Forms of Normalisation in the Quest for De Facto Statehood

Eiki Berg and Raul Toomla

Unrecognised political entities – de facto states, separatist states or quasi-states
receive popular support and are capable of controlling and providing governance
over their territories, but are unable to achieve widespread recognition of their
sovereignty and therefore remain largely or totally unrecognised by the interna-
tional society of sovereign states. About ten de facto states can be located on the
world map today, all challenging the existing system in that they act outside of the
legal framework, pretending to achieve de jure status themselves. Most of them exist
as a result of incomplete and contested state-formation in the intermediate zones of
great power rivalry, thus depending on patron states and their power leverage.
Many states and international organisations refer to them as illegal entities.
“They have a legal status that is uncertain, an international standing that is inde-
finate, a legal existence that is often relative, and a security situation that is at times
precarious,” is how Ersun Kurtulus defines their condition.

Whereas some scholars argue that the best option for granting them legitimacy in
the eyes of international society is either a negotiated re-entry resulting in a decen-
tralised federal system or forceful incorporation into the metropolitan state, this
article argues in favour of the status quo since power-sharing is not easy to achieve
(for example, in Bosnia and Herzegovina), and while re-unification with the help of
rude power brings about unnecessary casualties (for example, in Sri Lanka with the
extermination of the Tamil Tigers). The status quo may, however, involve different
forms of normalisation without legal recognition. Hence the question: when legal
norms and empirical facts collide and de facto states come into being, what is the

Eiki Berg is Professor of International Relations and Raul Toomla is PhD candidate at the University of
Tartu, Estonia. Email: eiki.berg@ut.ee. Research for this article was supported by Estonian Science
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1Different authors have used different terms for non-recognised entities. See Pegg, International Society and
the De Facto State; Lynch, Engaging Eurasia’s Separatist States; Kolstoe, “The Sustainability and Future of
Unrecognized Quasi-States”

2These include the Turkish Republic of North Cyprus, Taiwan, Transnistria, Abkhazia, South Ossetia,
Nagorno-Karabakh, Somaliland, Kosovo, Palestine, Republika Srpska.

3Kurtulus, State Sovereignty: Concept, Phenomenon, and Ramifications, 105.
likelihood of recognition and toleration by international society, rather than boycott and negation of these illegal entities? This article examines the extent to which Kosovo, Taiwan, North Cyprus, Abkhazia, Transnistria, Nagorno-Karabakh, and Somaliland have received some kind of recognition and secured their standing in the international society.

**Whether and how to normalise relations with de facto states?**

What de facto states lack the most is international legitimacy. Past experience has shown that the de facto state is “capable of entering into relations with other states...it seeks full constitutional independence and widespread international recognition as a sovereign state...but is unable to achieve any degree of substantive recognition and therefore remains illegitimate in the eyes of international society”.4 While drawing some historical parallels in which different non-sovereign entities, including colonies, trusteeships, protectorates, free cities and internationalised territories, have been accepted by international law, Scott Pegg admits that “the problem is not that international law is not sufficiently flexible to accommodate the existence of de facto states”, rather the problem lies in the “hostility of existing sovereign states to reaching any form of accommodation with de facto states”.5 Pegg proposes three possible alternatives, (1) the ‘Ethiopian model’, whereby Addis Abeba tolerated the external relations of the Eritrean regime; (2) the ‘GATT/WTO model’, which treats its members as contracting parties and not necessarily as sovereign states; and (3) the ‘Taiwan model’ referring to the substantive economic, trade, cultural and other ties that the de facto state maintains with countries that do not recognise it as a sovereign state.

International organisations such as the United Nations (UN) and the Organisation for Security and Cooperation in Europe (OSCE) have played a dual role with regard to normalisation. Their widespread refusal to grant any kind of recognition to de facto states has not only created frustration among the latter, but has also inadvertently contributed to prolonging their existence.6 According to Pal Kolstoe, “the problem with the involvement of the international community in de facto state conflicts is the indecision and inconsistency it has been pursued with. Rather than resolve conflicts, stalled negotiations freeze them and perpetuate status quo. In this way, they contribute to the prolonged existence of the de facto states.”7 In the end, Kolstoe does not rule out international recognition, if the de facto state manages to build efficient state structures, liquidate criminal activities and become democratic or, conversely, absorption into the metropolitan

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5Pegg, “The Impact of De Facto States”.
6Kolstoe, “The Sustainability and Future of Unrecognized Quasi-States”.
7Ibid., 734.
state by either peaceful means or force. In the former case, he argues that gradual normalisation would entail a negotiated, federal settlement that would seek a compromise solution.

Dov Lynch, on the other hand, argues that normalisation is possible only if it is premised on some form of acceptance of the de facto states, which does not necessarily mean that it should be attributed international recognition: “A solution that balances de facto with de jure sovereignty is the key to achieving a lasting settlement.” He advocates a combined package of measures – economic, security, confidence-building and societal – that will support normalisation. Moreover, he relates major obstacles to settlement to the lack of political commitment.

Thus far, four approaches toward the de facto state have been tried: attacking it, embargoing it, engaging with it and ignoring it. Lynch argues that “current international approaches lack coordination and strategy, work against each other and thus sustain status quo”. It is indeed surprising that when de facto states ask what they have to do to establish a subject status under international law, “lawyers and scholars have nothing to say but to refer them to the brutal contingencies of international relations or the unpredictable caprices of great power politics”.

John MacGarry argues that the best option for granting de facto states legitimacy in the eyes of the international community is “a negotiated re-entry resulting in a decentralised federal system combined with consociational power-sharing”. Indeed, re-examination of the call for normalisation has so far focussed on ideas about federalism and power-sharing, induced or coerced by internationally mediated negotiations. A federal solution has been justified in some cases (Belgium and Spain) and questioned in others (Bosnia and Herzegovina). It has often led to “an uneasy coexistence and symbiosis between the state and sub-state” or to extremely loose forms of federalism in which the vestiges of statehood are retained yet internal self-rule is predominant.

A status of “sovereign land in an independent country” or more than autonomy but less than independence may theoretically be an acceptable substitute for independent statehood, given that international norms (albeit contradictory) are preserved and legal secession (perhaps even a legitimate act) is not allowed. The problem, however, is that many new constitutional designs which have been recognised by the international community and have legitimising value are, in fact, dysfunctional because they have been imposed from outside and do not match

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8Ibid.
9Lynch, Engaging Eurasia’s Separatist States, 143.
10Ibid., 10.
11Kurtulus, State Sovereignty: Concept, Phenomenon, and Ramifications, 190.
12MacGarry, “Foreword: De Facto States and the International Order”, xