

Britain then marched assertively into this powder keg. The British adopted a policy in favour of the Azerbaijanis, but one they hoped would also maintain positive relations between the two hostile parties. Britain's strategy was two fold: develop a stable and prosperous Azerbaijan that could ally with Britain to form a safety buffer, and to develop positive relations that would help them gain access to the extensive oil reserves near Baku.\textsuperscript{386} In order to achieve this the British sought to cultivate warm relations with Azerbaijan by coaxing them with the prospect of confirming Nagorno Karabakh as a part of the Republic of Azerbaijan.\textsuperscript{387} The Armenians felt betrayed by Britain's move. The Armenians had fought with the Allies in World War One, and were subsequently dismayed that their valuable and costly loyalty had then been cast aside in favour of geopolitical opportunism.\textsuperscript{388}

With their security and perceived homeland under threat once again, the Armenians of Karabakh formed an armed resistance, declaring that they would defend against any attempts to consolidate Azerbaijani sovereignty of Karabakh. The British and Azerbaijanis responded by effectively blockading Nagorno Karabakh, and terrorising the surrounding Armenian villages.\textsuperscript{389} After the British forces retreated from the Karabakh mountains, open conflict spread across the region once more. The Karabakh Armenians believed the British had played a part in restraining the

\textsuperscript{385} Croissant, \textit{The Armenia-Azerbaijan Conflict}, 15.
\textsuperscript{386} Hovannisian, \textit{The Republic of Armenia}, 157.
\textsuperscript{387} Croissant, \textit{The Armenia-Azerbaijan Conflict}, 15.
\textsuperscript{388} Artin H. Arslanian, "Britain and the Question of Mountainous Karabagh", \textit{Middle Eastern Studies} 16:1 (1980) 93.
\textsuperscript{389} Walker, \textit{Armenia and Karabagh}, 95.
Azerbaijani forces up until that point. So when the British declared their withdrawal from the South Caucasus prior to the anticipated territorial settlement to take place at the Paris Peace Conference, the Karabakh Armenians, outnumbered and overpowered, agreed to partake in negotiations with their enemy. In August 1919 they signed an agreement that established a temporary authority of Azerbaijan over Nagorno Karabakh, allowing it limited autonomy, all of which was provisional in the lead up to the Paris Peace Conference where a final settlement of the territorial dispute was supposed to take place. Although temporary in nature, the accord was perceived as a victory for the Azerbaijanis, who considered themselves to be a step closer to finally settling the dispute in their favour. For the Armenians, this was yet another defeat imposed in large part by a major third party power. The style and effect of Britain’s approach to the people of the Caucasus in this period has been described poignantly by a British historian as having been "beguiled by fine promises and finally left to their own devices in their hour of greatest need".

One of the heaviest emotional blows for the Armenians in the Nagorno Karabakh narrative prior to the escalation of the 1980s, was another perceived betrayal by Stalin. By the end of 1920 the Bolsheviks had captured Azerbaijan, Nagorno Karabakh, and Armenia. In 1921 the Armenian Soviet Socialist Republic (SSR)

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391 Ibid.
394 After the accords of August 1919, there was further rebellion by the Karabakh Armenians, and open conflict with Azerbaijan's forces. The maneuvering of Azerbaijan's forces to counter the Karabakh rebellion, in part led to the Bolshevik advances into Azerbaijan. The details of this period are less relevant for the Armenian Karabakh narrative, which is the focus of this section.
was given authority over Zangezur, but lost authority over the territory of Nakhichevan to Azerbaijan at the Treaty of Kars.\textsuperscript{395} This was a heavy blow, for upon the creation of the Armenian SSR, Stalin had disingenuously stated that:

> Armenia, so long martyred and tormented...has now found salvation by proclaiming itself a Soviet land...On December 1, Soviet Azerbaijan voluntarily renounced its claim to the disputed provinces and ceded Zangezur, Nakhichevan and Nagorny Karabakh to Soviet Armenia... The age-old enmity between Armenia and the surrounding Moslem peoples has been dispelled at one stroke by the establishment of fraternal solidarity between the working people of Armenia, Turkey and Azerbaijan.\textsuperscript{396}

There are several contrasting accounts of how and why it was proclaimed that the Armenian SSR would encompass Nakhichevan and Nagorno Karabakh,\textsuperscript{397} but there is a general consensus that this message was conveyed soon after the establishment of the Armenian SSR. Where the accounts are congruent is in recounting the proceedings that took place when the Caucasian Bureau of the Communist Party met to finalize the Nagorno Karabakh matter in July 1921. On 4 July, the Bureau met in the presence of Stalin, who was the Soviet Commissar for Nationalities at the time, and after taking a vote the Bureau decided that Nagorno Karabakh should be incorporated into the Armenian SSR.\textsuperscript{398} The following day, however, the Bureau officially released a statement to the contrary, declaring the territory from then onwards was to remain as an autonomous region within the Azerbaijan SSR, justified because of the "economic" and "permanent" ties with Azerbaijan.\textsuperscript{399} There

\begin{itemize}
\item \textsuperscript{396} I. V. Stalin, quoted in Forsyth, \textit{The Caucasus}, 426.
\item \textsuperscript{397} For an objective account, see Forsyth, \textit{The Caucasus}, 426-427. For an Armenian-biased account, see Mutafian,"Karabagh in the Twentieth Century", 134-139. For an account in the middle, see Croissant, \textit{The Armenia-Azerbaijan Conflict}, 18-20.
\item \textsuperscript{398} Ibid; Michael Kambeck and Sargis Ghazaryan, "Timeline 1918-2011", in Michael Kambeck and Sargis Ghazaryan, eds. \textit{Europe's Next Avoidable War: Nagorno Karabakh} (Basingstoke: Palgrave Macmillan, 2013) 24.
\item \textsuperscript{399} Ibid.
\end{itemize}
are multiple sources that accuse Stalin of intervening and ultimately effecting this policy reversal, although there are varying accounts as to why he did so. It is important to note that the sources sympathetic to Armenia are united in their claims about Stalin's role.

The explanations of why Stalin intervened range from a reaction to threats made by Azerbaijan through to Stalin executing a general 'divide-and-rule' strategy throughout Soviet territory.\(^{400}\) The 'divide-and-rule' strategy is arguably the most widely accepted explanation: by incorporating a predominantly Armenian inhabited territory into the Azerbaijan SSR, the Soviet regime could threaten their safety as a means of coercing the Armenian SSR. Similarly, by placing an autonomous Armenian district within the borders of the Azerbaijan SSR, the Soviet leadership could galvanise their irredentist aspirations if they needed to combat an uncooperative administration in Baku.\(^{401}\) Given Nakhichevan was given to Azerbaijan yet Zangezur was given to Armenia, geographically dividing the Azerbaijan SSR and ensuring a strip of Armenian territory lay in the middle, the 'divide-and-rule' logic stands to reason. The accuracy of the varying accounts is less important in this context; the clarity of the consensus in Armenian accounts stressing the betrayal of Armenians at the hands of Stalin demonstrates one of the key injustices that Armenians, especially Karabakh Armenians, perceive themselves to have been subjected to.

Before the Caucasian Bureau of the Communist Party officially incorporated Nagorno Karabakh into the Azerbaijan SSR, the Armenian people already perceived

themselves as having suffered grievous injustices at the hands of the Ottoman Turks, the Azerbaijani Turks, and the British Empire. Nagorno Karabakh was already of historical significance to the Armenian national consciousness. Following their persecution in the heat of the Pan-Turkic wildfire, and the genocide at the hands of the Ottoman Turks, Nagorno Karabakh began to symbolise Armenian determination in the face of a truly existential threat. The opportunism of the geopolitically expedient British in trying to gift Nagorno Karabakh to the Azerbaijanis solidified the Armenians' perception of the territory as a fervent stronghold of the Armenian cause. After indicating that the territory may at long last be returned to its people, the Bureau's decision to act against their original vote and declare Nagorno Karabakh as belonging to the Azerbaijan SSR, endowed the mountainous district with unshakeable meaning, representing the pathology of cumulative injustice endured by the battered, yet defiant and ever tenacious, Armenian nation.

For most of the Soviet era, strong centralised rule from Moscow managed to keep the simmering Armenian-Azerbaijani tensions at bay. During the ‘thaw’ of the Krushchev years, multiple petitions signed by Karabakh Armenians were lodged to little effect; otherwise the issue of Nagorno Karabakh was kept beneath the surface until after Mikhail Gorbachev became the General Secretary of the Communist Party of the Soviet Union (CPSU) in 1985. Gorbachev famously introduced the policy of glasnost, meaning "openness", with the intention of allowing public discussion of issues that had previously been forbidden, incidentally opening the door to issues of nationality and ethnicity that had been lying dormant since Stalin’s iron fist. As
Gorbachev’s agenda incited - directly or indirectly - a wave of national movements,\textsuperscript{402} the question of Karabakh predictably resurfaced once again.

The first serious conflict came in the wake of a reinvigorated debate about who was the rightful inheritor to Caucasian Albania, heightening tensions throughout the South Caucasus.\textsuperscript{403} Violence erupted in February 1988 after a council representing the Armenians of Karabakh petitioned the Azerbaijan SSR, Armenian SSR, and USSR governments to support the reintegration of Nagorno Karabakh into the Armenian SSR.\textsuperscript{404} This was a revolutionary move, described insightfully by de Waal: "By calling on Moscow to change the country’s internal borders, the Karabakh Armenians were, in effect, making politics from below for the first time in the Soviet Union since the 1920s".\textsuperscript{405} This gave rise to protests throughout Armenia, and elicited a passionate nationalist fervour across Azerbaijan.\textsuperscript{406}

It is important to note that many of the Armenian people at this time had sparse prior knowledge let alone awareness of Karabakh's history. Nora Dudwick, a sociologist who witnessed the protests firsthand, provides a telling depiction of how Karabakh's rich history was revisited and revitalised for the narrative construction of collective Armenian memory:

> Before the demonstrations, I rarely heard references to Karabagh. Although many people travelled there, its history was not widely known except to intellectuals who had been arguing over the past for several decades with their Azerbaijani counterparts. During the demonstrations, however, speaker after speaker expanded on its ancient history, and the military and diplomatic details of its incorporation into Azerbaijan shortly after

\textsuperscript{402}Croissant, Ibid., 26.
\textsuperscript{404}Forsyth, \textit{The Caucasus}, 650.
\textsuperscript{406}For a detailed account see de Waal, \textit{Black Garden}.
sovietization. By the end of February, most people in Yerevan had absorbed some version of this history and "knew" that Karabagh was part of Armenia’s primordial homeland, that Armenians had been the majority population there for nearly two millennia, that it was the birthplace of the historical Armenian liberation struggle against the "Turkish-Persian yoke", and that only due to Stalin's machinations in 1920 had it become part of Azerbaijan. In short, the history of Karabagh had become as fully incorporated into collective memory as the genocide.407

Nagorno Karabakh had quickly become a powerful symbol of Armenian nationalism and the cumulative injustices suffered by the Armenian people throughout the twentieth century.

The ferment peaked on 28 February in the Azerbaijani town of Sumgait, where an angry mob of hundreds of Azerbaijani locals and refugees who had fled Karabakh, took to the Armenian quarter.408 A pogrom ensued. Acts of savage barbarism, including rape, immolation, and murder, were inflicted on the local Armenian community.409 Some victims, axed to death, were hacked so brutally their remains were unidentifiable.410 The official death toll was thirty two,411 with hundreds more injured, however there is some debate surrounding the accuracy of the numbers, given the Azerbaijan SSR police did not intervene and the Soviet official press attempted to cover-up the details.412 The protests by Karabakh Armenians had included vicious acts sufficient enough for Karabakh Azerbaijanis to flee; on the evening before the violence erupted Alexander Katusov, the military prosecutor for the USSR confirmed the death of two Azerbaijanis in Karabakh. However, the events

408 Forsyth, The Caucasus, 650.
409 de Waal, Black Garden, 35.
410 Ibid.
411 Croissant, The Armenia-Azerbaijan Conflict, 68.
412 Forsyth, The Caucasus, 650, footnote 8.
of Sumgait were a severe escalation of hostilities and a whole new level of brutality. For the Armenians, the pogrom evoked spectres of the 1915 genocide and the sheer ruthlessness associated with the Turks in the narrative of Armenian nationalism.

Hostilities continued to spread across Karabakh itself, and by 1989 an "undeclared war" between Armenia and Azerbaijan was underway.\textsuperscript{413} By February 1989, a further 90 people had been killed, over 1600 wounded, and more than 500,000 people had become refugees; Armenians fleeing Azerbaijan and Azerbaijanis fleeing Armenia and Nagorno Karabakh.\textsuperscript{414} Anti-Armenian pogroms broke out in January of 1990, causing the deaths of approximately 90 people and resulting in an exodus of all remaining Armenians from Baku.\textsuperscript{415}

On 30 August 1991 the Supreme Council of the Azerbaijani SSR declared independence from the USSR. This created a predicament for the Karabakh Armenians; an independent Azerbaijan could mean the question of Nagorno Karabakh would technically no longer be a question for the Soviet Union. Subsequently, three days later the Nagorno Karabakh Autonomous Oblast (NKAO) declared its independence from the Azerbaijani SSR in accordance with the legislation of the USSR that regulated the secession of Soviet Republics.\textsuperscript{416} The 2 September 1991 declaration, according to the Karabakh Armenians and their supporters, legally located Nagorno Karabakh as a direct subject of the USSR according to the 1990 USSR Law on Secession.\textsuperscript{417} After the Supreme Council of the

\textsuperscript{413} Forsyth, \textit{The Caucasus}, 654.
\textsuperscript{414} Ibid.
\textsuperscript{415} Michael Kambeck and Sargis Ghazaryan, “Timeline 1918-2011”, 24-25.
\textsuperscript{416} Ibid., 25.
\textsuperscript{417} The legal debate will be explored in detail later in this chapter.
Azerbaijani SSR confirmed their independence from the Soviet Union with a constitutional act on 18 October, they responded to the NKAO’s declaration by revoking the autonomous status of Nagorno Karabakh within the Azerbaijani legislation, announcing its relegation to a regular region of the newly independent state of Azerbaijan on 26 November. On 10 December Nagorno Karabakh held a referendum, which in their view was according to the legal provision of the Soviet Constitution. On 28 December they held parliamentary elections; the next day Azerbaijan’s independence was confirmed by a country-wide referendum. This was of course taking place simultaneously with the dissolution of the Soviet Union: the Soviet flag was lowered for the last time at the Kremlin on 25 December and by the 31st Russia’s succession of the Soviet Union at the UN Security Council had been confirmed.

In the wake of this cascading political disintegration and rapid repositioning, the recently elected parliament of Nagorno Karabakh adopted the Declaration on the State Independence of the Nagorno Karabakh Republic on 6 January 1992. Resultantly, full-scale war broke out in January between Armenia and Azerbaijan, as well as in Nagorno Karabakh. One of the first major battles was for the town of Khojaly, which contained the region’s airport and had been the focus of a major Azerbaijani resettlement program. On the night of 25 February Armenian armoured vehicles surrounded the town, securing it for the Armenian troops to execute what was to be the single bloodiest attack of the war. The town was guarded by approximately 160-200 militiamen, yet the official Azerbaijani parliamentary investigation stated the death toll to be 485,418 and human rights groups estimated

the toll to be between 300-800. Not only were there severe civilian casualties, it is now accepted by both sides that many of the civilians were killed as they were fleeing. Serzh Sargsyan, the current President of Armenia, at the time was a key military leader in Karabakh and claimed that the excessive force was in part a result of the fact that the attacking troops included many young men who were refugees that had fled the pogroms of Baku and Sumgait. The exact events and statistics are heavily contested, however, the fact that it was an atrocity causing civilian casualties is indisputable. The events at Khojaly fuelled the two “pathological” nationalisms to heighten the conflict to new levels of violence.

Open warfare continued for another two years until the Bishkek Ceasefire was signed on 12 May 1994. Over 20,000 people were killed and more than 1 million people from both sides became refugees or were internally displaced. The Bishkek ceasefire, facilitated by Russia and signed by Armenia, Azerbaijan, and Nagorno Karabakh is still active today. Twenty-four years later a peace agreement has still not been reached. The current situation in NKR is frequently described as "No peace, no war".

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420 Ibid.
421 de Waal, Black Garden, 171.
424 See for example the numerous use of the phrase by various authors in Broers ed, The Limits of Leadership.
4.1.3 From Victim to Victor

“The whole Armenian nation realised...apart from being victims, we can be victors. That is what Karabakh showed them.”

When open warfare commenced Nagorno Karabakh symbolised the struggle and injustices in the consciousness of the Armenian nation. Maintaining control of its territory was seen to defy the continuation of Armenians as victims, and to deny their oppressors the power that had shaped their national consciousness over the past 100 years. Although ‘no peace and no recognition’ is not the ideal or desired situation for the Karabakh Armenians, ‘no war and retaining territorial control’ was, and still is, viewed as a historic victory. The birth of the Nagorno Karabakh Republic (NKR) was a turning point in the Armenian narrative, bestowing on the de facto state a nationalist significance that transcends its borders. To comprehend the recognition narrative of NKR, the symbolic power of the de facto state’s existence to the wider Armenian nation needs to be considered.

In the eyes of many Armenian people, the construction of the Nagorno Karabakh Republic embodies a transition from victim to victor. This embodiment has become a vital thread woven into the NKR's state-level narrative. The spokesperson for the NKR Prime Minister described how the citizens of NKR "now perceive Karabakh as, first of all, independent domestically, and secondly, as a part of the Armenian homeland and nation. These are the two main pillars of Karabakh identity.” This sentiment was reinforced by the Chairman of the National Assembly, who claimed

425 Armine Alexanyan, NKR Deputy Minister of Foreign Affairs, Interview with the author, Stepanakert, 13 November 2015.
426 Artak Beglaryan, Spokesperson for the Prime Minster of NKR, Interview with the author, Stepanakert, 10 November 2015.
that "whereby Karabakh has a role to play, and did play the role of reviving, and sending a positive signal for the diaspora to be more Armenian, to preserve its Armenianness", and echoed by the Deputy Foreign Minister, who stated that "Karabakh's present statehood, the success of Karabakh, is the reason for the second wave of diaspora to feel their Armenianess; the revival of their Armenian roots."

The symbolic power of Nagorno Karabakh was on full display at a conference in Sydney during September 2016. The conference was convened by the NKR Representative Office in Australia to commemorate 25 years of Nagorno Karabakh's independence. Many of the local Armenian diaspora gathered to celebrate the 'successful' quarter century of independence, and to discuss the future of the de facto state. The telling characteristic of the audience who had gathered was the fact that, although they were passionately Armenian and devoted to supporting the heartland of Nagorno Karabakh, barely any of the attendees had ever actually visited Karabakh itself. This was directly in line with how one NKR government representative had described the relationship: "the perception of the diaspora of Karabakh is more of an emotional feel than anything else." While verifying this sentiment is beyond the scope of this thesis, what is important is acknowledging the extent to which it has become a central and consistent theme in the narrative of Armenian nationalism, and in turn the narrative of the NKR.

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427 Ashot Ghoulian, Chairman of the NKR National Assembly and Former Foreign Minister, Interview with the author, Stepanakert, 11 November 2015.
428 Ashot Ghoulian, Interview with the author.
429 The author attended this conference.
430 Ashot Ghoulian, Interview with the author.
The centrality of the NKR is reflected in Armenian politics as well. Political careers of Armenian leaders have been made and broken based on their approach to and relationship with the de facto state. The first President of Armenia, Levon Ter-Petrosyan, disagreed with the leadership of the NKR on how to approach the conflict in Karabakh in the late 1990s. Ter-Petrosyan pushed for a phased approach whereas Robert Kocharyan, the President of NKR, insisted on a package solution. This dispute led to Ter-Petrosyan resigning from the position of President and Robert Kocharyan resigning his leadership of the NKR to replace Ter-Petrosyan as President of Armenia. This was a remarkable and telling turn of events. As Caspersen aptly describes, "the periphery had taken over the centre"; the patron-client relationship that had almost reversed.\footnote{Caspersen, “Playing the Recognition Game”, 53.} Serzh Sargsyan, the President of Armenia from 2008 - 2018, was the Chairman of Nagorno Karabakh's Self-Defence Forces Committee from 1989 - 1993. Sargsyan is perceived as one of the key leaders in the Karabakh conflict and was awarded the 'Hero of Artsakh' Medal. This reputation has contributed significantly to his success in Armenian politics, further demonstrating the powerful symbol of Karabakh to Armenian nationalism. To any dispassionate external observer, it seems manifest to acknowledge that the “victory” of NKR existence, its survival, progress, and advancement in the face of adversity and perceived multiple betrayals, together with increasing international awareness of its history and determined endurance, has come to represent an important emblematic victory for the entire Armenian nation.
4.2 NKR State Identity: Self-determined State

Nagorno Karabakh was formed and began to advocate its independence and promote its distinctive identity at a time when the discourse of self-determination was forefront in international relations, and it has continued to build on those foundations by striving to construct a democratic, functioning, and recognisable state. That journey however has not been without significant challenges, and part of that reconstructive surgery on identity and growing democracy has been the need to balance tensions between the world of those who were procedurally used to the standardised Soviet system of authoritarian decision-making and imposed autocracy for many years, and those, mostly a younger generation, who now have expectations and a vision for participative democratic change.

4.2.1 Democratic credentials

The NKR embodies a type identity of an incipient democracy. The development of democracy in de facto states has been a central analytical theme in the de facto state literature.\(^{432}\) The claims made by de facto state governments to be increasingly democratic have frequently been perceived as attempts to demonstrate their suitability to be recognised as fully-fledged members of international society, a

concept known as “earned sovereignty”. Put simply, the de facto state claims to display democratic credentials as a “central part of the legitimising narrative”, described by Broers as “competitive democratization”. NKR's democratization efforts have been perceived in some quarters as primarily an image-building exercise, aimed at improving the international perception of the territory from that of a warring secessionist movement to a democratic self-determined state, but lacking the tangible qualities of genuine democratization. The strength of NKR's democracy was emphasized by all of the government officials interviewed during the author's fieldwork therefore the function of this type identity requires a closer examination. The role of elections was frequently specified as a key indicator of the NKR's robust democracy. This view of elections as a central democratic credential is aligned with the logic of Western, liberal democracies, where elections are seen as a partial guarantor of the legitimacy of the government. In Weberian terms, elections are essential for fulfilling the legal-rational pillar of legitimacy.

The history of NKR's parliamentary elections presents an evolving moving image of an increasingly purposeful democratic system of government. The first parliamentary elections in the post-Bishkek ceasefire period took place in 1995. This was a key first step towards stability and order in the newly born de facto state.

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436 Ashot Ghoulian, Interview with the author; Artak Beglaryan, Interview with the author; Davit Ishkhanyan, Interview with the author.
437 Joseph A. Schumpeter, Capitalism, Socialism, and Democracy (New York: Routledge, 2010).
Unfortunately, significant tension and hostility between the Dashnaksutiun and Armenian President Ter-Petrosyan, led to the Dashnak party being banned in Armenia, and then they subsequently decided not to participate in the 1995 NKR parliamentary elections.\textsuperscript{438} Given they were a driving force behind the Karabakh movement throughout the twentieth century, their absence led many to question the ability of the elected parliament to represent the people of Nagorno Karabakh. Robert Kocharyan became the Armenian President and removed the ban on the Dashnaks in 1998, encouraging them to participate in NKR's 2000 parliamentary elections, which, for this reason, is seen by many as the first genuinely democratic parliamentary election in Karabakh.

In the lead up to the 2000 parliamentary elections the domestic political sphere was filled with tension. Considerable military autonomy was a hangover from the conflict, pervading the domestic political landscape. Revered Armenian war hero Samvel Babayan was appointed Minister of Defence in 1995, a position that he was eventually seen to exploit for personal financial gain, and through nepotistic appointments he gained control of NKR's security apparatus.\textsuperscript{439} Babayan was dismissed in 1999, however the threat from the military strongman to political stability only abated when he was eventually jailed for an assassination attempt on Ghukasyan in 2000, typifying the frailty of the budding democracy.\textsuperscript{440} The 2000 parliamentary elections were the first to be contested through a political party format and were considered by international observers to be free and fair.\textsuperscript{441} The

\textsuperscript{439} Ibid., 146.
\textsuperscript{440} De Waal, \textit{Black Garden}, 242.
\textsuperscript{441} British Helsinki Human Rights Group, “Nagorno Karabakh Parliamentary Election, 18th June 2000".
formation of NKR’s first coalition government between the Dashnaks and President Arkadi Ghukasyan’s party, the Democratic Party of Artsakh, who won nine seats and thirteen seats respectively, was perceived as an encouraging signal of stability and democratic progress at a time when NKR domestic politics had been fraught with tension. Observers and NKR elites therefore both perceived the 2000 parliamentary election as a turning point in NKR’s democratisation.\textsuperscript{442}

In 2004 Nagorno Karabakh’s democratisation continued the positive trajectory of incremental development, reforming the electoral legislation with the aim of bolstering the party system. The National Assembly would from then onwards reserve one third of its seats for proportional representation based on party lists. This provided for the most widely contested parliamentary election yet in 2005, with the 33 seats being contested by 127 candidates, including members of the newly formed parties of Free Motherland, and Movement 88 who had formed an alliance with the Dashnaks.\textsuperscript{443} The pro-government parties of Free Motherland and the Democratic Party of Artsakh won 22 seats between them, perceived as a resounding victory for Ghukasyan’s incumbent government.\textsuperscript{444} The opposition alliance of Movement 88 and the Dashnaks, having only received a total of three seats, complained that the election was not conducted or contested fairly. However, the majority of the 130 non-governmental, largely international observers agreed

\textsuperscript{442} Ibid; Razmik Panossian, “The Irony of Nagorno Karabakh: Formal Institutions versus Informal Politics”, \textit{Regional and Federal Studies} 11:3 (2001) 149; Caspersen, \textit{Unrecognized States}, 88; Davit Ishkhanyan, Member of the NKR National Assembly, Interview with the author, Stepanakert, 13 November 2015.


\textsuperscript{444} Ibid.
that the elections were predominantly free and fair.\textsuperscript{445} The opposition may have suffered a loss, but the state of electoral democracy in Nagorno Karabakh had taken a progressive step forward.

The electoral system was tweaked over the following five years, with adjustments made to make the party representation in the National Assembly stronger by lowering the base threshold increasing the number of candidates from party lists. The 2010 parliamentary election was held using this refined system. The Dashnaks increased their representation from three members to six, and the Free Motherland party increased its holding to fourteen seats, winning 44.2 per cent of the vote.\textsuperscript{446} The increase in opposition representation, especially the Dashnaks, alongside the increase in the Free Motherland party who continued to support the Democratic Party of Artsakh, ensured the result was not plagued by the controversy of the 2005 elections. Furthermore, international observers declared the elections had been conducted fairly. The 2010 elections demonstrated a baseline of parliamentary democracy had been established in Nagorno Karabakh. This baseline has continued on an even keel since 2010, with 2015 seeing another successful parliamentary election in which Movement 88, the Dashnaks, and Free Motherland all gained an extra seat, while the Democratic Party of Artsakh lost one seat, resulting in a similar balance of power to the preceding period.

While parliamentary elections in Nagorno Karabakh have progressed positively over the lifespan of the de facto state, Presidential elections paint a picture of a less

\textsuperscript{445} Ibid.
\textsuperscript{446} Kolstø & Blakksrud, “De Facto States and Democracy”, 145.
pluralist democracy. After being appointed to the position of President in 1994 by the parliament, Robert Kocharyan won the first contested Presidential election in 1996. In 1998 Kocharyan stood down from the Nagorno Karabakh Presidency so that he could take the helm of the Armenian government as Prime Minister until 1998, then as President. Elections were held to replace Kocharyan, and the Foreign Minister Arkadi Ghukasyan was elected President with 89.3 per cent of the vote. Kocharyan backed Ghukasyan, significantly increasing Ghukasyan’s image as a likely-provider of security; close relations between Yerevan and Stepanakert was perceived to increase the chances of stability. Ghukasyan won the 2002 Presidential election with a similar margin, albeit against four opponents this time instead of two. In 2006 Nagorno Karabakh’s constitution was adopted by referendum. The constitution included an article preventing the President from being re-elected more than once. Ghukasyan initially planned to run for President a third time in 2006, claiming that because the Constitution had been introduced after his first appointment, there were no legal grounds upon which to prevent him from running. Ghukasyan faced strong opposition from within the government, some of whom claimed that his candidature would run contrary to the spirit of the constitution that had only just been adopted and therefore put the nascent democratic process of Nagorno Karabakh at risk. Ghukasyan chose not to run, a decision that strengthened the perception of increasingly influential democratic progression.

While Ghukasyan’s respect for the constitution may have been considered a victory for democracy at the time, the role of President in Karabakh has raised questions about the extent of democratisation in the de facto state. Following Ghukasyan’s decision not to contest the 2007 election, Bako Sahakyan was elected with an
overwhelming majority vote of 85 per cent. Sahakyan was the Head of the National Security Service and a widely respected military leader in the war, so the popular mandate was unsurprising. However, Sahakyan is still in power today. He was re-elected in 2012 in what was admittedly the most contested Presidential election in Nagorno Karabakh, receiving 67 per cent of the vote. Sahakyan is still in power after a referendum was held in 2017 that reformed the constitution to shift Nagorno Karabakh from a semi-Presidential system into a centralised fully Presidential system. As a part of this transition, Sahakyan is able to retain power until the next Presidential election, to be held in 2020, after which the conditions of the President and Parliament would be concurrent. The changes to the constitution also included changing the official name of the de facto state from the Nagorno Karabakh Republic to the Republic of Artsakh, a move that predictably drew heavy criticism from Azerbaijan.

Sahakyan’s tenure has been legal according to the laws of Karabakh, but the fact that there has not been a transition of power facilitated by election encourages questions to be asked about the extent of democratisation. A widely held view in Karabakh is that the volatile security situation necessitates a strong leadership, so much so that genuine contestation could be too destabilising to risk. As Kolstø and Blakkisrud recount Karabakhi observers’ perspective,

...presidential elections are too serious for the de facto state to be openly contested: pluralism is allowed in parliamentary elections, but when it comes to executive power, key actors must agree in advance on a joint candidate in order to prevent potential political division.447

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447 Kolstø and Blakkisrud, “De Facto States and Democracy,” 146.
State-building amidst the constant existential threat of invasion by Azerbaijan is undoubtedly challenging; the condition of ‘no peace, no war’ provides even greater challenges to democratic state-building. Further to guaranteeing the security of the people - a fundamental objective interest for any state in the system - is the challenge of adopting a new type identity when the corporate identity consists of leaders, people, and institutions that were born of a Soviet yoke. As NKR’s Deputy Foreign Minister put it:

many people are used to the Soviet system and they are used to the Soviet style. They are used to working by standards that were set by the Soviet Union. Now you have to convince them that no, now you have to actually have more options than that one single standard. That is where we have problems.

For those who survived the war and were raised in the Soviet Era, having a pluralist National Assembly and genuine parliamentary elections is significant democratic change. Furthermore, having a 'strongman' leader is not unfamiliar, and is considered by some to be the suitable form of government in a hostile security situation. This was the perception put forward by several of the government’s representatives.

Nagorno Karabakh faces many challenges to its state-building process. As arguably the most isolated de facto state, with Azerbaijan effective in ensuring there is minimal international engagement, the government has not had the benefit of international advisors or consultants throughout the process. “We rely on the Armenian laws and we see what they have, change [them] to meet the necessary

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448 Armine Alexanyan, Interview with the author.
449 Armine Alexanyan, Interview with the author; Davit Ishkhanyan, Interview with the author.
criteria and tailor them to our own needs...Otherwise we just do it the way we see it.”

The process of using Armenia as a leading example can be seen in the recent constitutional changes of Nagorno Karabakh. The shift towards a more centralised system of government mirrored Armenian constitutional reforms of 2015.

The role of civil society in Nagorno Karabakh is another feature that government representatives use to strengthen their claims to the status of a democratising state. At the local level, organisations such as the NK Helsinki Initiative-92, the Stepanakert Press Club, and the Centre for Civic Initiatives have continuously pushed to ensure government representation is not the only means by which people in Nagorno Karabakh can have their voices heard. Or indeed to be accurately or at least dispassionately informed about national developments. Again, the development of civil society is hampered by the severe isolation of Nagorno Karabakh, limiting the ability of organisations to seek funding outside of the Armenian diaspora. While several academics had sketched theoretical roles that civil society can play, including transforming the conflict resolution process, local initiatives to give the people a voice have taken innovative forms.

One local journalist described how social media has provided a platform upon which these local initiatives have been able to flourish. One of the projects the journalist was working on at the time was a media project called 'Unheard Voice', which aims

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450 Armine Alexanyan, Interview with the author.
451 Masis Mayilyan, NKR Minister of Foreign Affairs, at time of Interview with the author, Stepanakert, 9 November 2015. Mr. Mayilyan was the former Deputy Minister of Foreign Affairs, and held several senior positions within the Ministry between 1993 - 2007)
to reveal the voices of the lives of people living in the villages near the front line, and record their opinions on the NKR conflict problem.\textsuperscript{453} It is a tri-partite project, with journalists from Armenia, Azerbaijan, and NKR participating, communicating through Facebook, and publishing in their respective newspapers.

Assessments of civil society mirror the perspectives forwarded about NKR’s democratic process more generally. Some observers claim that civil society has strengthened significantly since 2005, when civil society organisations were provided with a legal basis within which to operate.\textsuperscript{454} Since then, organisations have been able to register with the government, many of which have been able to receive partial government funding for specific initiatives on a competitive basis. The coordinating body, the Council of NGOs, has at times adopted an activist role in its posture towards the international community. In this sense, many of the civil society initiatives are semi-independent supporters of government initiatives. This trend can be seen in the media sector as well, where organisations such as the Stepanakert Press Club have overseen the development of independent local newspapers that, at times, may be critical of government perspectives but only on minor issues; NKR’s international relations or the approach to conflict resolution are not openly criticised. So long as funding is limited to government coffers, or to the diaspora, who are criticised for lacking strategic vision in their approach to funding and provide money for building monuments or rebuilding churches that do

\textsuperscript{453} Anahit Danielyan, Editor-in-chief of Nagorno Karabakh Open Society, Interview with the author, Stepanakert, 10 November 2015.
\textsuperscript{454} Nona Shahnazarian, "Nagorny Karabakh’s De facto Non-Governmental Organization Domain: Political Society vs. Civil Society?", \textit{Caucasus Analytical Digest} 65:1 (September 2014) 10-11.
little to develop the local community, civil society is likely to exist but in a form that largely conforms to and reinforces the views of the government rather than openly challenging them.

The electoral history and development of civil society in Nagorno Karabakh portray a de facto state that has made progress in developing democratic credentials, but remains immature. The autocratic Soviet institutions in which the leadership were trained, in combination with the lasting affects of the illiberal Soviet society in which many of the people were raised, are significant influences that form core components of Nagorno Karabakh's corporate identity. To instil the practices and values required to successfully adopt the type identity of a democratic state within these corporate-level constraints, is challenging. To successfully develop democracy whilst under the existential threat of invasion, and existing in a constant state of 'no peace, no war', is an even greater challenge. Hence, it is understandable that some observers perceive this attempt at democratisation as a calculated move to frame the de facto state for the instrumental purpose of appealing to the international community for the purpose of seeking legal-recognition. Yet, while this view has merit, it overlooks a key subjective interest of the NKR. This is the crucial role that the democratic image plays in securing diaspora investment, serving the objective interest of economic development.

The image of a burgeoning democracy can have significant benefits beyond the idea of appealing to members of international society. According to government

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455 Anahit Danielyan; Interview with the author; Dashnak Youth Members: Interview with the author, Stepanakert, 13 November 2015.
456 Kopecék, Hoch, and Baar, “Conflict Transformation and Civil Society”, 442.
representatives, progressing the democratic project has helped to secure the Armenian diasporic support that is a crucial pillar of Nagorno Karabakh’s economy.

As the Chairman of the National Assembly put it:

> when we talk about Karabakh democracy and the diaspora’s part especially, I think that because most of the diaspora lives in democratic societies, be it in France, be it in the United States, be it in Australia or elsewhere, they look at it [Karabakh] as something natural; they look at Karabakh through the prism of their own democracy.\(^{457}\)

This view was reinforced by several members of government who attested to the important function of maintaining democratic credentials to maximise the engagement of the diaspora.\(^{458}\) While there are no reliable official numbers to quantify the precise amount of money that flows from the diaspora into Karabakh,\(^{459}\) it is estimated to be in the tens of millions, and is one of two main sources of funding for the government; the other source is direct funding from Armenia. Meeting the baseline economic needs required to provide for the people of Karabakh is an objective interest for the NKR. Building and maintaining a strong relationship with the diaspora is the subjective interest required to achieve this primary objective interest. Democratisation - albeit if slow and imperfect - is deemed by the NKR authorities to enable the realisation of this subjective interest. This key finding provides a deeper understanding of the democratisation process in Karabakh. This process reinforces the perception that the state-building efforts are aligned with international society’s norms which increases the NKR’s perceived

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\(^{457}\) Ashot Ghoulian, Interview with the author.

\(^{458}\) Davit Ishkhanyan, Interview with the author; Masis Mayilyan, Interview with the author.

\(^{459}\) Armine Alexanyan, Interview with the author.
normative standing, and it contributes to achieving one of the state’s most basic objective interests.

4.2.2 Para-diplomatic relations and symbolic recognition

The NKR’s ability to build para-diplomatic relations has become a key feature in its recognition narrative. Para-diplomacy is an important area of consideration for two reasons. Firstly, it plays a significant part in facilitating forms of symbolic recognition that have strengthened the NKRs’ perceived moral appeal to international society. Secondly, as discussed in Chapter One, international engagement through para-diplomatic relations has been widely perceived as a fixed interest for de facto states. Analysing it in the context of NKR’s normative standing enables a deeper understanding; the moral value of symbolic recognition reinforces NKR’s perception of its moral and constitutional standing.

The NKR stresses the limiting effects of their severe isolation, yet they also stress how successful they have been at building para-diplomatic relations given the severity of their currently inescapable remoteness. The main barrier to building international relations is Azerbaijan’s staunch stance against international entities engaging the NKR government. Despite this, the NKR Ministry of Foreign Affairs considers itself to have made significant progress in the forming and maintaining para-diplomatic relations. As formal, track 1 diplomatic relations are unobtainable, the focus of their para-diplomacy building has been through the establishment of foreign representative offices in foreign countries, relationship building with
international NGOs, and informal networks such as the European Friends of Armenia.

The NKR Ministry of Foreign Affairs claims that the foreign representative offices that have been setup abroad are about much more than image building; the offices have been utilised for specific purposes that have enabled the NKR to survive in its current de facto state. The first foreign offices to be established abroad were - other than Yerevan - in France, the US and Russia. These were strategically placed in the three countries that chair the OSCE Minsk Group, to best place the NKR to maximise its voice in future negotiations. Subsequent offices have also been opened in Australia, Germany, and Lebanon. Germany was deemed to be the most appropriate avenue for accessing Europe, and all three counties have a substantial Armenian diaspora.

The diaspora have been a key focus for the development of NKR's international engagement. The worldwide Armenian population is estimated to be approximately ten million people strong, of which only three million live in Armenia or Nagorno Karabakh. The other seven million have been a key source of funding for the NKR, through family remittances, official project funding, and an array of other initiatives. For instance, there is an annual telethon broadcast by the Armenia Fund in the US on Thanksgiving, which across 2013 and 2014 raised over $35 million USD to build a infrastructure connecting Armenia and Karabakh. Further to funding, such a

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460 Masis Mayilyan, Interview with the author.
461 Ibid.
462 Ibid.
large diaspora has resulted in many ethnic Armenians being found in powerful positions around the world, increasing the reach and power of pro-Armenian lobbyists.

Charles Tannock is a Member of the European Parliament, the foreign affairs and human rights spokesperson for the UK Conservative delegation, and a member of the Foreign Affairs Committee in which he is a member of the Human Rights sub-committee. Tannock has written about several de facto states including Somaliland, the Kurdistan Region of Iraq, Taiwan, South Ossetia, Abkhazia, and Nagorno Karabakh. Tannock often prefaces these pieces with disclaimers expressing that the “opinions are entirely personal to the author and do not necessarily reflect the views of his political party, European parliamentary group or the Conservative-led UK coalition government”. However, Tannock’s active role in championing causes such as Nagorno Karabakh ensures that the discourse is continued in parliaments around the world. While the European Friends of Armenia Group does not have an official role in the European Union (EU), it has ensured that any opportunity to turn the EU’s attention to Armenian and Nagorno Karabakh related issues is utilised.

467 Ibid.
The NKR government’s innovative international engagement includes a strong focus on building personal relations with influential individuals. When asked about the government’s strategy toward building international relations, one of the key points made by NKR’s Deputy Foreign Minister was precisely this:

I truly believe that people to people relations are the strongest, as opposed to nominal official relations with a country. If you have ties with people, they will always be stronger and in ways that you can rely on them and those stronger connections.\textsuperscript{468}

At face value it is easy to perceive this as a mere justification for the limited forms of external relations that the government is able to develop. When official diplomatic channels are unavailable, there are few options beyond using the diaspora to form a web of people-to-people relations. However, further investigation reveals considerable benefits of this tactic bearing fruit by gaining the support of powerful political figures.

The diaspora has been a powerful force in the NKR’s successful para-diplomatic relation building, but the perception of the other enablers provides an important insight into the role that increased international engagement plays. The Spokesperson for the Prime Minister confirmed that Armenian diaspora was the greatest enabler, but NKR’s democratic and governing institutions were fundamental to the success as well.\textsuperscript{469} Echoing other government representatives’ perspectives on democratisation, he claimed that major diaspora donors were not moved simply by their Armenian ties; investing in a functioning democracy is a

\textsuperscript{468} Armine Alexanyan, Interview with the author.
\textsuperscript{469} Artak Beglaryan, Interview with the author.
crucial quality for securing their investment. The Spokesperson added that the adversarial role played by Azerbaijan helped to shine a positive light on the NKR. Azerbaijan’s democratic credentials are significantly weaker than NKRs, consistently falling behind the de facto state in Freedom House ratings. While the NKRs democracy is imperfect, the fact that Azerbaijan is so illiberal and authoritarian increases the perception of Karabakh as deserving of support.

The sustained success of NKRs para-diplomatic relations, in combination with the perception of this success being partly due to the strength of its state institutions, has bolstered the perceived alter-casting of the de facto state as an international actor:

It is not a full subject of international law, but it is an international actor of track 1.5. Para-diplomacy is not full diplomacy but it is a way, a necessary way, to track 1 diplomacy... it [NKR] is an actor, primarily in the region, and due to our role in the regional security.470

This view is mutually constituted with the notion of the self-determined state. "If we are not an actor, we do not decide our future as a country, we do not decide the situation on the border with Azerbaijan". 471 The NKR recognises that para-diplomacy does not give it the social sanctioning of full diplomatic relations, and therefore that it has limited agency in the international system. The quote above does however demonstrate that the NKR believes building para-diplomatic relations is a necessary step toward building more official diplomatic ties. Para-diplomacy is therefore, alongside enabling the economic interests of the NKR by utilising the relationship with the diaspora, perceived to be positive step toward building the

470 Artak Beglaryan, Interview with the author
471 Artak Beglaryan, Interview with the author
relations that will eventually assist it to increase its agency within the international system.

One of the important outcomes of the para-diplomatic relations that the NKR has built, are the forms of recognition that it has given rise to. For instance, in 2012 the Legislative Council of the state of New South Wales in Australia adopted a resolution to recognise the right of the people of Nagorno Karabakh to self determination.\textsuperscript{472} Similarly, in 2014 the state of California in the US adopted a similar motion.\textsuperscript{473} These are forms of symbolic recognition that do not empower the NKR in any way. However, they carry significant moral value, as described by the Chairman of the National Assembly:

For us this is first of all an attention that the largest state in Australia, the same way as California is the largest state in the US, at the level of the legislation, encourages other people’s aspirations for freedom, for human rights, for democracy, and it would be surprising if those states, be it California or NSW, had acted differently, or if they condemned for example, those processes, because we should not forget that all of them at some stage of their history were standing where we stand now. They were also fighting against colonization...to continue their struggle and to reach the level of democracy that they have reached today. For them I think it is acknowledging their own past and recognizing the same processes happening here... Not that it does recognize Karabakh internationally, but, at least for the people of Karabakh it is an encouragement that they are not alone, that they are on the right path, and that they should continue on this path that they have taken.\textsuperscript{474}

This perspective was echoed by many government representatives, and civil society members alike, suggesting that the moral value of this symbolic recognition has a genuine impact. The people whose collective belief and action constitutes the agency


\textsuperscript{474} Ashot Ghoulian, Interview with the author.
of the NKR perceive these notions as an affirmation that their mode of self-
determination is normatively right.

In summary, the role identity of ‘victor’ has been strongly underpinned and
reinforced by democratic state-building which serves to promulgate the image of
the self-determined state. This has thereby increased the moral standing of the NKR
because it is perceived to be self-determining. By building effective para-diplomatic
relations that provide symbolic recognition and associated moral validation that the
NKR are on the normative path to at least acknowledged if not formally recognised
statehood. The fact that they have achieved all this while under the constant threat
of invasion reinforces the role identity of persistent victor. Continuing to exist in an
incipient state, while receiving external validation, affirms the quotidian nominal
statehood as victory for the whole Armenian nation.

4.3 Nagorno Karabakh's International Legitimation

Nagorno Karabakh itself has de-prioritised seeking formal international
recognition.\textsuperscript{475} The view espoused by government representatives is that, although
the empowerment of recognition would have instrumental value, the entity has
achieved effective statehood regardless of whether or not it is internationally
recognised, and it refuses to be defined by the lack of recognition:

\begin{quote}
Even international recognition cannot seriously affect our identity because...
the citizens of Karabakh live here without seriously caring for international
recognition or non-recognition, it is a technical part for our country. If the
independence is recognised, Karabakh can build more relationships with
\end{quote}

\textsuperscript{475} Armine Alexanyan, Interview with the author; Ashot Ghoulian, Interview with the
author; Caspersen demonstrates that this shift in strategy took place following the partial
Recognition After Kosovo".
other states, Karabakh can invite more investments, more credit, loans, but these are only technical.476

This sentiment was consistently forwarded, echoed by the Deputy Foreign Minister:

...we were attacked, we defended ourselves, we created our statehood and we are now developing that statehood. In that sense, we say that our problem is solved. The lack of recognition does create obstacles, but, for Karabakhis, they are not obstacles that cannot be overcome. It creates additional hardships, and more costs, but it does not make our life impossible.477

The Chairman of the National Assembly reinforced that this view is not just held by states-people: "On the level of public perception in Karabakh, people don't consider the recognition as the number one problem."478

The approach of Nagorno Karabakh to recognition is likely heavily influenced by its position as a severely isolated de facto state. With no formal recognition, not even by its patron state, and without Great Power support, Nagorno Karabakh is condemned to a level of social isolation that is not conducive to hope for gaining international recognition. As such, it is unsurprising that of all the de facto states currently surviving in the system, Karabakh has adopted an approach of living with its condition of non-recognition. Such isolation is in itself form of alter-casting by the international community; the lack of inter-state engagement and the clarity with which confirmed states have made their posture towards Nagorno Karabakh clear, has socially conditioned the NKR. The reality of isolation is stark and clear. It is in

476 Artak Beglaryan, Interview with the author.
477 Armine Alexanyan, Interview with the author.
478 Ashot Ghoulian, Interview with the author.
the context of this reality that considering Nagorno Karabakh's normative standing proves to be insightful.

4.3.1 Nagorno Karabakh's Legal Standing

Nagorno Karabakh is in a precarious legal position. The main legal argument used by the NKR is that when it made the 2 September 1991 declaration, it legally located Nagorno Karabakh as a direct subject of the USSR according to the 1990 USSR Law on Secession. This is based on the USSR's April 1990 response to the Armenian SSR's announcement of reunification with NKAO, shortly after the Azerbaijan SSR rejected NKAO's request. Lacking the military appetite or means to intervene, the USSR released the Law on Procedure for Resolving Questions Connected with a Union Republic's Secession from the USSR. Supporters of Nagorno Karabakh's independence position this statute as overruling the Soviet Constitution, which only provided the SSRs with the right to secede from the Soviet Union; this right was not extended to their oblasts. Whereas, under the new 1990 law, Article 3 stated that:

In a Union republic which includes within its structure autonomous republics, autonomous oblasts, or autonomous okrugs, the referendum is held separately for each autonomous formation. The people of autonomous republics and autonomous formations retain the right to decide independently the question of remaining within the USSR or within the seceding Union republic, and also to raise the question of their own state-legal status.⁴⁷⁹

Armenian and Karabakh supporters interpret Article 3 to empower the NKAO with the right to determine their own legal status, whereas Azerbaijan interprets this

same article to mean that the oblasts had one of two choices: to join the republic that was seceding or to remain as part of the USSR. Ultimately, Nagorno Karabakh’s legal case ensures that it can make claim to having an international legal basis for its statehood, but because the laws to which it appeals were made by an entity that no longer exists, there can be no definitive acceptance or rejection of its legal position.

4.3.2 Nagorno Karabakh’s Moral Standing

Nagorno Karabakh’s type identity of a budding democracy is intrinsic to its moral standing. State-building whilst under the ever-present existential threat of invasion is inherently challenging; developing democratic institutions with a corporate identity of Soviet origins whilst under constant threat is even more difficult. Nagorno Karabakh government representatives claim that democracy is what the people of Karabakh fought for, and this forms part of their mandate. The democratic type identity has become fundamental to their perceived moral pillar, in part, because of the lack of democracy in their parent state of Azerbaijan. Karabakh, having fought for their perceived right to self-determination, has made a concerted attempt to adopt principles of democratic good governance that align with international society’s discourse of good governance. Meanwhile, the parent state of Azerbaijan has continued to administer an illiberal authoritarianism. For the leaders of Karabakh, establishing the foundations of democratic institutions in a post-conflict society, while the state that the international community declares it must remain a part of is practicing governance that the international community condemns, enables a sense of injustice and associated perception of moral standing.

Nagorno Karabakh perceives its own statehood to align with the norms of international society more closely than Azerbaijan's statehood. Furthermore, having fought for this democratic statehood has bolstered the perception of deserving recognition. Put simply:

Karabakh has managed to survive, to withstand the attack of a neighbour. After overcoming this problem we have managed to create a democratic statehood. We have deserved the right to be a legitimate state. Many states in the world haven't really struggled that much to get what they now take for granted.481

The moral value brought by the symbolic recognition of Nagorno Karabakh's right to self-determination by sub-state actors in foreign countries, discussed earlier in this chapter, bolsters this perceived moral superiority.

4.3.3 Nagorno Karabakh's Constitutional Standing

Building para-diplomatic relations is perceived and actioned by NKR as a necessary step-toward building diplomatic relations. Therefore, while successful para-diplomacy does not increase their normative standing, it is a calculated move that NKR believes will assist it to develop the practices and behaviours that can eventually increase its normative standing. Increased international engagement is not by default an immediate increase in normative standing, rather it is the type of engagement that matters. The severe international isolation of Nagorno Karabakh is a clear indicator of the lack of constitutional standing it currently holds. The expectations within the current international society clearly prohibit engaging Nagorno Karabakh; even its patron state of Armenia has chosen not to recognise Nagorno Karabakh's sovereignty. So long as the condition of ‘no peace, no war' 481 Armine Alexanyan, Interview with the author.
prevails, and Azerbaijan is successful in nullifying the attempts of the NKR to participate in international forums, Nagorno Karabakh's constitutional standing is likely to be the weakest of its normative appeals. Furthermore, the stability that it has been able to achieve, has further complicated its constitutional standing, as demonstrated by a status-quo bias that currently exists.

Nagorno Karabakh is widely referred to as a "frozen conflict", a telling appellation for discerning the relationship between de facto states and international society.\(^\text{482}\) While the OSCE Minsk Group is the official avenue for resolving the conflict, it has not managed to make meaningful progress over the past twenty years. In the eyes of the NKR, the Minsk Group has no levers with which it can influence the peace process.\(^\text{483}\) This was demonstrated in April 2016 when the worst conflict since the cease-fire was signed erupted; four days of bloody war saw the deployment of helicopters, tanks and assault drones in a conflict that claimed approximately 350 lives.\(^\text{484}\) The Minsk Group have been attributed by some as having brokered the ceasefire, however, the conflict itself was a big step backwards for the peace process. Even if the Minsk Group were effective in establishing a ceasefire, the peace process was severely damaged and there has been no progress since. While the peace process has stagnated and a peaceful resolution is seemingly unobtainable, the NKR has been successfully state-building, progressing democratic practices - even if they are arguably inchoate - and slowly but surely furthering economic development. This quotidian statehood, although perceived by some as increasing the palatability


\(^{483}\) Masis Mayilyan, Interview with the author.

of NKR as a prospective member of international society, is in fact and ironically removing many of the incentives for the international community to push for peace. The stalemate came about in the first instance because of the irreconcilability of Nagorno Karabakh and Azerbaijan’s demands. However, in this condition of stalemate, the prospering statehood of the NKR has contributed to a status-quo bias. A fundamental principle of international society is the maintenance of order. While it has been argued that de facto states perceive effective state-building and attempts at democratisation as a means of "earning" their sovereignty - a perception propagated by the "standards before status" discourse - the potential unintended consequence of demonstrating effective statehood is that by providing stability in the international system it removes the incentives from the members of international society to act to change the status.

The proposition of a status-quo bias in the international system further develops the relationship between international society and international system put forward by this thesis. Where scholars of international society have proclaimed the fundamental purpose of an international society to be maintaining order in the society, by positioning the system and society as coalescing, this thesis, drawing on the case study evidence, proposes that the order international society seeks to maintain is in fact order in the international system. This is not a revolutionary suggestion, it is theoretical refinement and conceptual extension that enables a deeper understanding of the relationship between de facto states and international society. Nagorno Karabakh has proven its ability to maintain its position in the international system, while developing a statehood that is slowly aligning with some

485 See Chapter Two.
of the norms of international society. In doing so, it has created stability in the system and contributed to a status-quo bias that is a significant driver of the stasis in its relationship with international society.

4.4 Interim conclusion

The contours of constitutionality are continuously being refined and redefined and can therefore be difficult to set in print or stone at any given point in time. Nagorno Karabakh declared independence in the midst of the Soviet dissolution, a period of turmoil when the international discourse of self-determination was strong. NKR developed its corporate identity in the midst of this turmoil. The establishment of the cease-fire, followed by the steady state-building in the face of Azerbaijan’s overt rejection of its right to exist, has formed the role identity of victor. The historical antecedents of this de facto state mean that this role identity takes on a greater meaning: this is a de facto state embodying a nationalism, and symbolising a victory for an entire nation, the vast majority of which happen to be beyond its borders.

A crucial pillar of Karabakh’s perceived victory is the successful state-building and nascent democratisation. A closer examination of this type identity reveals that the discourse of democratization in Nagorno Karabakh is more than just a legitimation strategy, and is in fact a key component that contributes to the role identity of victor. This type identity is a pillar in their normative standing and important component of their state identity, both of which contribute to the status quo that is, in part, solidifying the stasis of their relationship with international society. The analytical lens of identity allows us to form a better understanding of the forces driving the behaviour that can be erroneously perceived as purely attempted legitimation.
Identity enables us to see that the international persona and para-diplomatic strategy of Nagorno Karabakh are not only tools for seeking international recognition. Actively trying to project the image of a democratising polity may be perceived as a precursor to achieving recognition, but this is not the only purpose it serves. On the contrary, democratisation has been a subjective means of achieving the fundamental objective interest of economic development.
Chapter Five: The Republic of Somaliland

"We have demonstrated that recognition is in the best interests of other countries, the region, and the world as whole."\textsuperscript{486}

This chapter will examine the development of state identity for the Republic of Somaliland and consider its normative standing in the international system. Firstly, the formation of Somaliland's corporate identity will be considered. The formation and dissolution of the Union of Somalia forms an important part of Somaliland's legal standing, as well as their perceived adherence to norms of constitutionality that are the foundations of their recognition narrative. Secondly, the formation of the type and role identities will be examined. The function played by the clan elders in guiding the peacemaking that enabled Somaliland's state-building process to be successful will be outlined, highlighting how this formative force moulded the type identity of a unique democracy, which formed the basis of a role identity as regional stabiliser, together constituting a substantial component of Somaliland's moral appeal for recognition. Finally, the chapter articulates Somaliland's normative standing, drawing on these key state identities that have shaped, and in parts constituted, the de facto states recognition narrative. The type identity of a unique democracy, which constitutes the role identity of being the hostage of a failed state, is shown to be contributing to the status quo bias of the international community, in turn bolstering the stasis in the current relationship between Somaliland and international society.

\textsuperscript{486} Dr Saad Ali Shire, Minister of Foreign Affairs for the Republic of Somaliland, Interview with the author, Hargeisa, 15 December 2015.
5.1 Formation of the Somaliland State's Corporate Identity

5.1.1 Overview of the Somali Clans

An outline of the Somali clan structure is essential to understand the societal dynamics of Somaliland, and in this case, the peace-making and state-building processes that formed the corporate identity of the Republic of Somaliland. Somalis are an ethnically homogenous group that have much diversity in their kin groupings. The four main clan families are the Isaaq, Dir, Darood, and Hawiye. In Somaliland, the predominant clan family is Isaaq making up over 70% of the population,\textsuperscript{487} which consists of four clans: Habar Awal, Habar Jalo, Garhajis, and the Arap. The Habar Awal have two major sub-clans, the Iisa Muse and Saad Muse, while Garhajis have two major sub-clans of Habar Yoris and Eidalalle. Somaliland also has sizable populations of the Gadabursi clan (clans belonging to the Dir family), as well as Dhulbahante and Warsangeli (clans belonging to the Darood family). Somaliland's majority population of Isaaq means that it does not have the same degree of conflict between clan families as south central Somalia, where the Darood and Hawiye clan families compete, however, as will be discussed throughout this and later sections, sub-clan divisions have been the source of both conflict as well as positive community cohesion.

5.1.2 The Union of Somalia

Like many states in Africa, the state of Somalia is the result of colonial centralisation and boundary creation; there was no historic tradition of hierarchical political

culture or anything akin to statehood prior to European colonisation. The governance structures that were put in place by the colonising powers had lasting effects that shaped the state-building trajectory of the Republic of Somalia in the 1960s, and arguably the state-building of Somaliland in the 1990s. In the Italian Trust Territory of Somalia, the Italians imposed an authoritarian bureaucracy, enforcing imported political structures they perceived necessary to control the colony. Conversely, the British took a much lighter approach to managing the Protectorate of Somaliland. The political organisation through the community structures formed by the clans was left largely intact. According to one observer, the British were "interested only in getting cheap meat to feed its Aden garrison and in keeping the French out, England treated its Somali colony with benign neglect". This benign neglect enabled traditional cultural structures to be maintained, a unique feature that marked a distinct difference in the colonies of Somaliland and Somalia.

The global appetite for colonialism waned in the middle of the twentieth century, and nationalist agitation in the British Protectorate of Somaliland began to take root. As the strategic benefits of the protectorate to the British diminished, the British began preparing the way for local self-governance. Somaliland locals began to take over key administrative positions from 1957 with the formation of the Legislative Council of Somaliland. In February 1960 the Legislative Assembly had its

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488 Lewis, Making and Breaking States in Africa: The Somalia Experience, 77.
490 Huliaras, "The Viability of Somaliland".
492 Mark Bradbury, Becoming Somaliland (London: Progression, 2008) 32.
first elections, and in May 1960 the British and the Somaliland Council of Elders agreed to a succession plan and to establish independence. The British declared the Protectorate of Somaliland an independent state on 26 June 1960. Five day later the Italians granted the independence of the Italian Trust Territory of Somalia on 1 July 1960, and on the same day the two newly independent states voluntarily unified to form the Somali Republic. While Somalilanders are commonly thought to harbour retrospective acrimony about the unification, the benefits at the time were clear, for as Bradbury describes, "Colonialism bequeathed Somalia the political accoutrements of a modern state, but not an economy to sustain it". Today, there is a prominent view among many Somalilanders that the union with Somalia was never properly consummated, discussed in detail later in this chapter.

The newly independent state of Somalia was a short-lived attempt at democracy. The National Assembly was an amalgamation of the two parliaments, with 90 representatives from Somalia and 33 from Somaliland. The parties and politicians that led the country quickly became fragmented along clan lines. State resources became the focus of competition and contest, often with "scant regard for the interests of their constituents". Disadvantaged by the allocation of parliamentary seats and comparatively inexperienced in the context of politics, the experience of Somalilanders in the Somali Republic was akin to that of a "second-class citizen". The facade of democracy crumbled in October 1969 when the President Abdirashid Ali Sharmake was killed, and before a vote could be held to elect his successor, the

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493 Ibid.
494 Bradbury, *Becoming Somaliland*, 34.
496 Dr Saad Ali Shire, Interview with the author.
military seized control of the state under the leadership of Major General Mohammed Siyad Barre.

As soon as Barre’s government was in power, they enacted administrative and legislative reforms designed to contain the people's civil and political rights. The regime legally sanctioned the removal of any perceived potential opposition to their rule through an anti-subversion law, which they justified as protecting the country’s national security. They complemented the legal means of suppressing the people with extra-legal measures, such as deploying a para-military to act as neighbourhood monitors with powers allowing them to arrest people at will.497 This was in addition to the National Security Service (NSS), an omnipresent secret police. Barre’s regime grew increasingly oppressive, attracting proponents of resistance internally and abroad.

5.1.3 The Somali Civil War

The Somali National Movement (SNM) was formed by a diaspora community in London in 1981. The SNM were predominantly of the Isaaq clan, and formed with the central objective of overthrowing the Siyad Barre regime.498 However, the SNM were not originally designed to be an Isaaq oriented group, and numerous attempts were made to expand the leadership beyond the Isaaq clan. The SNM were successful in incorporating some clan diversity within their ranks, however SNM also actively sought the endorsement of the Isaaq clan elders on the ground in

Somalia. The movement became Isaaq led for an important strategic reason: many of the planned military operations were to take place in traditionally Isaaq territories. Without Isaaq elders the SNM could not establish the required network or popular support required to launch a military offensive in the Isaaq lands. The endorsement by the Isaaq clan elders was accompanied by the establishment of an advisory body of the clan elders to inform the SNM administration, known as the guurti. The SNM's constitution outlined the importance of maintaining the territorial integrity of Somalia, however, right from its conception there was a secessionist faction that desired independence for Somaliland.

Barre's government saw all Isaaqs as prospective supporters of the SNM, and actively opposed and suppressed the SNM from 1981. They used the emergence of the SNM, and any suspected presence of the SNM, as a pretence for violent persecution of individuals or groups who were known or suspected critics of the government. This persecution was constant throughout the 1980s. The methodical persecution is evident in a leaked 1987 report written by Somali Major General Mohamed Saeed Hirsi, in which he specifically outlines his intention to destroy the inhabitability of the northern Isaaq regions, and acknowledged the targeted obliteration of many Isaaq dominated villages. Full-scale war broke out on 27 May 1988 when the SNM tried to capture Burao. On 31 May they attacked the

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government forces in Hargeisa. This led to systematic arrests of Isaaq men across the north in towns such as Berbera, Burao, and Erigavo. Isaaq members of the armed forces in these towns were systematically shot dead, presumably because they were perceived to have the greatest capacity to actively advance the SNM cause. The violence and bloodshed spiralled rapidly and by 1990 an estimated 50,000 - 60,000 people had been killed, with a further approximately 400,000 refugees fleeing to neighbouring countries, and an estimated 400,000 internally-displaced residents. The government's reaction to the SNM's military campaign was to wage genocidal destruction in the north. The turning point in the war arrived when the SNM successfully captured all of the major northern towns in a sweeping initiative in January 1991, paving the way for the former British protectorate to seek peace in the form of statehood.

5.1.4 1991-1997: Somaliland Adjusts from Peace-building to State-building

Two core features of the subsequent peace-building era in Somaliland were the national inter-clan peace conferences and the local reconciliation processes. The national conferences of Burao and Borama, discussed shortly, were pivotal in shepherding Somaliland from a war-torn land toward a peaceful, stable de facto state. These conferences were focused primarily on governance at the systemic, constitutional level. Complementing the national conferences were a number of smaller, regional and district meetings that focused on more common or civil matters such as managing pastoral lands, facilitating trade, and enabling local arrangements for the implementation of security. The national conferences and the

504 Ibid., 10-11.
505 Bradbury, Becoming Somaliland, 96.
local meetings were both inspired by the traditional cultural practices of Somali society, whereby clan elders led in a mediating role between conflicted entities.\textsuperscript{506} The first years of the post-Barre period illustrate the unique and fundamental role that the leadership of the clan elders played in guiding the inchoate republic through a formative, and at times bloody period in which the eventual pillars of Somaliland’s unique democracy were constructed.

The elders of the Dir, Haarti, and Isaak clans in the north met in Berbera in early 1991, where they discussed the path to peace and planned for the first reconciliatory conference in Burao. The declaration of the independent Republic of Somaliland came after leaders of the three clans met at the reconciliatory ‘Grand Conference of the Northern Peoples’\textsuperscript{507} in Burao. The SNM leadership was not initially in favour of secession, but the groundswell from Somalilanders demanding independence - hardened by the atrocities committed against them - was strong. The SNM were sanctioned by the guurti to govern for two years, guided by a swiftly compiled Charter, and with the intention of preparing the polity for elections in two years.\textsuperscript{508} While this marked the beginning of the intent to resume independent statehood, the practical realities of state-building were far from purposefully planned, and in that absence regression to familiar local practices and procedures understandably became the norm. In fact, Somaliland’s first years after the overthrow of the Siyad Barre regime were a tumultuous start to the state-building process. In January 1991, after Barre was dislodged, the SNM’s territorial control spread beyond its traditional stronghold of the north-western region of Somalia. Militias from the clans that had

\textsuperscript{506} Ibid., 96.
\textsuperscript{507} Ibid., 80.
previously aligned with Barre during the civil war, namely the Dhulbahante, Gadabursi, and Warsangeli clans, were forced to negotiate peace with the SNM. The truce and reconciliation conference in Burao was largely deemed to be successful, and the announcement of independence injected a wave of optimism for the future. It is important to note here that the commitment to independence was made by the Dhulbahante, Gadabursi, and Warsangeli clans' representatives, not just the representatives of the Isaaq clan. The interim government was assembled hastily, which, given the minimal design consideration, defaulted to governance structures that closely resembled those already in place within the SNM.

The lack of design forethought and the newly acquired power contributed to a rise in tensions between internal factions of the SNM. As each of the clans began establishing their own militia, distribution of economic, military, and political resources increased tensions between the clan militias, mainly between those who supported President Tuur and those who opposed him. Fighting between the clans broke out in Burao in January 1992, killing approximately 300 people. While the government had officially established its administration in Hargeisa, it was yet to establish control over the means of force. When President Tuur attempted to obtain control of Berbera in March 1992, a key economic resource for the country because of the valuable shipping port, further violence erupted as the Isaaq sub-clan

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of Lisa Muse, who controlled the port city, opposed Tuur's regime which consisted of predominantly Garhajis.\textsuperscript{513} Such intra-Somaliland violence continued across the region for eight months and claimed an estimated 1000 lives.\textsuperscript{514}

The disputes underpinning the widespread violence were first addressed at the \textit{tawfiq} conference in Sheikh from 28 October to 11 November 1992. Elders from the Gadabursi, Dhulbahante, and Isaaq clan assembled in Sheikh and established a ceasefire between Habar Yunis and the Lisa Muse. The meeting achieved political agreements to oversee cooperative security relations, and the allocation of resources, in particular the Berbera port, which would become an important asset for the Somaliland governments of years to come. The Sheikh meeting was the first time the collective \textit{guurti} of Somaliland clan elders had formed, with all clans except for the Warsengeli represented. That meeting was the initial turning point in the establishment of agreed peace under the collective leadership of the clan.\textsuperscript{515} The \textit{guurti} that had advised the SNM leadership throughout the war was expanded to include all of Somaliland’s clans and pave the way for them to become an official force in the establishment of the Republic of Somaliland.\textsuperscript{516}

The Boroma conference of January 1993 built on the success of the Sheikh assembly, and made a giant leap forward in the formation of the Republic of Somaliland’s corporate identity. Means for disarming and managing the militias were agreed upon, underpinned by the writing of a national peace charter. To support these

\textsuperscript{513} Balthasar, "Thinking Beyond Roadmaps", 6.
\textsuperscript{514} Bradbury, \textit{Becoming Somaliland}, 96.
\textsuperscript{515} Lewis, \textit{Making and Breaking States in Africa}, 176.
\textsuperscript{516} Bradbury, \textit{Becoming Somaliland}, 97.
peace-making efforts, the elders recognised the need for a formal administration.  

This gave birth to the design of the executive interim government and a national charter, detailing the system of government that combined the strengths of traditional socio-political structures with institutions inspired by more Western-style democracy.  

The importance of power sharing amongst the clans was incorporated into the bicameral parliament, composed of an Upper House of Elders also referred to as the guurti, and a Lower House of Representatives that was comprised of members nominated by a designated group of elders on a clan basis. The allocation of seats in the House of Representatives was based on principles of "proportional representation, pluralism, and 'autonomy'". This ensured that the smaller clans were also given a voice in the parliament.

The conference also resulted in a judiciary intended to be independent and installation of an executive President to complement the bicameral parliament. At the conference Muhummad Haji Ibrahim Egal was appointed to the position of President, in place of Tuur. Bradbury positions this transition as Egal being chosen by the guurti in a straightforward process, emphasising the supreme powers of the guurti. However Balthasar proposes that it was the support of the military hardline Alan As in a "prolonged tug-of-war" that was crucial to the establishment

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517 Lewis, Making and Breaking States in Africa, 176.
519 Bradbury, Becoming Somaliland, xiii.
522 Bradbury, Becoming Somaliland.
of Egal as President.523 While the process of appointment is debated, there is consensus that the *guurti* played a key role in facilitating the conference and the subsequent transition from Turr to Egal. The elementary principles and framework of Somaliland’s unique democracy had been established.

Egal had two key strengths compared to Tuur that would prove crucial for successful state-building. Firstly, Egal was from the Iisa Muse sub-clan of the Isaaq clan, which had many more influential power-figures across the region, and held the port city of Berbera; selecting Egal for President therefore had clear immediate economic benefits. Secondly, Egal was preferred by the *Alan As*, who were the region's dominant military force. Successful state-building would require the development of an economic base and securing the region, making Egal the more appealing candidate. It is important to note that one of the reasons that Egal was preferred by the *Alan As* was because he was seen to be the most neutral candidate in relation to the internal SNM factions; the *Alan As* thought he would therefore likely be the easiest to manipulate in favour of their interests.524

Egal was initially successful in progressing the economic and military pillars of the state-building project. On the security front, he demobilised some of the militias and created a national army for Somaliland, supported by a state administration. In an attempt to satisfy the demobilised fighters, he provided many of them with jobs in the administration. This contributed to a burgeoning public service that, becoming increasingly oversized, required a sound economic base to support it. With the

523 Balthasar, "The Wars in the North and the Creation of Somaliland".
support of the Isa Muse in Berbera, Egal was able to build a steady stream of tax revenue from the Berbera port. Furthermore, he established customs offices along the Ethiopian border to tax the vast quantities of the narcotic *khat* that were being imported on a daily basis.525 During this time Egal also introduced a new currency, the Somaliland shilling, which is still in use throughout the Republic today.526 The introduction of the Republic’s own currency was not only perceived as a significant symbol of state-building, it injected a significant financial contribution into the newly established state coffers.527

While the initial stages of Egal’s state-building project were successful, there remained strong opposition to his leadership that soon challenged the stability of the state. Ex-President Tuur and other prominent leaders of the Garhajis openly stated their rejection of the Egal government’s legitimacy. They claimed that the centralisation at the heart of Egal’s state-building violated the National Charter, however they were also averse to the lack of Garhaji representation in the administration, and the empowerment of Ministers who had been violent opponents of the Tuur government as well.528 The Eidagalle - one of the two Isaaq clans that constitute the Garhajis - retaliated by capturing control of Hargeisa airport in March 1994. The airport was within their traditional clan boundaries, allowing them to claim that their actions were within the scope of the National Charter, which allowed for some local administration of security. This defiant act stood to not only endanger

526 USD is used side-by-side.
527 Bradbury, *Becoming Somaliland*, 112.
528 Spears, *Civil Wars in African States*, 156.
the stability of the government, but served to undermine it economically as well by taking control of a major revenue stream.

Somaliland then endured the bloodiest conflict in the post-Barre period, with a reported 4000 people being killed.\textsuperscript{529} The catalyst for the conflict that began in November 1994 is contested. A widely accepted version is that the government deemed it necessary to purge the Garhajis opposition in order to consolidate its control and establish a stable authority in the name of state-building.\textsuperscript{530} While this may have been an initial motivation, Balthasar points out the subsequent benefits that Egal stood to gain, positing that Egal "willingly entertained" the following civil wars in order to shore up his political control.\textsuperscript{531} Egal did indeed resist calls for another national conference,\textsuperscript{532} and the war that ensued bolstered his power by not only weakening the Garhajis, but weakening the Alan As, whose support for the President at the Boroma conference had forced Egal to comply with their interests, which further destabilised the emerging republic. Egal managed to weaken both factions by framing the Garhajis as the subvertive initiators of the conflict, and then positioning the Alan As as the reactionary force, diminishing his responsibility for the loss of life, while weakening the Garhajis and delegitimising the Alan As who, through their excessive use of force, were "digging their political grave".\textsuperscript{533}

While the war had a devastating effect on the immediate conditions of Somaliland, it allowed Egal to consolidate his power, laying a stable foundation upon which an

\textsuperscript{529} Bradbury, \textit{Becoming Somaliland}, 117.
\textsuperscript{530} Ibid.
\textsuperscript{531} Balthasar, "Somaliland's best kept secret", 228.
\textsuperscript{532} Bradbury, \textit{Becoming Somaliland}, 117
\textsuperscript{533} Balthasar, "Somaliland's best kept secret", 228.
effective state-building process could possibly begin again. Egal had removed the opposition posed by the Garhajis. Having positioned the Alan As as a liability, during the conflict he removed them from positions of authority and incorporated many of their followers into the state’s forces. Furthermore, Egal portrayed the opposition as not only being anti-government, but in favour of reunion with Somalia. This enabled him to portray himself as a reliable nationalist leader, strengthening his popular appeal at a time of turbulence and instability. By incorporating key economic and military powerbrokers into his administration, and by weakening the ‘federalist’ opposition, all while depicting himself as a strong leader of an independent Somaliland with the support of the guurti, Egal’s astute political manoeuvring established the conditions in which the Republic of Somaliland could focus on building the state of Somaliland.

The civil war was concluded by yet another successful reconciliation conference in Hargeisa between October 1996 and February 1997. The five-month assembly brought the conflict to an end through the same traditional approach to conflict resolution, resulting in the opposition being granted greater representation in both houses of Parliament. Further to securing peace, the conference was another crucial step in the development of Somaliland’s democracy, producing a new constitution that replaced the Borama conference charters, outlining a vision and procedure for establishing a multi-party political system, and new criteria for selecting the President. Although Egal had, before the conference, stated his intention to step down from the Presidency at the end of that term, he was re-elected in February 1997 by clan elders for another five-year term. Where Egal’s first Presidential term had resulted in devastating conflict and a consequent halt in state-building, his
second term was a productive period of economic development and stabilisation for
the newly formed de facto state.

5.2 Somaliland State Identity: State-building in a Society of Divisions

"Somalia failed because it was not designed and owned by the people. Our people came together".534

5.2.1 State-building on the Foundations of a Unique Democracy

A central theme in the recognition narrative of Somaliland is the de facto state's
perceived and promoted successful democratisation. Government representatives
consistently refer to the unique democracy and effective institutions that have been
constructed. The lack of external assistance or intervention throughout the state-
building process535 is a point of pride for the government.536 The unique state-
building process explored in the first section of this chapter has given birth to a type
identity that, according to government representatives, underpins the
establishment of peace and stability. This in turn is the foundation of other core
threads in Somaliland's recognition narrative and is the basis of a role identity that
is central to its normative standing; a self-determined state involuntarily embraced
by a failed state. This section of the chapter will therefore explore this type identity
in greater detail.

534 Mohamed Farah Herso, Executive Director of the Somaliland Academy for Peace and Development (APD), Interview with the author, Hargeisa, December 13th 2015.
535 Sarah Philips, "When less was more: external assistance and the political settlement in Somaliland", *International Affairs* 92:3 (2016) 629-645.
536 Dr Saad Ali Shire, Interview with the author; Member of the High Judiciary, Interview with the author.
After the collapse of the Barre regime and the success of the SNM, the dearth of state institutions in Somaliland was effectively filled by clan institutions in what has widely been referred to in the literature as a hybrid political system.\textsuperscript{537} The clan elders were pivotal in guiding the peace and consolidation process, as already discussed. While the period between 1991-1997 had its bloody conflicts, the \textit{guurti} played a crucial role in guiding the eventual resolutions, using the traditional Somali cultural approaches to dispute resolution employed at the national level for the first time. Renders goes so far as to say that when the conflict began under President Tuur, the Isaaq \textit{guurti} stepped in and took ownership of the conflict as an intra-Isaaq conflict.\textsuperscript{538} Clan-elders enabled Egal’s success. His adept political manoeuvring was only successful with their support, and his bolder moves, such as ridding his administration of the \textit{Alan As} and dissolving their political agency, were only executed when he established favour and legitimacy with the \textit{guurti}. A central reason for the stability in the post 1997 Somaliland is the successful hybrid political system that has been built. The stability and the purported responsiveness of the political system, have formed a central component of Somaliland’s recognition narrative.

In 2001 Somaliland began the transition away from appointed representation toward elected representation, a significant progression for its democratic aspirations and credentials. A draft constitution had been put forward at the Hargeisa 1996 conference, however it was subject to scrutiny and contestation that lasted until 2000 when Egal and the government finally indicated approval of the

\textsuperscript{537} See for example: Michael Walls and Steve Kibble, "Beyond Polarity: Negotiating a Hybrid State in Somaliland", \textit{Africa Spectrum} 45:1 (2010) 31-56.
\textsuperscript{538} Marleen Renders, \textit{Consider Somaliland: State-Building with Traditional Leaders and Institutions} (Leiden, Brill: 2012) 96.
proposed draft. The constitution, outlining a partially electoral political system, was passed by plebiscite in May 2001. The new system provided for the establishment of political parties, but prohibited parties from constructing platforms based on religious or tribal dispositions.\textsuperscript{539} Elections for 23 district councils were held in December 2002, and major political parties were formed in the lead up to the April 2003 presidential elections. The Presidential elections took place amidst heightened tensions and uncertainty stemming from the unexpected death of Egal while undergoing surgery in May 2002. The immediate proceedings following Egal’s death were an encouraging display of the state institutions at work. In accordance with the constitution, the two houses of Parliament installed the Vice-President, Dahir Riyale Kahin, to the position of President. As Bradbury notes, the "peaceful manner in which power was transferred proved that the state was now stronger than one individual."\textsuperscript{540} Kahin, a member of Egal’s United People's Democratic Party (UDUB) went on to win the 2003 Presidential election, and the positive trajectory of electoral democracy continued with the first parliamentary elections being held in 2005. Where the democratic development of Somaliland in the 1990s resulted in violent fluctuations, the stability of the early 2000s indicated that the principles of democracy had indeed become better accepted and were taking root in practice.

Since the first elections were held under the new constitution, the electoral democracy of Somaliland has been imperfect but with notably growing strengths. Similar to other de facto states such as Nagorno Karabakh, free and fair elections are heralded as a hallmark of a successful democracy and successful state-building. This

\textsuperscript{539} Walls and Kibble, "Beyond Polarity", 41.
\textsuperscript{540} Bradbury, \textit{Becoming Somaliland}, 136.
view is expressed by senior government representatives of Somaliland,\textsuperscript{541} and has permeated the society as well: "Our statehood depends on how we manage our elections".\textsuperscript{542} There was an initial setback in the trajectory when the Presidential elections that were due in April 2008 were delayed until June 2010. Similar delays have plagued electoral processes, with the local council elections due in December 2007 delayed until November 2012. Parliamentary elections that were due in 2010 are still yet to be held. The parliamentary elections were initially scheduled for 2013, then delayed until 2015 to align with Presidential elections. These combined elections were further delayed until 2017, but then only the Presidential elections were held. Although many of these delays were technically legal as they were sanctioned by the Upper House, the continuous irregularity of elections in Somaliland weakens the image of predictable electoral democracy.

A major contributing factor to the weaknesses of the electoral system is the "lack of institutionalisation" in the electoral process.\textsuperscript{543} The 2015 elections were initially delayed because the Somaliland National Electoral Commission was insufficiently prepared to conduct the elections.\textsuperscript{544} A local think tank director pointed to the volatility of the process due to a lack of sustainable funding, claiming that "75\% of funding comes from the international community and only 25\% from government".\textsuperscript{545} Furthermore, he highlighted the lack of democratic capacity building. Where the endogenous design of Somaliland's government draws on

\textsuperscript{541} Ali Husein Ismail, Somaliland’s Minister of National Planning and Development, Interview with the author, Hargeisa, 14 December 2015; Dr Saad Ali Sire, Interview with the author.

\textsuperscript{542} Mohamed Farah Herso, Executive Director of the Academy for Peace and Development, Interview with the author, Hargeisa, December 13th 2015.

\textsuperscript{543} Ibid.

\textsuperscript{544} Ibid

\textsuperscript{545} Ibid
traditional local institutions and the Western-inspired democratic models, this was constructed without the expertise required to effectively execute it autonomously. Put simply, "we don’t have the expertise".\textsuperscript{546} The endogenous nature of the peace-building and state-building in Somaliland may have been critical to its success, however, the isolation that accompanied it may have had detrimental effects on the system's practicable efficacy.

Somaliland has however seen a reasonably peaceful transition and transfer of power through election processes, which is relatively rare in incipient democracies, and especially in de facto states. In 2010, incumbent Presidential candidate Dahir Riyale Kahin of the UDUB party was defeated by Ahmed Mohamoud Silanyo of the Peace, Unity and Development Party (known as Kulmiye in Somali). Kahin conceded defeat and the Presidency not only changed leaders, but changed political parties as well. It is worthy of note however that Kahin was the only President of Somaliland who was not a leader of the SNM, suggesting that while there has been a transfer of power, pluralism may not be as embedded as a transfer of power often suggests.

\textbf{5.2.2 Democratic Responsiveness Strengthening Nationalism}

Huliaras argues that there are four main components that contributed to the distinctly northern Somali identity of the Somalilander, that was crucial in their initial identification as a community distinct from south central Somalia.\textsuperscript{547} The first is the fact that they have a dominant clan family in the Isaaq clan, which, although it has suffered infighting along sub-clan lines, still provides an overarching sense of

\textsuperscript{546} Ibid.

\textsuperscript{547} Huliaris, "The Viability of Somaliland", 157.
"clanship" compared to the south central region where the Hawiye and Darood compete.\footnote{Huliaris, “The Viability of Somaliland”, 158.} The second component is the colonial experience that differed so greatly from the Italian Trust Territory in Somalia. The autonomy granted by the British to the people of the north was markedly different to the authoritarian experience of the south, which left many elements of the traditional institutions in place, and this was key to enabling the negotiations processes of the 1990s.\footnote{This point is widely accepted. See Balthasar, "Thinking Beyond Roadmaps"; Bradbury, \textit{Becoming Somaliland}; Sarah Phillips, “Political Settlements and State Formation: The Case of Somaliland”, DLP Research Paper 23, \textit{Developmental Leadership Programme}, http://www.dlprog.org/news/political-settlements-and-state-formation-the-case-of-somaliland.php (2013) accessed 10 April 2016.} The third component is the experience of marginalisation under the Union of Somalia. That in turn led to the oppression under the Siyad Barre regime of from 1969 onwards. This discrimination reinforced the sense of unity - albeit limited - that came from being Isaaq. This leads into the fourth component: the preferential treatment of the ethnically Somali refugees that fled Ethiopia after the Ogaden war. After Somalia’s defeat to the Ethiopian forces, the ethnically Somali refugees that fled to Somalia from Ethiopia were given greater access to aid, employment, and social services, galvanising the acrimony of the northern Isaaqs towards the central government in Mogadishu.

The four components outlined by Huliaras form a strong foundation upon which a distinct Somalilander identity has taken form. It is important to note that this is only a foundation. This thesis makes no claims about nationalism in Somaliland prior to the declaration of independence, however, the development of nationalism since that declaration has become distinctly relevant because of the pressure it has applied on the state, and the consequent effect it has had on the recognition seeking
efforts of the governments. Having declared independence in 1991, Somaliland is now home to many adults who have grown up in the Republic of Somaliland, living amidst the discourse of recognition, and the de facto state's recognition narrative. Several civil society members described the effects of having a generation that has grown up in a society of perceived independence.\textsuperscript{550} The Somaliland Youth Development Association (SOYDA) specifically focuses on empowering Somaliland youth by trying to increase the levels of engagement between the youth and the government.\textsuperscript{551} The Director of SOYDA claims that there is a big divide between the perspectives of the youth, who are increasingly disenfranchised and nationalist, and the older generations who are in power; between those who fought and those who have grown up in Somaliland.\textsuperscript{552} It is widely perceived that while non-recognition has had an impact on all Somalilanders, it has had a distinct impact on the identity of the youth who have been raised to know and feel the condition of non-recognition as an injustice. The increasing disenfranchisement is partly driven by the government's inability to progress the quest for recognition. This has led to increasing amounts of pressure being applied by the youth on the government, which in turn has revealed a strength in Somaliland's democracy; civil society providing forums in which the people's voices are expressed. This has been particularly evident recently in expressions of frustration about the lack of progress, and perceived lack of strategic direction by the government in seeking recognition.

\textsuperscript{550} Mohammed Farah Herso, Interview with the author; Hussein Ismail, Executive Director, Somaliland Youth Development Association, Interview with the author, Hargeisa, 10 December 2015; Hibak Gamute, Director of Centre for Policy Analysis, Interview with the author, Hargeisa, 14 December 2015.
\textsuperscript{551} Hussein Ismail, Interview with the author.
\textsuperscript{552} Ibid.
In December 2015 The Ministry of Foreign Affairs and International Cooperation held a conference focusing on the direction of Somaliland’s foreign policy. Somaliland’s overseas representatives had been recalled for the conference, and prominent members of the local community, from NGO representatives, to journalists, and clan elders, were invited to participate. According to the Foreign Minister the conference had three main aims that were centred around training their representatives: sharing experiences between representatives; capacity building specifically around conducting diplomatic communication; and to discuss the direction of Somaliland’s foreign policy. The conference finished with a commitment by the attendees from the Ministry to intensify their recognition-seeking efforts. Several conference attendees claimed that the invitee list had included so many members from the community because of the consensus-based, consultative approach that exists within the culture of Somaliland.

Some NGO leaders and local think-tank specialists claimed that the open nature of the conference was to conjure an image of the Ministry taking action to animate its ambassadors in a renewed push for independence. The Centre for Policy Analysis (CPA) in Hargeisa held a conference in the preceding August to discuss recognition-seeking and what tangible steps the government was taking to turn the rhetoric about recognition into action. According to a local researcher the August conference was organised because of the widely held opinion that the government was not doing enough to seek recognition despite it featuring so heavily in the political

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553 The author was present for part of this conference.
554 Dr Saad Ali Shire, Interview with the author.
555 Confidential, Ambassador for Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with author, Hargeisa, 15 December 2015
556 Hibak Gamute, Interview with the author.
discourse of Hargeisa. The image was of widespread discontent with the government’s lack of a recognition strategy - or at least inability to demonstrate to the populace of having a strategy in action.

5.3 Somaliland’s International Legitimation

There are four major components to Somaliland’s recognition strategy: legal, historical, political, and moral. Political advisors supporting the Ministry of Foreign Affairs claim that, these four components are always present in Somaliland’s case for recognition, but historically the emphasis placed on any one component has changed without any clear strategic reasoning. As one advisor stated, "They are looking for a silver bullet". Public rhetoric makes clear recognition is the highest priority for the Ministry of Foreign Affairs and International Cooperation (MFAIC), however the focus of the Ministry away from the public eye in recent years has been on building and using diplomatic relations to develop a stronger economic future. That is not to suggest that the government has abandoned their recognition seeking efforts, rather, it is simply not prioritising it as highly as it states publicly.

In recent years the diplomatic efforts at recognition seeking have centred on the strategy of trying to secure the support of other African states. The logic behind

557 Confidential, Local researcher, Interview with the author, Hargeisa, 13 December 2015.
558 These will each be discussed in turn later in this section.
559 Confidential, Political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author, Hargeisa, 9 December 2015; Confidential, Former political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author, Hargeisa, 9 December 2015.
560 Political Advisor to the Ministry of Foreign Affairs and International Cooperation, Interview with the author.
561 Ibid.
this strategy is that the support of African states will help to build stronger relations with the African Union. While this strategy is logical at any abstract level, the Somaliland government is realistic about the obstacles it faces. The African Union will only recognise an independent Somaliland if Somalia does. As highlighted in Chapter Two the recognition of the parent state remains a steadfast roadblock to gaining rightful membership of international society.

While there is a clearer strategy in recent years, historically the government's foreign policy was not previously that strategic. The relationships that were built were much more dependent on the abilities of the diaspora. The initial para-diplomacy relied on individuals within the diaspora who were well connected, independently wealthy, and motivated to further Somaliland's recognition seeking cause. One advisor to MFAIC claimed there is very little benefit coming from the para-diplomacy initiatives. Where this was once a strength demonstrated by the diaspora, they appear to have now largely transferred that responsibility to the government who have struggled to execute this task due to a lack of resources and a lack of strategic foresight.

The direction of MFAIC's efforts have also changed substantially under the leadership of different Ministers. The former Minister Mohamed Bihi Yonis made concerted efforts to build the capacity of Somaliland's para-diplomatic efforts,

562 Ibid.
563 Ibid.
564 Former political advisor to Somaliland's Ministry of Foreign Affairs and International Cooperation, Interview with the author.
565 Ibid.
566 Ibid.
leveraging his extensive and powerful personal network to the MFAIC’s advantage.\textsuperscript{567}

In contrast, the current Minister Dr. Saad Ali Shire is focused more on internal capacity building, in the belief that a strong and capable Ministry is needed as a foundation for stronger foreign relations.\textsuperscript{568} Such variation due to the leadership of an individual is not uncommon in emerging democracies. If the individual is on behalf of the state’s interests, this is still a constitutive part of the de facto state’s agency, as described in Chapter Two. It is important to note, however, that Somaliland appears to be particularly susceptible to the impact of the differences in individual’s approaches, in part because of the recency and relative immaturity of the democratic institutionalisation.

The MFAIC has struggled to have a consistent strategic approach to recognition, also because it is hard to get agreement on a coherent approach to recognition within the wider government. Put simply, “It is hard to get a unity of purpose within the government”.\textsuperscript{569} The Kulmiye, Waddani, and Justice and Development political parties promulgate and parry rhetoric about recognition, however, there have not been coherent policies presented by any of them.\textsuperscript{570} The parties use the subject of recognition in an attempt to build a favourable image, positioning themselves as

\textsuperscript{567} Political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author; Former political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author.

\textsuperscript{568} Ibid.

\textsuperscript{569} Political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author.

\textsuperscript{570} Political advisor to Somaliland's Ministry of Foreign Affairs and International Cooperation, Interview with the author; Former political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author.
having greater ability to obtain it, however, there have not been policies nor action sufficient to substantiate these claims.\(^{571}\) One consistent element within this discourse is the appeal to the people of Somaliland, suggesting that the topic of recognition is a high priority for the general public.

### 5.3.1 Somaliland's Legal Standing

Somaliland's main claim to legal standing is based on historical title that can be broken down into multiple parts. The first is the significance of the existence of Somaliland as a geopolitical entity that existed as the British Protectorate from 1897 until its independence in 1960. Somaliland argues that, because the territorial borders of the Republic - as of the dissolution of the Union in 1991 - are the same borders of the British Protectorate, it therefore aligns with the principle of *uti possidetis juris*.\(^{572}\) Somaliland interprets this principle - which is not directly referred to - as being enshrined in the Constitutive Act of the African Union, which in Article 4 (b) declares the "respect of borders existing on achievement of independence".\(^{573}\) Independence in Somaliland's interpretation, in this case, refers to the independence achieved in 1960, when it was granted independence by Britain. Its independence at this time followed the norms of acceptable realisation of independence for colonised countries as discussed in Chapter Two. Somaliland explicitly makes this case, referencing that "former colonial boundaries should be

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\(^{571}\) Political advisor to Somaliland's Ministry of Foreign Affairs and International Cooperation, Interview with the author; Former political advisor to Somaliland's Ministry of Foreign Affairs and International Cooperation, Interview with the author.

\(^{572}\) Dr Saad Ali Shire, Interview with the author

maintained upon independence”, pointing out that the borders at the declaration in 1991 are the same borders as when they were an independent state in 1960.

Somaliland hence does not consider itself to be a case of secession, rather, it is the dissolution of the union with Somalia; a union that it unilaterally chose to exit as the sovereign state that entered into the union. Somaliland also argues that there is precedent for the dissolution of unions within Africa. The Somaliland Ministry of Foreign Affairs gives the examples of: Egypt and Syria dissolving the United Arab Republic (1958 - 1971); Senegal and Mali disbanding the Fédération du Mali (1959 – 1960); Senegal and Gambia devolving from the Sénégambia Confederation (1982 – 1989); and the separation of Eritrea from Ethiopia in 1993. While this is a compelling compilation of examples, it fails to consider the role of the states dissolving and whether or not the dissolution was mutually approved. For, although Somaliland can directly reference the Constitutive Act of the African Union, and can draw on the concept of uti possidetis juris, these legal arguments will not be sufficient grounds for recognition in the eyes of the international community so long as Somalia does not recognise its sovereignty; Somaliland's legal case simply has not been able to overcome this constitutional hurdle.

The weakest pillar of Somaliland's legal argument is that the 1960 Act of Union was not properly ratified. Somaliland argues that the parties representing Somalia and Somaliland signed different Acts of Union, agreeing to different terms of unification, which is made more "questionable" by the fact that the Union was passed

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574 Somaliland Government, “Why Recognition: The Legal Case”.
retrospectively in January 1961, and by the fact that in the June 1961 referendum held on the Constitution of the Somali State, less than 17 per cent of Somalilanders voted, and the majority of those who did vote rejected the Constitution. This attempts to paint a convincing picture that there was widespread disapproval of the union throughout Somaliland at the time of the referendum. Although Somaliland positions this as part of its legal argument, it is a less convincing component, especially alongside arguments that give de facto state experts such as Pegg and Kolstø reason to conclude that "It is hard to imagine any other would-be sovereign state putting together a better case than the one Somaliland has both been blessed with and earned for itself".

5.3.2 Somaliland's Moral Standing

A central component of Somaliland’s moral argument is that by denying Somaliland recognition, the international community is condemning the people of Somaliland to endure the costs of non-recognition. The perceived costs of non-recognition are substantial. In the opinion of the government ministers and NGO representatives interviewed, the mains costs are: lack of access to adequate healthcare; lack of access to training, health and education; and the underemployment that could be partially remedied by attracting foreign direct investment.

In the opinion of local think tank directors, one of the benefits of non-recognition has been the growth of civil society, which they believe has grown significantly more

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576 Somaliland Government, "Why Recognition: The Legal Case".
577 Pegg and Kolstø, "Somaliland: Dynamics of internal legitimacy", 197.
578 Hussein Ismail, Interview with the author.
because of two reasons. Firstly, noting that they consider NGOs to be within the definition of civil society, their perception is that because funding cannot go to the government directly, NGOs instead receive funding that allows them to partake in developmental work that could otherwise be undertaken by the government if they were able to attract the direct international aid contributions. As many of the members pointed out, this is a very ineffective and inefficient way to develop Somaliland. The inability for Somaliland to receive direct funding increases the need for intermediaries. Introducing intermediaries significantly increases costs along the value chain, meaning that the end return on investment is lower. This is not sustainable and it minimises the impact of the money that is nominally going towards Somaliland, but in actuality is "covering the operational costs of organisations that are based in Nairobi".\(^{579}\) The greater the number of links in the chain, the smaller the sum of money that actually gets invested in Somaliland.

A widely shared perspective was that there has been a significant positive trajectory in the abilities of the government. A World Bank report estimated that the government of Somaliland's budget increased from $45 million USD in 2009 to $130 million USD in 2012.\(^{580}\) That figure had risen to $295 million USD for 2016.\(^{581}\) As a local businessperson proclaimed:

Yes, there is much to do, but it is important to recognise how much has been done. People complain that the budget has doubled yet there are minimal visible benefits, however they are often being ignorant about the fact that yes,

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\(^{579}\) Mohamed Farah Herso, Interview with the author.


the budget has doubled, but it has gone from miniscule to tiny. The relative change misrepresents the absolute poverty of it.\textsuperscript{582}

Several businesspeople asserted the ease with which non-recognition is too easily blamed for everything, and how inaccurate this blaming can be.\textsuperscript{583} Non-recognition has become a scapegoat. Another local business person pointed to how this idea of victimisation is propagated, giving the example of the discourse surrounding the drought that was present in the region at the time.\textsuperscript{584} He proclaimed that although the drought had been damaging, the problem in Somaliland is not the absence of regular rainfall, rather, it is the lack of effective water management strategies. There is a lack of foresight and investment in this area, which is a significant impediment to further development across the region.\textsuperscript{585}

It is important to acknowledge the degree to which this discourse of victimisation can be perpetuated. Some of the proponents of this view claimed that the victimisation within the recognition narrative must be continued to justify the squalid conditions of Somaliland. The government must be seen to be trying to gain recognition, so that they can use the cost of non-recognition as an explanation for why there is not greater development. However, all of the businesspeople interviewed did recognise one key element that underpins many of Somaliland’s developmental woes. As one business person put it, "the lack of appropriate

\textsuperscript{582} Confidential, Entrepreneur, Interview with the author, Hargeisa, 6 December 2015.
\textsuperscript{583} Confidential, Local businessperson (2), Interview with the author, Hargeisa, 13 December 2015; Confidential, Local businessperson (3), Interview with the author, Hargeisa, 13 December 2015; Confidential, Entrepreneur, Interview with the author.
\textsuperscript{584} Confidential, Local businessperson (1), Interview with the author, Hargeisa, 13 December 2015.
\textsuperscript{585} Confidential, Entrepreneur, Interview with the author.
investment in the agriculture industry could be partially because the government has to prioritise security”.586

In the eyes of much of the populace, there appears to be an increasing awareness of the way in which the condition of non-recognition was used to justify as many shortcomings of government administration as possible. There was uniformity of opinion from members of the NGO community and local business people that, regardless of the condition of non-recognition, the government had significant capacity to have achieved more progress in: development of fiscal policy; tax reform; revenue; collection; and capacity building (for example the lack of capacity to collect taxes has a significant negative impact on the budget).587 Public financial management was frequently cited as the number one area for improvement by local businesspeople and diaspora investors, as well as some government figures. It is important to acknowledge these areas, however, it should not be at the cost of glossing over the genuine cost of non-recognition. Direct access to international aid would provide a significant means by which to address many of the areas identified by the NGO leaders and local populace.

The final component to the moral pillar for Somaliland is an appeal to the concept of remedial secession. As discussed in section 2.3.2 the concept of remedial secession has existed since the recognition of Bangladesh as a sovereign state; Pakistan was deemed to have forfeit its sovereignty by committing gross human rights violations. The Somaliland Government appeal to this principle based on

586 Ibid.
587 Ali Hussein Ismail, Interview with the author.
atrocity committed by the Biarre regime. A report compiled for the US government outlines the atrocities in detail:

1. In response to the SNM’s May 1988 intensification of the civil conflict in northern Somalia, the Somali Armed Forces appears to have engaged in a widespread, systematic and extremely violent assault on the unarmed civilian Issak population of northern Somalia in places where and at times when neither resistance to these actions nor danger to the Somali Armed Forces was present.

2. The Somali Armed Forces conducted what appears to be a systematic pattern of attacks against unarmed, civilian Issak villages, watering points and grazing areas of northern Somalia, killing many of their residents and forcing the survivors to flee for safety to remote areas within Somalia or to other countries.

3. Simultaneously, the Somali Armed Forces engaged in a pattern of roundups, summary executions and massacres of many hundreds, if not more, unarmed civilian Issaks. Some of these actions appear to have been reprisals for acts committed by the SNM; the motives for others are not clear. But the appearance that victims were selected for these killings principally because of their ethnic identity is unmistakable.

4. In an additional pattern of systematic, organized and sustained Somali Armed Forces actions in Berbera, which has not been the object of an SNM attack or the scene of conflict, at least five hundred, and perhaps many more Issak men were systematically rounded up and murdered, mainly by having their throats cut, and then buried in mass graves, during the four months following the intensification of the conflict, apparently solely because they were Issaks.

5. In the course of battles with the SNM in the towns of Hargeisa and Burao, Somali Armed Forces soldiers sometimes engaged in the looting and killing of unarmed civilians in areas fairly well removed from the immediate scene of danger or battle.

6. While some survivors of these kinds of actions, as well as civilians simply escaping the major battles in Hargeisa and Burao, were attempting to flee to sanctuary in Ethiopia, they were attacked by Somali ground and air forces, which probably resulted in the deaths of hundreds of asylum seekers.

7. Civilian detainees in Somali Government prisons accused of supporting the SNM appear to have been, at least at times routinely, the objects of illtreatment, including severe beatings, stabbing, prolonged choking, use of

Ker-Lindsay has rightly pointed out that remedial secession lacks the legal grounding that would enable de facto states to use it as a means of achieving recognition.\footnote{Ker-Lindsay, \textit{The Foreign Policy of Counter Secession}, 37.} Pegg and Kolstø have highlighted Somaliland’s claims to remedial secession as weakened by this lack of legal gravitas.\footnote{Pegg and Kolstø, "Somaliland: Dynamics of Internal Legitimacy", 197.} This thesis agrees that Somaliland’s claims to remedial secession do indeed have no legal weight, however, it proposes that the relevance of these claims is better understood through the pillar of morality. As Chapters Two and Three demonstrated, the standards of legitimate membership to international society are rarely determined by just moral, legal, or constitutional claims. Somaliland’s evidenced claim that its people have been subjected to gross human rights violations provides a moral argument that complements its claims to have strong legal grounding. The second component of Somaliland’s moral argument, based on the perception that "Somaliland is being held hostage to a failed state",\footnote{Political advisor to Somaliland's Ministry of Foreign Affairs and International Cooperation, Interview with the author.} will be addressed in the following section because it pertains to both morality and constitutionality.

\subsection{5.3.3 Somaliland's Constitutional Standing}

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The government of Somaliland perceives the recognition of Somaliland’s sovereignty to be in the interests of international society. The Foreign Minister of Somaliland, Dr Saad Ali Shire, described seeking international recognition as the highest priority of the Ministry of Foreign Affairs and International Cooperation (MFAIC). In fact he said it was the highest priority for everyone in the government. Dr Saad explicitly stated that, while there are legal, historical, and moral reasons that the international community should recognise Somaliland, what his Ministry finds confounding is the fact that, from Somaliland's perspective, they have demonstrated that it is in the best interests of the region and the international community for Somaliland to be recognised as a sovereign state. From the perspective of the government, not only does Somaliland have a right to self-determination, not only has it satisfied the legal criteria for statehood, and not only has it demonstrated that it can abide by international norms of good governance, but it has shown that it is in the interests of international society for Somaliland to be recognised.\textsuperscript{592} The main rationale underpinning this assertion was the role that Somaliland could play as a positive force for security in the Horn of Africa.\textsuperscript{593}

The terrorist group al-Shabaab is well established in Somalia and is one of the most destructive groups in the Horn of Africa. With a fighting force of between 7,000 - 9,000, al-Shabaab is responsible for thousands of deaths in Somalia and is present across vast swathes of the country.\textsuperscript{594} While al-Shabaab has been a consistent force of destabilisation and destruction in Somalia since its inception in 2006, Somaliland

\textsuperscript{592} Dr Saad Ali Shire, Interview with the author.
\textsuperscript{593} This has been highlighted be Pegg and Kolstø, "Somaliland: Dynamics of Internal Legitimacy", and Nina Caspersen, "The Pursuit of Recognition After Kosovo", 401.
has suffered far fewer terrorist attacks; the last major al-Shabaab related bombing in Somaliland was 2008. This is considered remarkable, given that many of al-Shabaab’s powerful figures originate from Somaliland, including Ahmed Abdi Godane, who led al-Shabaab until his death in a US drone strike in 2014. Godane was born in Hargeisa and was Isaaq. It is therefore fair to assume that the leaders of al-Shabaab have strong networks in Somaliland. That, combined with the levels of poverty and the drastic increase in the spread of Salafism could make Somaliland a target breeding ground to recruit and indoctrinate young men into their organisation, and thereby gain a strong foothold. The growth of Salafism is a growing concern for the stability of Somaliland. As Somaliland expert Dr. Bulhan claims, “Salafism is a very serious threat. It is not obvious or openly organised as a political wing, as it is in most Muslim societies. Somaliland is not an immediate hotspot. But it will become one if the democratic system is not seen to work.” In light of this, the image of stability of Somaliland is seemingly remarkable. Somaliland points to its current stability and the lack of extremist violence in the Republic as evidence to suggest that, with the international funding opportunities that recognition would provide, they could play a leading role in the fight against terrorism in the Horn of Africa. The comparative peace and stability in Somaliland compared to Somalia allows the government to paint a compelling picture to this effect.

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595 The attack killed 30 people; al-Shabaab is believed to be the perpetrator, although no organisation took responsibility for the attack.
Somaliland’s capacity to fight extremists is, however, yet to be proven. While Somaliland enjoys relative security compared to Somalia, there is evidence to suggest that it is the strength of the communities and clan institutions in Somaliland that have prevented the growth of Islamic extremism. Government ministers and civil society members both attest to the strength of the community as an effective means of preventing Islamic extremism. They claim that there is a strong awareness amongst the adult population of the fact that young men are targets, and the community is attuned to those at risk. Imams and village elders alike take note of those who show signs of harbouring extremist beliefs, or those who display concerning changes in behaviours that indicate such risk. Early identification allows for both prominent members of the clan as well as their religious leaders to help "guide these boys back to the path of good, the path of Allah, not the path of violence".

The image of Somaliland as a force for stability in the region has been reinforced by influential international voices. After a visit to the region, the European Union Commissioner Andris Piebalgs stated in a press release announcing financial support to Somalia, including Somaliland, "The European Union welcomes the contribution that Somaliland is making to peace and good governance in the region. It is an encouraging example of peace, democracy and stability."
The government

597 Confidential, Member of the High Judiciary, Interview with author; Ali Husein Ismail, Interview with author; Hussein Ismail, Interview with author.
598 Confidential, Member of the High Judiciary, Interview with author.
has since featured this quote on its webpage dedicated to detailing Somaliland’s case for recognition.600

A key component of the perceived constitutional pillar is that Somaliland has demonstrated that it is a developing, stable, self-determined state that is making concerted attempts to respect and practice norms of good governance. Somaliland’s type identity of a unique democracy has also partly constituted a formative role identity relative to Somalia. Described colourfully by a political advisor, Somaliland perceives itself as being "held hostage to a failed state".601 The volatile security situation in Somalia, and the government’s inability to control the use of force, protect its people, or provide basic social services, has qualified Somalia to regularly be categorised as one of the world’s most fragile states.602 Yet, it maintains internationally recognised sovereignty while Somaliland, with predominantly free and fair elections, stability, and the beginnings of economic development, is denied international recognition. This role identity of a successful self-determined state held captive by a failed state is a core component of Somaliland’s recognition narrative and the basis of both moral and constitutional claims. Morally, as described earlier, Somaliland perceives the international society as inflicting harm on its three million nationals by denying it the developmental benefits of international recognition. Constitutionally, Somaliland perceives the success of

601 Confidential, Political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author.
state-building to align with the prevalent expectations espoused by international society of state conduct. The central function of successful democratic state-building to the perceived moral and constitutional standing of Somaliland demonstrates the continuing impact that the discourse of democratisation is having on the development of de facto states, and the extent to which they perceive it as intrinsic to the normative fabric of international society. This is apparent even when Somaliland's MFAIC recognises that international society functions with higher priorities.

The MFAIC recognises that the international community's priorities are clearly ordered as security first, stability second, and then good governance.\(^{603}\) This is a telling revelation, for it suggests that the function of international society as a guardian of order - this thesis argues order in the international system - is recognised by government officials, not just scholarly observers. Advisors to the MFAIC stated that one of the problems the Ministry faces is a dilemma posed by being a stable democratising entity: members of the international community are incentivised to maintain the status quo.\(^{604}\) The condition of non-recognition has given rise to a stable, developing - albeit slowly - entity on a course of democratisation. This view was echoed by local civil society members, one of whom claimed that the condition of non-recognition has "developed resilience", claiming that, "Somalia failed because it was not designed and owned by the people. Our people came together".\(^{605}\)

\(^{603}\)Political advisor to Somaliland's Ministry of Foreign Affairs and International Cooperation, Interview with the author; Former political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author.

\(^{604}\) Ibid.

\(^{605}\) Mohamed Farah Herso, Interview with author.
One of the advisors recounted a story in 2015 of a former Minister of Foreign Affairs and International Cooperation saying in jest that in order to engage the international community Somaliland should start a war.\textsuperscript{606} In a public interview last year, the current Minister was asked about comments he had made threatening conflict with Somalia, to which he replied, "They [Somalia] are claiming Somaliland as part of Somalia. And if they want to exert what they may call their right to rule Somaliland from Mogadishu, then we will fight them and you will have a war".\textsuperscript{607} On one hand these inflammatory remarks could be perceived as an extension of the jesting rhetoric previously voiced, to highlight a perceived absurdity in the non-recognition of their state. On the other hand this could indicate a shift in thinking about potential strategic measures to engage the international community. If these remarks are considered alongside the violence that erupted on 15 May 2018 in the eastern regions of Sool and Sanaag, discussed earlier in this section, this is evidence to suggest that Somaliland may seriously be considering conflict as a means of engaging the international community. This thesis does not have sufficient evidence to definitively state this claim, but what can be discerned is the clear status quo bias of international society. This bias is an enduring foundation of the stasis that currently exists between de facto states and international society.

This need to find new ways to engage the international community is further evidenced in the Somalia-Somaliland dialogue that started in 2012. Somaliland

\textsuperscript{606} Political advisor to Somaliland's Ministry of Foreign Affairs and International Cooperation, Interview with the author.
\textsuperscript{607} Dr Saad Ali Shire in James Wan, "Otherwise we'll have to go to war": Somaliland demands recognition 26 years on", \textit{African Arguments}, http://africanarguments.org/2017/05/22/otherwise-well-have-to-go-to-war-somaliland-demands-recognition-26-years-on/ (22 May 2017) accessed 17 August 2017.
recognises the significant roadblock posed by the stance of Somalia in rejecting Somaliland’s claims to recognition. There was seemingly initial progress in improving relations between the two governments when, in 2012, an official dialogue was facilitated by international intermediaries. One of the key roadblocks to such a dialogue had recently been removed: there was now the Federal Government of Somalia to negotiate with. The Presidents of the respective governments met in the United Arab Emirates (UAE) in June 2012, and again in Turkey in April 2013. This was initially perceived as significant progress, however by 2015 the talks had collapsed. One of the main reasons that the talks were suspended was the lack credibility of the party representing Somalia. 608 There was significant disagreement within Somalia’s representation after it was revealed that some of the members of their delegation had strong links to the Somaliland government. 609 The talks did eventually resume under the mediation of Turkey. Given Turkey’s strong anti-secessionist position against the independence aspirations of the Kurdish populations in Turkey and across the Middle East, this raised questions about how fruitful the talks could be for the Somaliland delegation. When questioned about this, political advisors to the MFAIC claimed that Somaliland was realistic about the potential outcome of the talks; Somaliland’s main goal in entering these talks was to engage the international community. While Turkey was perceived to be a biased intermediary, simply conducting the talks put the issue in the international news and provided a forum in which other international community members could potentially be invited.

608 Political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author; Former political advisor to Somaliland’s Ministry of Foreign Affairs and International Cooperation, Interview with the author.
609 Ibid.
A key concern that was raised by political advisors to the MFAIC was that the leaders of Somaliland have not realised how important the non-humiliation of Somalia is. The tunnel vision of Somaliland’s leadership on what they have achieved, what they have fought for, how they perceive themselves to have been wronged, and therefore what they perceive they deserve, has blinded them from realising the political importance to their parent-state, and to the international community, of the potential humiliation of Somalia. There has been constant international investment in peace-building and state-building efforts in Somalia, with minimal success. The advisors claimed that based on their discussions with political leaders and foreign diplomats in Mogadishu, a successful Somaliland state, built endogenously, would not only humiliate the government of Somalia, it would cast a damning light on the international efforts to stabilise and support Somalia's efforts at state-building. Conducting the research required to verify this point is beyond the scope of this thesis, but nonetheless it is important consider the extent to which the leadership of Somaliland may not be fully cognisant of the negative implications of their independence bid on their externally perceived, and recognised, parent state.

5.4 Interim Conclusion

Somaliland's legal claim to historical title gives it a stronger legal standing compared with other de facto states, however, in light of the legal grounding proving to be an insufficient means to obtain legitimate membership, Somaliland's legitimation has lacked strategic direction. Its normative standing, however, has developed to represent what some expert observers claim to be a most favourable case for

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610 Ibid.
recognition. Somaliland's corporate identity was built on traditional Somali cultural practices that enabled it to establish peace in a time and place of turmoil and bloodshed. The corporate identity formation process gave birth to a type identity of a unique democracy, a type identity that forms the foundation of its role as a regional stabiliser. Furthermore, this type identity has reinforced international society's status quo bias. Stability in the region provides a degree of order in the international system, which inadvertently serves the interest of the international society that excludes it, the international society which it seeks to join. As Somaliland's normative standing develops further, its unique democracy is contributing to the stasis in its relationship with international society.
Chapter Six: The Kurdistan Region of Iraq

This chapter will examine the development of state identity for the Kurdistan Region of Iraq (KRI) and examine its normative standing in the international system. Firstly, the modern history of the Kurdish struggle will be considered, as it forms an important foundation upon which the KRI was built, and is integral to understanding the motivations of key state leaders in their recent conduct of statesmanship. Regional, tribal and political rivalries have historically played a key part in shaping the modern recognition narrative of the KRI. Furthermore, the historical context is a crucial basis for the pillar of moral standing that is pre-eminent in the KRI's recognition narrative. Secondly, the type identity clash between the KRI's rentier roots and later attempts at democratisation will be scrutinised, shedding light on the instrumental use of attempted democratisation to successfully build diplomatic relations with the international community. That relationship building was pivotal to the alter-casting of the KRI's role identity as an internationally acknowledged entity that played a key role in influencing the path to, and consequences stemming from, the 2017 independence referendum. Finally, the chapter draws together the insights gained from applying the analytical lens of state-identity to assess the KRI's normative standing in the international system.

6.1 The Formation of the KRI's Corporate Identity

The most common narrative of the Kurdish nationalist project was uniformly described as having three distinct stages: the aftermath of World War 1, namely the 1920 Treaty of Sèvres and the 1923 Treaty of Lausanne; the al-Anfal campaign of the late 1980s, and the implementation of the no-fly zones in Iraq in 1992 that
provided the vacuum of power that the KRI filled; and then the post-2003 intervention by the US and its allies. In interviews, diplomats emphasized the clear role that the Kurdish national narrative plays in strengthening the moral appeal of the KRI (examined later in this chapter), and so the first section of this chapter has been structured to follow that narrative.

### 6.1.1 The Origins of Kurdish Nationalism in Iraq

The discourse of de facto states is rife with references to self-determination, a concept rooted in the milestone of Woodrow Wilson's 1919 'Fourteen Points' speech. That text's conceptualisation of self-determination was key to the first push for a Kurdish nation state. Kurdish representatives attended the 1919 peace conference, submitting a memorandum that requested an independent state for the Kurdish people. The request was persuasive and initially successful; in the 1920 Treaty of Sèvres the allied leaders responded to Kurdish claims and granted nominal autonomy to the Kurdish people. The inclusion came with a clause to the effect that, one year after the Treaty had been officialised, the League of Nations would then consider the proposition of recognising complete Kurdish autonomy. The British, who were in control of the region after World War 1, recognised the Kurdish nation in the provisional 1921 Iraqi constitution, providing some legal protections for both the nation and the Kurdish language, later ensuring Kurdish administration of much of the northern region of Iraq.  

basing a call for independence on both the perceived historical right to the land, as well as the Ottoman-Turkish oppression of the Kurdish people,\(^ {612}\) and appealing to the nascent conception of a right to self-determination.

Turkish leader Mustafa Kemal’s rejection of the Ottoman-signed Treaty of Sèvres severely damaged the vision for an independent Kurdistan. Following major Turkish victories in the Turkish War of Independence, the Great Powers negotiated with the successful Turkish nationalists, and this created not only the new Republic of Turkey, but also a complete reversal and abandonment of almost-acquired status for the Kurds. It was in effect an externally enforced and politically expedient abortion of an embryonic state. The 1920 Treaty of Sèvres was replaced with the 1923 Treaty of Lausanne, which in the eyes of Kemal’s forces formalised recognition of all Turkish claims and territorial liberation, and specifically did not include any of the conditions from the Treaty of Sèvres that had been intended to benefit the Kurds. Furthermore, the boundaries of the territory that the Kurds lay claim to were subsumed in land now split between the territorial units of Iran, Iraq, Syria, and Turkey.\(^ {613}\) The impact of these externally imposed disempowering events, from near sovereignty to disaggregation and complete non-recognition, cannot be overestimated in the collective memory and political angst of the Kurdish struggle for independence.


The territory of Iraq became a British Mandate territory. According to the League of United Nations Covenant, this classified Iraq as one of the territories whose "existence as independent nations could be provisionally recognised, subject to administrative advice and assistance by a Mandatory until such time as they were able to stand alone". Continuous rebellions across much of Iraq were one factor that contributed to the mandate not being realised, and in 1922 the British negotiated the Anglo-Iraq Treaty, providing the opportunity for a local self-governorate. Some stability was formed in the north with the signing of the Frontier Treaty in 1926, officialising the borders of the Mosul vilayet. By this point the disputes and resolutions led to the Kurdish population being concentrated into the northern regions of Iraq, from Mosul in the west, to Sulaymaniyah in the east. The Kurdish nationalist cause continued to be pressed by Sheikh Mahmoud Barzanji, who inspired Sheikh Ahmed Barzani to lead the Kurdish revolt of 1932 demanding Kurdish autonomy. The British assisted Baghdad in quashing the Kurdish demands; Sheikh Ahmed Barzani was forced into exile and the Iraqi state became independent.

In January 1946 the Kurdish Democratic Party (now Kurdistan Democratic Party, or KDP) was established, and with Qazi Muhammad at the helm, they established the independent Mahabad Republic of the Kurds in Iran. Qazi Muhammad gained the

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616 Treaty of Alliance between Great Britain and Iraq 1922, held by The National Archives, Kew, UK.
619 Ibid., 302-312.
support of the Barzanis, led by Mulla Mustafa Barzani. The short-lived Mahabad Republic enjoyed some support from the Soviet Union; the extent of that support, however, is heavily debated. Western influence forced the Soviet Union to withdraw its support, and in 1947 Iran’s forces invaded, retaking the Mahabad Republic. While short-lived, the Republic stoked the fire of Kurdish nationalist aspirations. Mulla Mustafa Barzani fled Iran to the Caucasus, returning to Iraq in 1958. In 1961 Mulla Mustafa led the KDP militia, known as the peshmerga, in an uprising against Baghdad, again demanding Kurdish autonomy from the Qassem regime. In 1963 Qassem was overthrown by the pan-Arab Socialist Ba’th party, which briefly quelled the conflict with Kurds as well. Mulla Mustafa pushed the new government harder for Kurdish autonomy, igniting intermittent conflict until 1970.

In 1970 the new Ba’athist government, who had come to power in 1968, signed a peace agreement, indicating the first recognition of the Kurds’ autonomy in Iraq. The accord however fell apart in 1974 when the Ba’th party abandoned the implementation of the agreed measures specified under the Autonomy Law, reinciting further violence between the Iraqi Government and Barzani’s KDP. After the KDP lost the support of essential arms from Iran and the US, its military position diminished rapidly and the KDP retreated from fighting in 1975. Mulla Mustafa fled to Iran, from which he never returned.

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621 McDowall, A Modern History of the Kurds, 296-297.
622 Ibid., 302-312.
623 Ibid., 327-328.
624 Ibid.
625 Ibid.
Mulla Mustafa’s once close friend, Jalal Talabani, led a secession from the KDP, inspiring followers of more leftist and Marxist orientations, with whom he formed the Patriotic Union of Kurdistan (PUK). There were significant tensions between the two parties, each varying its position, support and political direction throughout the Iran-Iraq war until 1987, when, facing increased anti-Kurdish aggression from Baghdad, the KDP and PUK united under to form the Kurdistan Front.

The heightened aggression from Saddam Hussein culminated in the genocidal *al-Anfal* campaign, that reportedly killed approximately 100,000 civilian Kurds. Hussein’s aims were clear: destroy the foundations of the Iraqi Kurdish rebellion and deter any future nationalist aspirations. The net effect though was rather to the contrary. After Saddam’s invasion of Kuwait in August 1990, the international community was being made keenly aware of the atrocities committed by Saddam’s regime. The liberation of Kuwait provided an opportunity for foreign intervention and eventually the establishment of a “safe-haven” for Iraq’s Kurds.

### 6.1.2 Forming the foundation of the KRI’s Corporate Identity

While the 1990-91 Gulf War liberated Kuwait, it created new tumult in Iraq. With the Government of Iraq (GoI) forces kept pre-occupied suppressing the Shi’ite rebellion in southern Iraq, the *peshmerga* fuelled unrest in Kurdistan by leading

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626 Ibid., 343.
627 Ibid., 359.
attacks against the Iraqi army.\textsuperscript{629} By March 1991 the cities of Erbil, Sulaymaniyah, Dohuk and Zakhu were in the hands of the Kurdistan Front.\textsuperscript{630} After the rebellion briefly reclaimed Kirkuk, GOL forces retaliated violently and retook the city, killing up to 20,000 people and forcing 1.5 million refugees to flee into Turkey and Iran.\textsuperscript{631} In response, the UN Security Council passed Resolution 688, prompting the Coalition led by the US and UK to implement a ‘no-fly zone’ in northern Iraq.\textsuperscript{632} After more costly fighting and failed negotiations, Saddam Hussein’s troops withdrew behind a defensive line and effectively put Kurdistan under economic and military blockade.\textsuperscript{633} The power vacuum in Iraq’s Kurdish areas established fertile conditions for a self-organizing government to emerge.

The Kurdistan Front perceived Saddam’s siege as an attempt to force them into accepting his terms of negotiation.\textsuperscript{634} Yet it was also an opportunity for the Kurds to re-integrate their identity and defend their own future. The Kurdistan Front set out to replace the Ba’athist-filled Legislative Assembly with an elected parliament and leader.\textsuperscript{635} A democratic election was seen as the most effective way of forming an administration that could serve the needs of the Kurds in a manner conducive to settling the contest of power between Barzani’s KDP and Talabani’s PUK.\textsuperscript{636} The Kurdistan Front undertook the rebuilding of Kurdish society using a democratic framework in order to be in alignment with perceived international norms, a

\begin{footnotes}
\item[629] McDowall, \textit{A Modern History of the Kurds}, 371.
\item[630] Ibid.
\item[631] Ibid., 370-373.
\item[633] Ibid.
\item[634] McDowall, \textit{A Modern History of the Kurds}, 379.
\item[635] Ibid.
\item[636] Ibid., 381.
\end{footnotes}
measure likely to increase the perceived legitimacy of an autonomous government, and a key consideration given the absence of past support for the Kurds from international powers. The KDP and PUK leadership deliberately avoided giving the title of ‘constitution’ to the legal provisions established for the formation of government, in order to avoid provoking international criticism by appearing to be overtly seeking independence.

Elections were held in May 1992, and despite some accusations of fraud were deemed to be relatively free and fair with an estimated 90 per cent turnout. Of the seven participating parties only the KDP and PUK crossed the seven percent threshold of votes required to enter parliament. The KDP won 51 seats to the PUK’s 49 seats, but to avoid conflict arising from the fraud claims, they agreed to an even split. Barzani won 48 percent of votes for the leadership with Talabani claiming 45 percent. Again, in the interest of cooperation and political unity the result was set aside, and the leadership was allocated according to their home governorate. The first Kurdistan National Assembly convened on 4 June 1992, and within a month the government of the KRI officially formed.

640 Stansfield, Iraqi Kurdistan, 129.
641 There were 105 seats in total, five of which were reserved for Christians.
642 McDowall, A Modern History of the Kurds, 381.
The decades-old KDP-PUK rift could not be bridged by the power-sharing arrangement that emerged from the 1992 election and soon led to direct conflict between KDP and PUK *peshmerga* forces, specifically following a land dispute in May 1994. There were, however, multiple factors that contributed to armed conflict. The hasty implementation of a democratic administration, forcing a rushed transition from fighting in the hills to running a government and meeting civilian needs, was partly to blame. A continuous disagreement over the distribution of tax revenue acquired at the Zakhu border crossing also contributed, as did the ongoing political differences and rivalry that dated back to the formation of the PUK in 1975.

The civil war that resulted was more brutal than any prior intra-Kurdish conflict, exemplified by the turmoil in August 1996 when the GoI joined forces with the KDP to expel the PUK from Erbil and to take Sulaymaniyah. After the Iranian backed PUK retook Sulaymaniyah, the government of Kurdistan was divided geographically and politically. The KDP maintained control over Erbil and Dohuk, while the PUK administered Sulaymaniyah and its surrounding territory. After four years of debilitating atrocities, Talabani and Barzani agreed to a formal peace, signing the Washington Agreement on 17 September 1998.

The civil war undoubtedly damaged the domestic legitimacy of the KRI and tainted its image abroad. Immediate prospects of a stable autonomous Kurdistan appeared

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remote. However, although the civil war deflated Kurdish nationalist consciousness in the short term, the conclusion of the war provided a platform on which the region’s leaders could recommence state-building. The 1996 geographic and political divisions resulted in the doubling of the number of civil servants and bureaucrats receiving the experience and training required to operate a substantial administration. With the peace agreement in place, the consolidation of the KDP and PUK in their respective territories also allowed them in the final years of the 1990s and into the 2000s, to focus on being “governments rather than parties”.

6.1.3 The UN Oil For Food Program

The United Nations’ Oil For Food Program (OFFP) played a key role in consolidating the KRI’s aspired autonomy, and the formation of the KRI’s corporate identity. Its impact needs to be understood in the context of what immediately preceded it. In August 1990 the UN Security Council (UNSC) responded to Saddam’s invasion of Kuwait by implementing Resolution 661, constituting a complete ban on all imports and exports to and from Iraq. According to Stansfield, UNSCR 661 was “the most comprehensive and effective sanctions regime in history”, crippling the Iraqi economy and stifling Saddam’s ability to operate effectively. Kurdistan’s economic basis went from bad to worse in 1992 when Saddam placed the region

648 Ibid.
649 Ibid., 202-203.
652 Stansfield, Iraqi Kurdistan, 48.
under siege. The GoI installed an economic and agricultural blockade in an attempt to force the Kurds to settle their dispute on Saddam’s terms. The price of kerosene soared to 200 times its 1990 price, and rice 80 times more.\textsuperscript{653} In effect this meant that Kurdistan was under a double embargo from 1992 until 1996.

In 1996 the UN introduced the OFFP, allowing basic humanitarian necessities such as medicine and food to be imported in exchange for oil. Between 1996 and 2003 the OFFP resulted in US$64.2 billion worth of humanitarian goods being imported into Iraq, of which the KRI were entitled to 13 percent.\textsuperscript{654} Contrary to the rest of Iraq, where the program was administered by the GoI, in Kurdistan the OFFP was administered directly by the UN Office of the Iraq Program.\textsuperscript{655} The UN’s efficient administration maximized the benefits for the region. The OFFP not only hastened economic recovery by alleviating the effects of the double embargo, but the operations of the UN also provided invaluable state-building lessons. The UN “taught principles of good governance, negotiation, and administration”, and the KRI representatives were given the opportunity to learn about best practices for liaising with international organizations.\textsuperscript{656} Furthermore, the OFFP created the means for an entrepreneurial class to arise by generating millions of dollars’ worth of contracts, contrasting previous short-term relief programs that kept Kurdistan reliant entirely on aid and its black-market economy.\textsuperscript{657} What first appeared to be an inevitably unstable aftermath of civil war had become a surprisingly firming foundation on which an autonomous KRI could be built.

\textsuperscript{653} Ibid., 124.
\textsuperscript{655} Stansfield, “Governing Kurdistan: The Strengths of Division”, 209.
\textsuperscript{656} Natali, \textit{The Kurdish Quasi-state}, 53.
\textsuperscript{657} Ibid., 56.
6.1.4 KRI Unification: Consolidation of the KRI Corporate Identity

The period from 2001 to 2006 was one of unprecedented unification for the KRI, despite the lingering effects of the Kurd’s civil war. Following the 11 September 2001 terrorist attacks (hereafter, “9/11”) on the US, the KRI realised the likelihood of attempted regime change in Iraq and began cooperating as a more unified entity in order to best position themselves to negotiate the establishment of a recognised Kurdistan region within Iraq.658

By 2003 the KRI had: effectively administered their own internal security; organized the peshmerga into a collaborative force capable of defending the territory of Kurdistan; fostered and built an economic framework; and established organized institutions of political representation.659 These strategic actions comprehensively strengthened the bargaining position of the KRI in negotiating the details of the Transitional Administrative Law (TAL), the legal framework that came into force after the removal of Saddam’s regime in April 2003 and which provided juridical guidelines until an Iraqi constitution was created.660

The partial autonomy of Kurdistan was officially recognised in the TAL, allowing them to keep their system of government and peshmerga forces but denying them

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660 Ibid.
the right to manage natural resources. The most valuable inclusion of the TAL was Article 61(C), setting the threshold for rejection of a draft constitution at three governorates. Although it did not apply exclusively to the Kurds it became known as the “Kurdish veto” because it allowed the three Kurdistan governorates of Dohuk, Erbil and Sulaymaniyah to band together to veto a constitution that was unfavourable for the Kurds. Article 61(C) heavily influenced the development of the Iraqi Constitution, approved by referendum in October 2005.

The Kurds retained all the rights specified in the TAL with important beneficial additions, for it clearly distinguished between the right to administer existing oil fields and future oil fields. Article 112 indicated that existing oil fields fell to the federal government while Article 115 indicated future oil fields would fall to the regions; the power of the regions in the Constitution could only be amended if the region’s government gave consent and if the region’s people agreed through a referendum; and state revenue from oil and gas was to be distributed according to population. In 2005 the Iraqi Kurds held an informal referendum at the same time as national elections, in which 98 per cent of voters expressed a desire for independent statehood. On 15 August 2005 Kurds took to the streets demanding the inclusion of an option for self-determination in the Constitution, essentially

662 Ibid.
663 Anderson, “Internationalizing Iraq’s Constitutional Dilemma”, 149.
allowing the regional government to declare independence at will. On 20 August 2005 the KRI retracted this demand, much to the Kurdish people's dismay. In the historical context of Kurdish struggles, the composition of the Iraqi Constitution was nevertheless a momentous achievement.

Kurdistan was now protected under the federal Constitution and had achieved official recognition in Baghdad, allowing them to shift their focus to finally mending the political fissures within their own territory. On 7 May 2006 Prime Minister Nechirvan Barzani announced the formation of a unified KRI. Following the difficult lessons learned in the aftermath of the 1992 election, the KDP and PUK adopted a gradual merging process that extended until the full ministerial integration was completed in October 2008. In parliamentary elections on 25 July 2009, the KDP and PUK ran together on the Kurdistan List ticket, claiming 59 seats in the 111-seat parliament. The Goran Party, a reformist democratic splinter group from the PUK, whose name means ‘change’, won 25 seats. This signalled a new era of political pluralism, jettisoning the image of two warring parties and recognizing a representative regional government.

667 Ibid.
670 Discussed in greater detail in the following section.
6.2 The Formation of KRI Type Identities and Role Identities

The most prosperous period in the KRI came after the adoption of the Iraqi constitution in 2005, up until the rise of IS in 2014. The KRI began to market the federated region as a "democratic and economically vibrant region". While some observers argued that the KRI were merely constructing a misleading image in an attempt to appear aligned with the norms of international society, ministers of the KRI were prepared to admit that although their democracy was not flawless, the attempt to democratise was genuine. This section will examine the claims to democratisation through this period; the attempt to establish a type identity that aligns with the preached praxis of international society is an informative opportunity to explore the explanatory utility of the international system's identity hierarchy as a lens for better understanding the relationship between international society and de facto states.

6.2.1 State-building and the beginnings of liberal democracy

The state-building path that transitioned a politically divided region into a federated government is a crucial part in understanding the development of the KRI's type

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672 Yaniv Voller, "Kurdish Oil Politics in Iraq: Contested Sovereignty and Unilateralism", *Middle East Policy* 20: 1 (Spring 2013) 77-79.

673 Falah Mustafah Bakir, KRG Minister and Head of Department of Foreign Relations, Interview with the author, Erbil, Iraq, 7 July 2013; Professor Serwan Baban, KRG Minister of Agriculture and Water Resources, Interview with the author, Erbil, Iraq, 27 June 2013.
identity of an incipient democracy. Despite the civil war of the 1990s, Stansfield has argued that conflict was not inherent to Kurdistan’s political culture: the division between the KDP and PUK largely arose from socio-economic factors. The territorial division of the KDP and PUK helped to facilitate some successful political developments of the post-Washington Agreement period: the 1990s conflict was, as Stansfield aptly describes, what happens when “two parties attempt to run before they can walk”. In fact, Stansfield suggests that the KDP-PUK unification in 2007 helped to construct the domestic legitimacy of the KRI within federal Iraq. The strength of ethno-nationalist feeling among the Iraqi Kurds was arguably enforced and unification resonated with the people. However, the combining of the two dominant parties created a fresh tension between government and society by creating an all-powerful, allegedly corrupt regime. This is how unification actually had the unexpected effect of giving rise to a more pluralist political space, simply by creating the perceived need. The first real competitor to the two major political parties emerged: the Goran Party. Goran seceded from the PUK in 2009, in time for the 2009 elections, of which it won 25 percent of the available seats. While the KDP-PUK dominance was still strong, the potential for a more sophisticated democratic dynamic through greater pluralism had formed.

The increasing socio-economic inequality within the KRI was an integral driver of the seemingly blossoming pluralist political landscape. Natali has asserted that the “gross discrepancies in wealth” that emerged in the KRI motivated new swells of

676 Stansfield, "From Civil War to Calculated Compromise", 143
677 Ibid.
unrest and were key to the Goran movement gaining momentum. In Natali’s application of a developmental lens, she examined the social, economic and political development of the KRI with a specific focus on the influence of aid programs in shaping the region. According to Natali, post-2003 aid focused on implementing effective state-building processes and democratic notions of good governance, however the commitment to maintaining the “territorial integrity” of Iraq limited the development potential for the KRI by stunting its capacity to become self-sufficient with the continuing economic reliance on Baghdad.

The US-led reconstruction of Iraq was guided by “democracy mission objectives”, tying aid to the promotion of civil society-building, decentralization, protection of minority rights and good governance. The presence of civil society has become increasingly visible since then, however its effectiveness is debatable. KRI Minister Bakir stated that although the prosperity of the region in this period was in part the result of the “collective effort” between government, civil society and the growing business sector, civil society has been present but was certainly an area for growth. The initial growth in civil society was predominantly NGOs, few of which were non-politicised. This has changed since the establishment of the KRI NGO Directorate in 2013. Newer NGOs have been established under the procedures set

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679 Ibid.
680 Ibid., 130.
682 Falah Mustafah Bakir, Interview with the author.
out in the *Law on Non-Governmental Organizations in the Iraqi Kurdistan Region* (2011), the operation of which by the KRI up until 2013 was transparent.⁶⁸⁴ By 2014, the KRI had approved funding for a further 97 NGO projects in areas covering education, health, women’s rights, children’s rights and raising election awareness.⁶⁸⁵ However, more critical perspectives perceived the increased NGO activity to offer minimal impact on the development of free and active civil society.⁶⁸⁶ Although non-politicized NGOs had flourished and the KRI was funding human rights-based projects, politically-active NGOs advocating causes that were not aligned with KRI sympathies were few and poorly financed;⁶⁸⁷ instead, the main voice for political change had become the Goran Party. Although growing in popularity, Goran was also limited in its ability to operate freely, with members suffering violent attacks in the lead-up to the 2009 election.⁶⁸⁸ These contrasting images of civil society in Kurdistan suggest that some demonstrable progress was made in this key field of democratic reform, but true political liberalization was never achieved.

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⁶⁸⁶ Independent Journalist, Interview with the author, Erbil, Iraq, 1 July 2013; Interviewee B, Confidential interview with the author, Sulaymaniyah, Iraq, 5 July 2013; Tawar Rasheed, Property Developer, Interview with the author, Erbil, Iraq, 7 July 2013.


⁶⁸⁸ Ibid., 117-119.
Improving the protection of women’s rights is one area where NGOs had a clear, positive impact. While the quality of life for women in the rest of Iraq worsened after 2003, significant steps were taken to protect and empower women in the Kurdistan region. In 2008 the KRI reformed the Personal Status Law, banning forced marriages. The Kurdistan Parliament passed a law in 2011 that brought the definitions of domestic violence in line with international norms and specifically outlawed female genital mutilation. This followed KRI Prime Minister Barzani approaching Kurdish mullahs in 2009 and prohibited them from mentioning disparaging issues about women in Friday prayers. A 2012 International Rescue Committee report based on four years of research concluded that there had been “significant, if not historic, progress made to combat violence against women and girls in Kurdistan in recent years”. Similar progress has also been made in gender balancing the workforce, a “top priority” for the KRI’s public sector. Women filled 36 of the 111 seats in the Kurdistan Parliament, reflecting a minimum quota of 30 percent of the legislature. Although the more traditional rural villages still need substantial progress to escape the current “medieval” practices towards women, women’s rights have progressed rapidly in the major cities of Kurdistan and

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693 Serwan Baban, Interview with the author.
695 Ibid.
religious tolerance was practiced, strengthening the image of the KRI as democratically responsive.

Progression in women’s rights was accompanied by the protection of minority rights, setting the Kurdistan region apart from an increasingly unstable, fractured Iraq.696 The majority of Iraq’s Christian population lived in Kurdistan, described as a religious “safe haven” where “they are protected”.697 Kurdistan is also the only place in Iraq and much of the Middle East where Yazidi religious holidays could be openly celebrated.698

6.2.2 The beginnings of a diversified, liberal economy

At the height of the KRI's prosperous period, the KRI's economy appeared as “two contrasting images”.699 The positive economic picture emphasised that 17 percent of Iraq's annual budget was dedicated to the KRI, a thriving bilateral trade with Turkey valued at US$6 billion was estimated to grow further, and there was a steady yet increasing stream of foreign direct investment (FDI).700 Furthermore, in moves to become more economically self-sufficient, the KRI implemented liberal investment laws that were reported to attract an influx of FDI.701 Gunter outlines the

697 Serwan Baban, Interview with the author.
698 Independent Journalist, Interview with the author; Mohammed Rafiq, Interview with the author.
700 Ibid.
fruits of this approach, illustrated when *FDI Magazine* ranked the capital city of Erbil as the fifth most attractive Middle Eastern location for potential investors.\(^{702}\)

However, even at the height of this prosperous period, the KRI still had all the hallmarks of a “classic rentier state”: a bloated and inefficient public service that acted as a cost-centre responsible for consuming approximately three quarters of the region’s budget; nepotism; corruption; and an absence of transparency.\(^{703}\) When conducting fieldwork in 2015 (after the negative impacts of the IS uprising had taken effect on the economy), a foreign diplomat from one of the more influential Consulate Generals described the government’s efforts to diversify their economy as “farcical”.\(^{704}\) The official claimed that they did not make any sincere efforts, and that the liberal investment law including "no capital gains tax" was misleading; the cost of securing the political support required to establish a business is, in effect, an equal or greater tax.\(^{705}\)

A rentier ‘mentality’ impact is evident in workforce data and practices. The rents currently streaming from the federal budget have helped to construct an oversized, inefficient public service that employs around 30 percent of the population.\(^{706}\) The public payroll in total soaks up approximately 75 percent of the KRI’s budget.\(^{707}\) Minister Bakir privately conceded that he wishes the KRI “could import a Western


\(^{704}\) Confidential, Senior diplomat (4), Interview with the author, Erbil, 24 September 2015.

\(^{705}\) Ibid.

\(^{706}\) Gunter, “Iraqi Kurdistan's two contrasting economic images”, 91.

\(^{707}\) Ibid.
work ethic or an Asian work ethic”. Minister Professor Baban confirmed this image, stating that in the public service, “Work-practices are rotten. People go home by 1:30pm”.

The public sector was used by the KDP and PUK as a means of shoring up political support, forming the patron-client networks typical of a rentier state. As the economy developed, these patronage systems have increased the severity of emerging social cleavages, with a wealthy, politically connected elite emerging in parallel to a growing poor. Although small-scale development projects were conducted independently, bigger more lucrative projects have required the political backing of either major party, embedding KDP and PUK influence in the economy. Corruption allegations have continued to plague the KRI as well. In 2013 the Minister of Natural Resources Hawrami was accused of secretly buying stock worth US$35 million in DNO International, an IOC with several KRI contracts. The Goran Party has also accused the KDP and PUK of skimming several millions of dollars a month from the revenue accrued from oil smuggled illegally into Iran. The worsening of corruption, in combination with an entrenched patronage network and absence of a robust work ethic, illustrates the problem of rentierism in the KRI.

The contrasting images of Kurdistan’s political climate affirm Voller’s claim that, “the KRG’s portrayal of itself as a democratic oasis in a desert of tyranny has been...

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708 Falah Mustafah Bakir, Interview with the author.
709 Serwan Baban, Interview with the author.
710 Gunter, “Iraqi Kurdistan’s two contrasting economic images”, 91.
712 Ibid.
713 Gunter, “Economic Opportunities in Iraqi Kurdistan”, 104.
714 Ibid.
mostly exaggerated”. 715 De facto states often pursue the image of effectively-governed democracies, in an attempt to escape the connotations of violence, chaos and lawlessness often associated with ethno-national liberation movements.716 The projection of a safe and secure democracy serves multiple instrumental functions, such as attracting FDI and appealing to the diplomatic practices of recognised states (explored in greater detail shortly). The KRI’s adornment of a veil of democratization served the long-term and ongoing aspiration of increasing international engagement.

Minister Professor Baban admitted in mid-2013 that Kurdistan’s democracy was “imperfect”, but claimed it was “improving”.717 Minister Bakir echoed this sentiment, emphasising the achievement of a peaceful and prosperous region run by leaders who were raised “fighting in the mountains”.718 Iraqi Kurds are traditionally tribal and agrarian, who under a repressive Ba’ath regime were brutally forced into being “sycophants of the Iraqi social welfare state”.719 That was before the genocidal Anfal campaign; the practices of dependence were more deeply engrained by a reliance on international aid; the 1994-98 civil war; and the 2003 war. Iraqi Kurds are survivors of a tumultuous and devastating twentieth century; hardly conducive to a comprehensive, systematic and successful implementation of democracy. As an ex-KRI Minister for Higher Education colourfully described with a seemingly well-rehearsed depiction, "When you analyse the governance of the KRG, you must remember: we are in the Middle East. We are the Kurds. We went from cracking

715 Voller, “Kurdish Oil Politics in Iraq”, 77.
716 Caspersen, “States Without Sovereignty”, 78; see also Caspersen, Unrecognized States.
717 Serwan Baban, Interview with the author.
718 Falah Mustafah Bakir, Interview with the author.
institutions, to building institutions.”720 In that vein, the KRI was only recognised in the Iraqi Constitution in 2005. To expect a rentier identity to be shed, and a model of liberal democracy to have taken root despite an increase in rentier imperatives, is unrealistic.

In the wake of the adoption of the 2005 Iraqi Constitution, Kurdistan was relatively unknown to much of the world. It suffered from the simplistic association made between Kurdistan and the rest of Iraq.721 Hence the KRI adopted an “open-door” foreign policy, inviting foreigners to “come and see for yourself”.722 This worked in tandem with the KRI actively diversifying the economy.723 Economic well-being is an objective interest intrinsic to any state.724 Attempting to economically diversify is a logical strategy for meeting this interest, especially for the KRI given the volatile relations with the GoI and subsequent disagreements over oil-field development and revenue distribution.725 The image of a democratic KRI enhanced the image of Kurdistan as an attractive FDI destination. The need to escape connotations of violence, chaos and lawlessness in its international image was crucial.

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720 Professor Dlawer al'Aldeen, Director of MERI, former Minister of Higher Education & Scientific Research, Interview with the author, Erbil, 28 September 2015.
721 Falah Mustafah Bakir, Interview with the author.
722 Ibid.
723 Ibid.
724 Wendt, Social Theory of International Politics, 235.
725 Minister Bakir claimed that the KRG has never received more than 10.8 per cent of the federal budget, even though owed 17 per cent. Falah Mustafah Bakir, Interview with the author.
6.3 KRI Role Identity: A De Facto State in the International System

The KRI has an international, alter-casted role identity that is crucial to understanding its recognition narrative. Since it constructed the Department of Foreign Relations in 2005, the KRI has been consistently and comprehensively assertive in building international relations with recognised states and international organisations. A process of increasing socialisation throughout the prosperous period of 2005-2014 was the result of successful strategies by the KRI, but it also conditioned a self-perception that contributed to the costly miscalculation of the 2017 independence referendum.

During the prosperous years after the establishment of the 2005 Iraqi Constitution, and before the rise of the Islamic State, the KRI utilised the constitutional freedom they had adeptly negotiated to cultivate an image of an international actor. Article 121 of the constitution states that "Offices for the regions and governorates shall be established in embassies and diplomatic missions in order to follow cultural, social, and developmental affairs". The KRI capitalised on this, and by 2013 over 30 different countries had established diplomatic offices in Erbil. The majority of these offices are Consulate Generals, with a small minority operating as Commercial Offices.

The success of these efforts is evident in the remarks of an influential diplomatic representative posted to Erbil, who claimed the KRI "resembles a sovereign

While all diplomats interviewed in the course of this project’s fieldwork were quick to confirm that the KRI is not sovereign, they also all agreed that the KRI is clearly an international actor with diplomatic agency. Another influential diplomat was forthright in confirming this perception:

“They have a Department of Foreign Relations which is resolute, competent and very active. They are direct recipients of international assistance. They have direct military liaisons. They are involved in capacity building with international partners.”

The impact of the alter-casting taking place in the KRI’s international persona was most evident in an interview with one of the Consular Generals in Erbil in 2015. This official described the KRI as "certainly pushing boundaries for a 'region'; they push boundaries in everything they do". The official clearly outlined that "in all things" the Consulate maintains a single Iraq policy because the KRG are not sovereign; a fact that the Consulate has in mind at all times. However, the official made clear that they had to be aware of how it is that their assistance, their stance, and their rhetoric, may aid the KRI's future prospects, including independence aspirations. The official made clear that they must also be aware of where they would be placed, if the KRI were to become independent, and how their government’s relationship could change.

There were two distinct views evident within the diplomatic community in Erbil about the KRI's legitimacy. Several diplomatic officials were asked about the impact of the KRI’s comprehensive diplomatic relations, and how it might or does influence perceptions of the KRI as a legitimate international actor. All officials agreed that the

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727 Confidential, Senior diplomat (1), Interview with the author, Erbil, 18 September 2015.
728 Senior diplomat (4), Interview with the author, Erbil, 24 September 2015.
729 Senior diplomat (1), Interview with the author.
KRI can be considered to be an international actor, and that comprehensive and systematic diplomatic relations increased their impact and their influence. However, three officials from different consulates referred to the pragmatic difference between influence and legitimacy, expressing the same judgement that one could not speak of international legitimacy because it is directly linked to being a subject of international law. Put succinctly by one Consular General, "Legitimacy is a delicate term because it pertains to legality. They are a legitimate Iraqi actor".\(^{730}\) This view was echoed by several members of international organisations operating in the KRI as well.\(^{731}\)

However, a highly ranked diplomatic official from a separate consulate held a contrasting view, clearly stating that the diplomatic successes and interconnectedness of the KRI does legitimise it as an international actor. The difference in these views is significant in understanding that the diplomatic community held contrasting views about what constitutes legitimacy, more so than contrasting views about the *meaning* and *impact* of the KRI’s diplomatic relations. The meaning and impact were clear: the KRI has agency and has increased its ability to influence recognised states through the successful conduct of diplomatic relations.

The successful fostering and maintaining of international relationships by the KRI, enabled by its corporate identity, was a distinct cognitive object of orientation for prominent members of the diplomatic community, demonstrating the role identity

\(^{730}\) Ibid.

of a de facto state in the international system. As an entity that has achieved a degree of autonomy sufficient to be apparently free from direct external authority and control in key functions, but has not been recognised as a sovereign state, the KRI is denied the rights of a fully confirmed state; rights that still only have meaning as a relational function within this social system. This evidence of the KRI operating as an agent in the international system, also illustrates the impact that effectively adopting the practices of international society can have within that very society from which the KRI is legally excluded. While the system and society coalesce, as outlined in Chapter Three, the lens of normative standing demonstrates the manner in which the society shapes the practice of all entities in the international system.

The encouragement, establishment and growth of a diplomatic community in Erbil has had a reinforcing effect. The European Union (EU) opened a Liaison Office in Erbil in August 2015, the Head of which confirmed that one of the enablers for this development was the fact that many of the EU member states already had Consulates in Erbil. The EU Liaison Office was opened with the specific aim of strengthening the relationship between the EU and the KRI, an initiative driven by EU member states.\(^{732}\) The first Counsellor of the Liaison Office reinforced the view of the KRI as an international actor, specifically citing the case of the KRI leading the submission to the International Criminal Court (ICC) on the recognition of the Yezidi genocide as an example, highlighting the fact that they led the submission with the support of the EU.\(^{733}\) The KRI’s international persona has become more than just a

\(^{732}\) Patrick Geysen, Interview with the author.
\(^{733}\) Ibid.
self-oriented image building exercise, capable of representing the legitimate interests of third parties, and being given international credibility in doing so.

It is important here to reiterate the way in which the KRI has operated within the confines of being a federated region of Iraq. The EU Liaison Office is in fact a Liaison Office to Iraq, but happens to be stationed in Erbil. The restriction of being a federated region in Iraq has obvious limitations for an aspiring international actor and prospective self-regulating organisation. A representative of the United Nations Assistance Mission in Iraq commented on the frustrations of their organisation being hamstrung at times because they are specifically for Iraq, which limits the impact they can have in the Kurdish territories because Baghdad heavily influences the parameters of their operations.734 While this reality must be acknowledged, as must the difference between the performative and substantive components of establishing a diplomatic circle in Erbil, it is also testament to the ability of the KRI to establish, promote and pursue influence while operating within these confines.735

The image of investment potential in the KRI, as discussed previously, played a key role in enabling the development of the KRI’s comprehensive diplomatic relations. One Consular General described it as a mutually constituting relationship.736 Business feels more confident investing if there is a strong diplomatic presence. Governments are more interested in coming to a place where they have recognisable

734 Confidential, Senior UN official, Interview with the author, Erbil, 23 September 2015.
735 The effectiveness of the Department of Foreign Relations was acknowledged by multiple diplomatic sources. The EU Counsellor pointed to difference between the performative and substantive components of the consulates. It is important to note here that this is the case in more conventional diplomatic relations between recognized states as well.
736 Diplomat (1), Interview with the author, Erbil, 18 September 2015.
and visible economic interest. All of the diplomatic sources interviewed agreed on the significance of this relationship. Professor Dlawer al'Aldeen, who at the time of interviewing was the Director of the Middle East Research Institute, previously the KRG Minister for Higher Education from 2009 to 2012, described business and diplomacy in the KRI as going hand in hand.\textsuperscript{737} He claims that the KRG saw the diplomatic engagement as a protection mechanism, and focused on maximising the economic appeal of the KRI to attract the international community, stating that they "internationalised themselves to protect themselves beyond the cage of the past".\textsuperscript{738} Although Professor al'Aldeen was referring to subordination by Baghdad, this strategy proved to be successful in the face of other threats as well. When questioned about the US's airstrike intervention to stop the progression of IS advancing on Erbil in 2014 (discussed in detail in the following section), a US diplomatic source stated the clear support of the US for maintaining the stability of the KRG.\textsuperscript{739}

An illustrative example of combining the effective exploitation of economic potential, with burgeoning diplomatic relations, is the KRI's management of its relationship with Turkey in the years prior to the rise of Islamic State (IS). The foundations of the seemingly unlikely partnership between the Turkish government and the KRI were laid from 2007/2008 onwards, evidenced by the extent of investment from Turkish businesses in Iraqi Kurdistan's developing economy.\textsuperscript{740} Turkish trade with the KRI had grown to be greater than the combined total of Syria, Lebanon and Jordan by

\textsuperscript{737} Professor Dlawer al'Aldeen, \textit{Director of MERI, former Minister of Higher Education & Scientific Research}, Interview with the author, Erbil, 28 September 2015.
\textsuperscript{738} Professor Dlawer al'Aldeen, Interview with the author.
\textsuperscript{739} Senior diplomat (4), Interview with the author.
Total Turkish investment in 2011 was US$12 billion in that year. The relationship quickly became fundamental to the perceived economic prospects of the KRI as Genel Energy Company began the construction of a pipeline from the oilfield of Taq Taq to the Iraq-Turkey pipeline. When this development was denounced by the GoI in Baghdad, Turkish Prime Minister Erdogan declared that the agreement was deemed to be legal according to the Iraqi Constitution. By the end of 2013 the KRI and the Turkish government had completed the pipeline, through which the KRI managed to begin oil exports which essentially subverted the GoI in Baghdad. The growing relationship was being built on more than just shared hydrocarbon interests, it was accompanied by the management of regional power dynamics as well.

The post-2011 conflict in Syria contributed significantly to the thawing of diplomatic relations between Turkey and the KRI. In the early stages of the Syrian civil war, two significant Syrian-Kurdish opposition parties had become prominent in northern Syria. The first was the Democratic Union Party (PYD), which is perceived by many as a Syrian arm of the Kurdistan Workers' Party (PKK), the rebel Turk-Kurdish group that has been in conflict with the Turkish government since 1984, and is listed as a terrorist organisation by a number of powerful states such as the US, the UK, and Japan. The second key body was the Kurdish National Council

741 Ibid.
745 Stansfield, 'The Islamic State, the Kurdistan Region and the Future of Iraq', 9
(KNC), incorporating twelve smaller Syrian-Kurdish parties that formed an alliance under the KNC, within the sphere of influence of the KRI President Barzani in 2011.\textsuperscript{746}

Barzani utilised his influence over the KNC to foster an accord between the KNC and the PYD with the aim of establishing a cooperative leadership within Syrian cities that were once the stronghold of the PYD.\textsuperscript{747} Turkey perceived the PYD to be a cross-border PKK and was therefore alert to the increasingly powerful PYD in Syria, cautious of the potential for it to become a launch-pad for the PKK.\textsuperscript{748} Unsurprisingly, Barzani’s efforts were agreeable to Turkey as they attempted to diminish the power and influence of the PYD within Syria.\textsuperscript{749} This relationship of unlikely but convenient cooperation across borders between the KRI and the Turkish government for economic and security gain was clear evidence of the sustained development of practicable diplomatic adeptness in the KRI which continued to grow in that case until the existential threat of IS emerged (discussed in detail in the next section).


\textsuperscript{749} Stansfield, “The unraveling of the post-First World War state system?”, 280.
6.4 The Road to Referendum

6.4.1 The rise and impact of Islamic State

The sudden rise of the IS was a new challenge for the KRI; initially an existential threat that became a perceived opportunity for expansion and potential political consolidation. The first sign of a direct threat to the KRI was in 2013 when Abu Bakr Baghdadi established IS as a single organisation spanning Syria and Iraq; an organisation comprised of ex-al-Nusra Front members from Syria and ex-al-Qaeda fighters in Iraq. In December 2013 Baghdadi exploited simmering sectarian tensions, and with the help of Sunni ex-Saddam loyalists, IS captured the city of Falluja and established a stronghold in Iraq.\(^{750}\) In June 2014 IS launched a major offensive on northern and central Iraq, capturing Mosul, Tikrit, and much of the Nineveh plains. As IS swept across the north they approached Kirkuk, where the peshmerga had stepped in and taken control of the city after the Iraqi army fled.\(^{751}\)

Securing Kirkuk seemed like an immediate strategic victory for the Iraqi Kurds, however, their forces were stretched thin and by August IS had overrun the "totally unprepared"\(^{752}\) Kurdish forces in Sinjar and Makhmour, and were within 15-20 miles from the capital of Erbil.\(^{753}\) According to a diplomat who was posted in Erbil

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\(^{753}\) Dexter Filkins in "The Fight of Their Lives" claims 15 miles, the diplomatic source the author spoke to in September 2015 claimed 20 miles.
at the time, "most of the residents of Erbil were packed and ready to leave". The KRI faced a truly existential threat. On 7 August 2014 US President Obama authorised the official military intervention, including airstrikes that were critical in stopping the IS advance towards Erbil. Within days, allies of the KRI committed to further military support, providing the peshmerga with support required to defend the KRI territory.

The net effect of the IS insurgence was disastrous for the KRI. The government was already in a volatile fiscal position after Baghdad ceased to provide the KRI with their 17 per cent of the federal budget from February 2014, in retaliation for the KRI's unilateral agreements with international oil companies and oil export cooperation with Turkey. These federal revenues were approximately 80 per cent of the KRI's budget. The IS insurrection led to the capitulation of the private sector; some observers claim that over 5000 investment projects were cancelled by September 2015. By that time the KRI had accumulated over $3 billion in new debt. Fieldwork interviewees in September 2015 suggested that the oversized

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754 Senior diplomat (4), Interview with the author.
756 Senior diplomat (4), Interview with the author.
759 Senior diplomat (4), Interview with the author.
760 Senior diplomat (4), Interview with the author; Senior UN official, Interview with author.
761 Senior diplomat (4), Interview with the author.
public service and the *peshmerga* had not been paid for 3 months.\(^{762}\) Meanwhile, the KRI had experienced a 28 per cent population increase by February of 2015 due to the 1.5 million Syrian refugees and Iraqi IDPs that were sheltering there.\(^ {763}\) The only positive development for the KRI was the fact that they had opportunistically taken control of Kirkuk and other disputed territories.

The significance of Kirkuk for the KRI needs to be emphatically underscored, as the representational importance of the city to the Iraqi Kurdish cause is deeper than the economic value of the potential hydrocarbon revenue. Kirkuk has great symbolic power stemming from its historical significance; some observers go so far as to claim that the drawcard of Kirkuk was one of the main reasons that the KRI was involved in rebuilding the Iraqi state after the 2003 invasion, instead of seeking independence then.\(^ {764}\) The Iraqi Kurdish nationalist movement of the twentieth century laid claim to Kirkuk as part of Kurdistan, dating back to the shifting territorial boundaries in the wake of World War 1. From the end of the Ottoman Empire up until the 1960s, Kirkuk was administered by Kurds, Turcoman, and Arabs; notably Arabs were still a minority in the city at this time.\(^ {765}\) The heart of the Kirkuk issue was established with the Ba’athists Arabisation campaign from 1968 onwards, attempting to consolidate the Iraqi identity as an Arab identity. After the nationalisation of the petroleum industry in 1972, the Arabisation campaign increasingly focused on Kirkuk.\(^ {766}\) The demography of northern Iraq shifted

\(^{762}\) Senior diplomat (4), Interview with the author; Senior diplomat (1), Interview with the author.

\(^{763}\) Ibid.


\(^{766}\) Ibid.
drastically as Turcoman and Kurds were forcibly removed, and Arabs from southern and central Iraq were relocated to Kirkuk. By the late 1980s the Arabisation campaign had succeeded in establishing an Arab majority province, a fact that Natali argues galvanised the ethnicisation of Kurdish nationalism. Ever since, Kirkuk has been a central focus for the Iraqi Kurds, sometimes even mawkishly referred to as the "Kurdish Jerusalem". A key inclusion in the 2005 Iraqi Constitution is Article 140, which states that the Iraqi government has a responsibility to "perform a census and conclude through referendum in Kirkuk and other disputed territories the will of their citizens", the deadline for which was 31 December 2007.

The management of Kirkuk and the disputed territories is central to understanding Iraqi Kurdish politics in the IS and post-IS years. While the KRG have been very vocal about the need to enact Article 140, a foreign diplomat based in Erbil stressed the importance of timing for this vote, suggesting that Barzani and the KDP may in fact have been in favour of the delay: "Democracy is all about who votes for you. Kirkuk is a strong PUK vote. The PUK peshmerga took Kirkuk and they still hold Kirkuk. Barzani is worried that if Kirkukis were allowed to vote, they would vote PUK". Several sources claimed that similar inter-Kurdish politics were being played out in the disputed territories. The KDP and PUK were very strategic in who took control of which territories, with the central goal of shoring up their political support.

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767 Natali, *The Kurds and the State*, 48-64.
769 Iraqi Constitution.
770 Senior diplomat (4), Interview with the author.
6.4.2 The Road to Referendum

President Barzani was quick to threaten an independence referendum soon after the IS battles began. Iraqi politics is full of grand rhetoric, and given the unstable security situation at the time, it was interpreted by many to be nothing more than just rhetoric. As the IS battles continued, and threats of an independence referendum also continued, the threat was widely perceived as a performative political manoeuvre lacking any substance beyond trying to strengthen the KRI's bargaining position with Baghdad.

As the impacts of the war against IS intensified domestic politics in the KRI became increasingly fraught. The general populace was concerned for the security and economic prospects of the region, with IS still approximately only 40 miles away and close to 1 million civil servant salaries not having been paid for months. In October 2015 protests broke out in Sulaymaniyah and local KDP offices were attacked. In retaliation, PM Nechirvan Barzani expelled five members of the Goran party from his cabinet. As the tension between the KDP and the opposition parties grew, a significant issue stoked the fire: President Barzani’s term as President had expired. Barzani had already received parliamentary approval to extend his Presidential term by two years in 2013 when it was first due to expire, much to the dismay of Goran party members. The extension ran out on 19 August 2015. The security situation prohibited an easy resolution to the question of Barzani’s presidential term, however, many of the populace - whose salaries had not been paid - perceived the lack of a resolution as a betrayal of the democracy that they had been promised since the unification of the KRI.
As the political tensions simmered and began to escalate, so too did Barzani's rhetoric about holding an independence referendum; rhetoric that used to be a threat to Baghdad was increasingly becoming more a performance for his own domestic constituency.\(^{771}\) The decision to continue to hold the independence referendum, in spite of the widespread international opposition and condemnation, is widely perceived to be an attempt by Barzani to win back much of the favour that he and the KDP had lost. Although the referendum was initially agreed to be non-binding, the KRI chose to include the disputed territories, including Kirkuk, in the vote for independence.

The voters in the Kurdistan Region of Iraq elected overwhelmingly in favour of independence, with 92.7 per cent voting yes.\(^{772}\) However voter turnout was low, and especially low in the regions that are traditionally PUK strongholds; approximately 50 per cent of voters took part in Sulaymaniyah and 54 per cent voted in Halabja.\(^{773}\) Such a poor voter turnout in PUK favouring regions suggests that many of the Iraqi Kurds were not in favour of supporting a move that could strengthen Barzani's leadership and potentially help him to maintain his position as President years after his term had originally expired.

\(^{771}\) Ibid.
Barzani and KRI supporters of the independence referendum had made a costly miscalculation. In response to the referendum, the GoI retaliated by capturing the oil-rich province of Kirkuk. The referendum was held on 25 September, and by mid October Kirkuk was in the hands of the Iraqi army. Recapturing Kirkuk was not only a strong reclamation of territory that sent a clear message to Erbil, it also severely reduced the KRI’s economic prospects by reducing their daily oil production and exporting capacity from approximately 600,000 barrels per day to 280,000 per day, reducing the KRI’s oil export revenue by 55 per cent. The referendum was condemned internationally, including by perceived allies such as the US. In the wake of the referendum, Barzani declared that he would step down from the role of President. The economic, territorial, and reputational cost due to the KRI independence referendum was severe. After years of building a strong role identity-based international persona, the KRI had developed substantial international goodwill, but their focus on international relations was not accompanied by improving their relationship building with the GoI who ultimately had greater influence with and the broader support of the international community.

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6.5 Legitimation in Motion: The KRI’s Normative Standing

6.5.1 The KRI’s legal standing

There are two main areas of practice that can be perceived as affecting the legal standing of the KRI: the signing of hydrocarbon agreements and the administration of the disputed territories. While Barzani may have miscalculated the consequences of conducting the 2017 independence referendum, resulting in territorial losses and deteriorating relationships with Baghdad, Tehran, and Ankara, the legal status of the KRI as a federated region of Iraq has remained unchanged since the establishment of the 2005 Iraqi Constitution, as discussed at length in Chapter 1.

The right of the KRI to power over “all administrative requirements of the region” is enshrined in the 2005 Iraqi Constitution. The Constitution clearly states that regions have the power to amend the application of federal law on matters “outside the exclusive authority of the federal government”, and Article 110 delineates those exclusive authorities:

Article 110 of the Iraqi Constitution

The federal government shall have the exclusive authorities in the following matters:

First: Formulating foreign policy and diplomatic representation; negotiating, signing and ratifying international treaties and agreements; negotiating, signing, and ratifying debt policies and formulating foreign sovereign economic and trade policy.

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778 Ibid.
Second: Formulating and executing national security policy, including establishment and managing armed forces to secure the protection and guarantee the security of Iraq’s borders and to defend Iraq.

Third: Formulating fiscal and customs policy; issuing currency; regulating commercial policy across regional and governorate boundaries in Iraq; drawing up the national budget of the State; formulating monetary policy; and establishing and administering a central bank.

Fourth: Regulating standards, weights and measures.

Fifth: Regulating issues of citizenship, naturalization, residency, and the right to apply for political asylum.

Sixth: Regulating policies of broadcast frequencies and mail.

Seventh: Drawing up the general and investment budget bill.

Eighth: Planning policies relating to water sources from outside Iraq and guaranteeing the rate of water flow to Iraq and its just distribution inside Iraq in accordance with international laws and conventions.

Ninth: General population statistics and census.\(^{779}\)

Article 110 outlines the GoI’s supremacy over the KRI in administering foreign relations. The KRI’s capability to conduct diplomacy and manage citizenship is limited, and these limitations show the GoI’s legal authority over the KRI’s relations with other states and international organizations. As demonstrated in the last section of this chapter, the KRI have been adept at operating within these legal confines, building a strong international persona through the establishment of Consulate Generals and Commercial Offices, allowing them to maintain strong diplomatic relations without contravening international law.

The KRI’s oil agreements are the point of greatest international legal contention. The KRG claim that the Iraqi Constitution makes a clear distinction between the right to

\(^{779}\) Iraqi Constitution.
manage existing oil fields and future oil fields. Managing existing oil fields is the exclusive zone of the federal government (Article 112), while the right to manage future oil fields is that of the regions (Article 115). The KRI has managed to secure the investment of over 50 international oil companies, and, most controversially, with Iran and Turkey. International constitutional law experts disagree on the legality of these contracts, suggesting that the KRI do have some grounds upon which to claim recourse to holding a legal position. While prevalent in the discourse about the KRI, the contention over oil contract legality is not a major sticking point for the KRI’s normative standing; genuine legal ambiguity allows for states to pursue their own interests and this is precisely what the KRI has done.

6.5.2 The KRI's moral standing

Moral appeal has been core to the KRI’s recognition narrative. The moral appeal is built around two key interlinked components: a history of persecution and injustice, and subsequently, the righteous transition from freedom fighters to an organised democratising de facto state. The history of persecution and injustice is built around two key historical turning points. The first turning point was the perceived betrayal in the establishment of the Treaty of Lausanne in 1923, abolishing the promises of Kurdish autonomy outlined in the Treaty of Sèvres in 1920. The second key turning point was the genocidal al-Anfal campaign that led to the loss of approximately 100,000 Kurdish civilians. The heinous nature of the al-Anfal campaign, and how recent the events were, has led to al-Anfal featuring in much of the contemporary

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780 Iraqi Constitution,
discourse surrounding the Iraqi Kurds. However, interviews with the diplomatic community and international organisations in Erbil confirmed both of these events are core to the moral appeal of the KRI.

A representative of the European Union Kurdish Friendship Group confirmed that the reason the group was formed was predominantly for moral reasons.\textsuperscript{782} The representative stated that many members of the group (which at the time had 26 members in the European Parliament) believe that there is a moral debt dating back to the Treaty of Sèvres.\textsuperscript{783} At the level of the group individual members’ states, there have definitely been some trade and commercial opportunities as a part of the engagement between the group and the KRI. The EU parliament has certainly become more involved since the IS crisis, but the members of the EU Friendship Group do not have an "instrumental" motivation, rather, it is much more of an emotional and moral attachment.\textsuperscript{784} This is a useful avenue through which they have a strong voice and can, and do, exert influence.\textsuperscript{785}

For example, in the lead up the 2017 KRI independence referendum, the EU Friends of Kurdistan made an official pitch in the EU Parliament in support of the referendum.\textsuperscript{786} Charles Tannock, the Chair of the group and member of the EU Parliament, even penned an opinion piece that was published in \textit{The Telegraph} titled

\textsuperscript{782} William Lavender, Interview with the author.
\textsuperscript{783} Ibid.
\textsuperscript{784} William Lavender, Interview with the author.
\textsuperscript{785} Patrick Geysen, Interview with the author.
"The history of Kurdistan: Why Britain owes a debt to the Kurdish People", in which he declared:

I believe that the Kurds have a strong case for statehood in Iraq, and that the international community should contemplate carefully the result of the 25 September referendum. Just as Armenia and Israel have become homelands, so too an independent Kurdistan could be a draw for the large Kurdish diaspora in neighbouring countries and across the wider world. If, as expected, the result backs independence and the Kurdish people are fully aware of the risks and challenges that this will present, I shall be one of the first to support it.  

Similar sentiments were expressed by a US Congressman as well former diplomats who served in Iraq. Further to this, the type identity of an incipient democracy is also perceived by the KRI to strengthen their moral position because of the transition that they have undertaken from being a militia force in the mountains of northern Iraq, to an election-holding de facto state. While their democracy is imperfect and from an electoral perspective wavering, the state-building that has taken place, along with the establishment of a comparatively liberal society for the region, is perceived by the government to strengthen its moral pillar.

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6.5.3 The KRI’s constitutional standing

Contrasting the pre-referendum KRI to the post-referendum KRI illuminates the importance of the constitutional component of a de facto state’s legitimation. In the prosperous period after the adoption of the 2005 Iraqi Constitution, the KRI’s adoption - albeit gradual and uneven - of liberal democratic practices was crucial to developing strong international relations. They combined this with deft utilisation of the economic capability of the region to advance and exploit the possibilities of their constitutionally-enshrined legal autonomy, developing the thriving diplomatic circuit in Erbil that enabled them to fully-realise the role identity of an international actor. While espousing liberal democratic principles, if exaggerating the success of their implementation, the burgeoning formal diplomatic relations were indicative of the strong constitutional standing that the KRI enjoyed in 2013.

When IS wreaked havoc through the north of Iraq, the US was quick to intervene with airstrikes as soon as Erbil looked to be in genuine danger. In the words of a US diplomat, "There is no way the US will let the KRG fall".⁷⁹⁰ In 2015 multiple members of the diplomatic community in Erbil confirmed that President Barzani, whose tenure as President had already been extended once and was due to expire, had crucial international support to remain as President, even though this would contravene the very democratic principles these countries claim to uphold.⁷⁹¹ The federated region had the type identity of an incipient democracy, and the role

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⁷⁹⁰ Senior US Diplomat, Interview with the author, Erbil, 24 September 2015.
⁷⁹¹ Senior Diplomat (1), Interview with the author, Erbil, 18 September 2015; Senior Diplomat (4), Interview with the author, 24 September 2015; Senior UN Official, confidential, interview with the author, Erbil, 23 September 2015.
identity of an international actor fighting to protect principles of freedom and human rights, which enabled the diplomatic community to gloss-over the expiring presidential term. Two diplomats confirmed that their position in support of Barzani was to prioritise stability; this was wartime and democratic ideals were secondary to stability.

When this support for Barzani is juxtaposed with the strong international reaction against the non-binding 2017 independence referendum, it is logical to surmise that stability was consistently of paramount importance for these prominent members of international society. The KRI is an agent in the international system, but is excluded from international society. An adverse reaction from the parent state and neighbouring states was likely to ensure that the result of the referendum was not going to alter the boundaries of any recognised members of international society. It is therefore fair to conclude that the objective of international society to maintain order is in fact to maintain order in the international system. Order in the international system does mean, ipso facto, order in international society.

6.6 Interim conclusion

The KRI’s deft political manoeuvring allowed it to develop a truly enabling legal status. The KRI utilised this legal status to great effect, establishing a comprehensive diplomatic presence in the federated region, upon which its role identity of a strong international persona has been alter-casted. Socially enabled more than other de facto states, the KRI has used this platform to ensure its moral appeal is consistently voiced. Upon these pillars, the KRI developed a robust constitutional and normative standing, developing strong political ties within the region and across the globe.
However, the KRI misjudged the support from these ties and learned how rapidly constitutional standing can deteriorate. In the face of an ill-advised strategy with little external support for change, the status quo prevailed to the detriment and cost of the Iraqi Kurds’ hopes for independence. The KRI has been enabled by the fact that it can conduct comprehensive relations within the international system. The mere threat however of seeking to effect a substantive change in the conditions of legitimate membership evoked severe consequences that demonstrate international society's steadfast commitment to maintaining stability in that very system, underpinning the stasis in the relationship between de facto states and international society.
Chapter Seven: Conclusion

The gateway to international society, no matter how narrow, distant, fortified or treacherous, remains open for de facto states in the foreseeable future, but it is more of a portcullis than a welcoming arch or a set of swinging doors. De facto states and secessionist entities continue to be drawn to that entrance by the sirens of formal recognition, self-focused but externally supported economic growth, perceived independence, and the legal protections offered by membership. These excluded entities outside those gates have proven to be much more resilient and persistent than initially predicted by scholars, and some have become key players in regional power balances, a fact acknowledged by major international club members. Developing a clearer theoretically-based understanding of the conceptual space that such de facto states occupy is a crucial step forward for both IR theorists and empirical researchers.

7.1 A theory of normative standing and its implications

The first contribution of this thesis is the conceptualisation of the relationship between de facto states and international society, applying the lens of identity and constructing a theory of normative standing. De facto states are corporate entities in the international system. Recognised states are accepted and acknowledged members of international society. The international system has ontological priority over international society; the society cannot exist without the system, but the system and the society coalesce. The distinction between system and society provides the clarification required to better conceptualise the inclusion of recognised states and the exclusion of de facto states.
This thesis has used the explanatory utility of state identity as a conceptual lens to analyse the relationship between recognised states, the international society that they inhabit, and the existence and functioning of de facto states in the international system. De facto and de jure states have comparable corporate identities, each of which constitutes their presence as entities in the international system. Type identities are an illuminating lens because they have social meaning for recognised and de facto states. Role identities provide explanatory power because they are formed between two states in the system, regardless of the divide created by recognition; recognition constitutes a role identity in itself and denotes rights within international society.

A key insight of the thesis that was revealed through the construction of the conceptual framework contribution is the classification of de facto statehood as the basis of international, alter-casted role identities. These role identities are crucial to understanding recognition narratives. Recognition itself confers a certain kind of identity, but so too does non-recognition. The social sanctioning of a state as accepted into international society confers rights upon that polity that have meaning in relation to the other constituents of the system. Similarly, an entity that has achieved a degree of autonomy sufficient to be free from external authority, but has not been recognised as a sovereign state, is denied those same rights, rights that still only have meaning as a relational function within that social system. De facto statehood is therefore a role identity in the international system.
The significance of this relational identity cannot be understood separately from the corporate apparatus that underpins it. De facto states are not perceived by the international community as non-state actors per se because of their corporate identity. Although members of the international community do not refer to them specifically as de facto states, they act towards them as prospective members of international society, alter-casting this role identity by creating an inter-subjective understanding about their position in the system. The effects of this social conditioning were demonstrated by foreign diplomats in the KRI, and by the KRI’s Head of Foreign Relations Department. Powerful members of international society have explicitly stated that the question of Somaliland’s recognition lies in the hands of the African Union. Nagorno Karabakh is the one case study where there are no formal diplomatic communications to demonstrate this conditioning, indicating that there is a spectrum of alter-casting that exists. The priority for international order within international society has contributed to the social isolation of Nagorno Karabakh. Isolation sits at one end of de facto states' socialisation spectrum; engagement without recognition is at the other. The empirical exploration of de facto state identity in the case study chapters illustrates this spectrum of socialisation, shining a more powerful light on the processes that contribute to the formation of the "qualitatively different" kinds of statehood that Caspersen espouses.792

The role identity of de facto statehood underpins the social conditioning of de facto states in the system; this is the foundation upon which their systems-level identity formation is constructed and defines their position on this spectrum. This in turn

792 Caspersen, Unrecognized States, 74.
has great influence on the formation of their recognition narrative. The severe isolation of the NKR and the alter-casted reality has spawned the shift in its approach to recognition and the shedding of recognition as a primary imperative. This in turn reinforces the perceived role identity of 'victor'. Conversely, the strong international persona of the KRI strengthened its normative standing, emboldening the leadership to a point where it miscalculated its social currency and held an independence referendum to detrimental effect. Somaliland’s position relative to the failed parent state reinforces its perception of the right to self-determination as a normative obligation.

State identity is an insightful lens through which to understand the basis of how de facto states relate to international society, an understanding that is deepened by discerning its constitution. The first order principle of that society is legitimacy. The second order principles form a framework that has been used to interpret the recognition narratives of de facto states and articulate their legitimation. Legitimation is a continuous process that de facto states are engaged with. De facto states do not have membership in international society, so they cannot be deemed to have legitimacy. Normative standing is the extent to which de facto states' behaviour relates to international society's norms of morality, legality, and constitutionality, which provides a deeper understanding of the condition of constant legitimation that exists between de facto states and international society. De facto state literature has studied the reasoning that de facto states pursue as justification for their inclusion in international society; normative standing provides a clearer conceptualisation of why these cases have been constructed. Furthermore, it considers how closely the conduct of de facto states aligns with international
society’s norms of conduct in accordance with the society’s second order principles. The application of the morality, legality, and constitutionality triad as a framework for interpreting processes that are intrinsic to the relationship between de facto states and international society, provides the deeper, more explanatory and defensible account of this relationship which this thesis set out to establish.

The theory of normative standing has implications for how the concept of legitimacy is currently used by scholars in the field of de facto states studies. The definition of international legitimacy that this thesis puts forward argues against the possibility of de facto states having degrees of legitimacy. Normative standing conceives of de facto states’ international relations as conducting practices deemed legitimate within international society, which may increase the normative standing of de facto states, but does not increase their legitimacy within international society because they are not rightful members. One also cannot say that it increases their legitimacy in the international system because the system does not constitute a community. An entity with the corporate identity of a state in the system does not have to be socially sanctioned. A state’s existence in the system is marked by the formation of the corporate identity that maps to the definition of the de facto state that this thesis employs. Increased diplomatic relations, therefore, may increase a de facto state’s normative standing, but do not confer upon it a greater or lesser degree of legitimacy.

Developing diplomatic relations clearly facilitates and enables a de facto state more than it empowers. The social sanctioning of recognised states as legal entities with rights within the society empowers them, so that they can directly contribute to shaping the institutions and norms of international society. Engagement without
recognition can enable a de facto state to develop economically or strengthen its defence platform, but it does not allow it to shape the constitution of the society it seeks to join. An empowered state, through membership, contributes to the political and normative contours of the society to which it belongs. This is where, regardless of engagement levels or kinds, without explicit legal recognition, de facto states do not have the social status required to influence the constitutionality of their social structure, and therefore do not have international legitimacy.

A complexity that arises from this notion of legitimacy is the difficulty of differentiating the behaviours and practices that are purely instrumental adaptations aimed at gaining recognition or increasing one's normative standing, and those which are underpinned by other motivations but align with the normative preferences of international society. The framework of state identity has utility for achieving this, demonstrated by the unpacking of the NKR's democratic type identity that is in accordance with international society's normative preferences, but is also crucial for securing economic means for its survival. Discerning state-identity formation and maintenance can develop deeper, more comprehensive understandings of the motivations behind specific actions, but its limitations must be acknowledged. As a tool of interpretation it can facilitate richer understanding, but these understandings may not be complete or absolute. While the parallel motivations spurred by NKR's type identity can be identified, this does not mean that it will be discernible if or when one motivation is stronger or dominant over the other. To develop the identity complex further in order to clearly distinguish between competing motivations could be a beneficial area for future research.
State identities and normative standing do not fit together like adjoining pieces of a puzzle, rather, they are interwoven like fibres that form a distinctive fabric. Identity formation can contribute to key components of recognition narratives, yet it can also constitute them. Contrasting the case studies’ respective pillars of normative standing has helped to illustrate the complexity of this relationship.

The legal standing of the three case studies differs greatly. Somaliland’s claims to have dissolved a union that has legal precedence, underpins other core components of its recognition narrative. The KRI’s shrewd negotiation of a federal arrangement has enabled them to operate with diplomatic reach while maintaining respect for international legal parameters, fundamental to the strong constitutional standing it developed prior to the independence referendum. The KRI’s hydrocarbon dealings have caused some legal questions to be raised, but are questions of genuine legal debate, over which constitutional experts are divided. The NKR’s legal claims are based on a framework established in a country that no longer exists, preventing a definitive ruling, contributing to the conditions of stalemate that it currently endures and which have been pivotal in shaping its recognition narrative. Contrasting the legal standing of the three case studies brings an important note to light: the importance of having a legal argument.

All three case studies have positioned their democratic credentials as forming part of their moral standing. In the NKR, the democratic credentials serve a subjective interest of engaging the diaspora. This type identity has also enabled them to perceive themselves as morally superior to Azerbaijan, because of the legitimate practice espoused by society, a perspective that has been reinforced by the symbolic
recognition of their right to self-determination. While the KRI also perceives its moral standing to be strengthened by its democratic credentials, the KRI’s moral appeal is extended to focus on the history of the Kurdish struggle. The moral appeal of both an incipient democracy and historic victim has been a central part of the diplomatic platform it has built, from which it has been able to propagate its recognition narrative to an empowered audience. Similarly, Somaliland’s type identity as a unique democracy underpins Somaliland’s moral appeal to international society, for being the prisoner of a failed state. The shared perspective that democratic credentials qualify an entity to some degree of moral obligation from international society highlights a telling discordance between the subjective perspective of a de facto state’s moral standing and international society’s inter-subjective agreement about that which is deemed to be a moral imperative. Although the standards before status discourse was once prevalent in discussion about the future recognition of states, standards alone have never been a defining criterion of successful recognition.

Where the importance of having a legal argument is notably important, a crucial insight to be drawn from the morality pillar is the fact that moral arguments can and do matter. The empirical findings here suggest that the sphere of morality is one in which there will be dissonance between the subjective perspectives of de facto states and the moral reasoning of international society. But the fact that international society can form inter-subjective agreement on moral grounds allows for the contestation over what constitutes moral reasoning and justification. So long as there is a perception that international society will take into account the moral implications of an action, or indeed inaction, even if rarely the driving force, it
enables the development of subjective, moral components of the recognition narratives, and associated perceptions of legitimation.

Constitutionality is inherently the most specific to each case study. For instance, the KRI’s current constitutional standing has been severely diminished by the 2017 independence referendum. Over the ten years before the referendum, the KRI’s shrewd political manoeuvring, and utilisation of its unique legal status gave it diplomatic access to build strong international relations, and a subsequent arsenal of political capital. The drastic change in the KRI’s constitutional standing illustrates how dynamic this pillar of normative standing can be.

There is one element of constitutional commonality across the three case studies: international society’s status quo bias. The three case studies have all claimed to be democratising, albeit at different speeds and with strengths and weaknesses specific to each. Where effective state-building and adopting democratic practices has been perceived as an unofficial pre-requisite for admission into international society, the unintended consequence is an apparent removal of incentives for external actors to resolve the question of recognition. International society’s fundamental goal of maintaining order in the international system means that the demonstration of effective, democratic statehood, can in fact incentivise members of the international community to default to the status quo. This is creating a dilemma for de facto states. Where Nagorno Karabakh has evolved its recognition narrative to accommodate the reality that non-recognition could be a permanent condition, Somaliland’s leaders have begun using increasingly aggressive rhetoric and appearing to threaten war.
This dilemma could prove to be the catalyst for a paradigmatic shift in the approach that de facto states take towards international society. Time will tell.

The empirical research clearly shows that the legal components are the most clearly understood by de facto states. The amorphous political dynamics that constitutionality encompass are the hardest to interpret, and, this thesis argues, is where de facto states may have the biggest blind spots. The conceivable humiliation of Somalia as a by-product of Somaliland's quest for independence, and the international efforts to stabilise Somalia, demonstrate this. The KRG’s decision to push ahead with the referendum was a gross miscalculation of international society's investment in the stability of the system. Constitutionality is not clearly defined, it does not have official precedents, and as has been demonstrated, its contours are continuously being refined.

The capability and potential of this theoretical approach derives from its conceptualisation of great power politics and the normative element of international society in one framework. The creation and fate of de facto states can so rarely be reduced to one or the other. The utility of this framework is that it can be used to discern the principles upon which de facto states relate to international society. This provides a more objective platform upon which to assess their claims; it recognises that the ‘ought’ is defined by international society at any point in time, without giving undue priority to precedents. Precedents of course do matter, but stability in the system matters more.
7.2 The stasis of the relationship between de facto states and international society

The conceptual contribution of this thesis provides a foundation upon which many of the more commonly accepted reasons for the stasis in the relationship between de facto state and international society can be better understood. For de facto states who do not have the support of the parent state to secede, recognition is not about proving one is an eligible member; it is about making an argument for why international society should evolve as a community. This is why it is simplistic to suggest that recognition is a matter of international law or great power politics. Legitimacy is the first order principle of international society, and it is composed of both legitimate membership and legitimate conduct. A change in the rules that govern legitimate membership is a change in the constitution of the society itself. Once a de facto state is deemed to be ineligible based on the current rules, to then admit it as a legitimate member would require the acceptance of a previously unacceptable trait. For de facto states in the post-1945 era, this trait is the lack of agreement from the parent state. While de facto states can make compelling arguments based on an array of different grounds as to why they are not breaking this rule, or why there should be an exception to the rule, once deemed to be ineligible in the eyes of international society they are arguing for an evolution of the society itself.

De facto states do not desire sovereign statehood for the sake of sovereign statehood. There is the legal protection of security and access to resources for economic development. But there is more than that contributing to the stasis of this relationship. The mere existence of NKR is a significant win for the Armenian people.
Every day that it exists, it defies Azerbaijan, and is a success for the Armenian nation worldwide. For the KRI, the threat of independence had proven to be a most powerful bargaining tool in its relationship with Baghdad, up until the 2017 referendum. Articulating the identity of each de facto state is crucial to understanding this stasis, in order to avoid reductionist interpretations based on assumed motivations. The NKR’s international engagement efforts are as much about serving its role and type identities, as it is about international legitimation.

Contrary to assumptions in the literature, until recently Somaliland fundamentally lacked a coherent legitimation strategy. Somaliland’s rhetoric had been in response to the discourse within international society, but their strategy had not. The recent push to develop a strategy has been driven by popular demand, a sign of the strength of their democracy. In the KRI, the government has been enabled significantly through international engagement, however, the sense of empowerment that came with their international persona and increased normative standing partially contributed to miscalculating the reaction of international society to their independence referendum. This is not to suggest that de facto states do not attempt to interpret the discourse in international society. Rather, this suggests that the multi-layered state identity complex contributes to their international engagement strategies, or lack thereof, and internal state-building efforts. Understanding their identity and their interests, illuminated through the fresh conception of their relationship with international society, allows us to more accurately understand the stasis of this relationship, and how that in turn partially constitutes the identity of these socially excluded polities.
One important caveat must be made about generalising findings based on the discussion of corporate identities. This is not a full analysis of the formation of the corporate identity, rather, this is an analysis of how the key components of the corporate identity formation shape type and role identities that in turn influence the recognition narratives, and, centrally, their normative standing with international society. There is a wealth of literature on state-formation that can further enrich and inform understandings of de facto states, and indeed could prove to be a fruitful avenue for further research.

7.3 Research implications

7.3.1 De Facto States Studies

The vastly different relationships between nationalist narratives and state formation are an interesting find in the case study analysis. Nagorno Karabakh became the beating heart of Armenian nationalism so late in the narrative of Armenian nationalism, whereas Kurdish nationalism and the quest for a state have gone hand in hand for almost the entire length of the twentieth century. In Somaliland, the quest for statehood has been tethered to a component of shared identity, however, the idea of a Somalilander identity has been powered by the establishment of the state, much more so than the quest for a state being powered by the Somalilander identity. There is a breadth of scholarship analysing the relationship between nation and state, but the question that this finding compels is: are there any unique elements of the relationship between nation and state in de facto states, compared to the relationship between nation and state in recognised states? A cognate question is: how has de facto statehood and the condition of non-
recognition shaped different nationalisms? Further examination and more detailed analyses of the relationship between the structural corporate identity and associated role identities, and the ideological influences that have contributed to its formation, would help to build a more comprehensive understanding of both nation and state, but more specifically, it could be a powerful insight to inform the understanding and development of future de facto states.

Employing the framework in the three case studies of this thesis has provided insights into how the formation and maintenance of state-identity can impact the disposition of the de facto state's populace. In this case, a useful insight that can be observed across all three case studies is the impact of having generations that have grown up in de facto states, whose binding community and state administration is that of a de facto state. Now that this generation has grown into young adults, their nationalism is strong and their ability to perceive their de facto state as merely a secessionist entity could be diminished. Statehood is a perceived reality for them. As such, research contrasting the perspectives of different generations, especially comparing those who were adults at the time the de facto state formed with those who were born after formation, could prove to be useful source of data to understand the likely domestic political trends and trajectories within de facto states.

7.3.2 International Relations

In the process of interviewing representatives from de facto state governments and foreign diplomats, several differing perspectives about the meaning of legitimacy came to the fore. The Nagorno Karabakh authorities explicitly stated that they did
not perceive increased international engagement as relevant to legitimacy, which contrasted with the Somaliland government who clearly stated an opposing perspective. In the KRI, diplomats from different consulates also had contrasting perspectives; some perceived legitimacy as synonymous with legal status whereas others disaggregated the two. Deciphering the myriad understandings of legitimacy held by senior state officials was beyond this research, however recording and comparing those understandings to the prevalent conceptions of legitimacy in the literature could provide useful insight about relevant practices stemming from the institution and practice of diplomacy.

The proposal that international system and society are coalescing social structures, the former having ontological priority and the latter developing institutions that shape the actions of both inhabitants, is a position congruent with existing theory, but one that has not been previously explored in depth. This position has been instructive in informing a deeper understanding of the relationship between de facto states and international society. It would be of wider benefit to the field of International Relations, and more specifically to systems-theory, constructivism, and the English School, to perform a deeper study that analyses the historical relationship of society and system coalescing. Articulating points in history where this relationship has been most dissonant, compared to times when it has been completely congruent, and revealing the drivers behind those disparate contexts, would be valuable to all scholars who seek to understand the major systems that are fundamental subjects of International Relations.
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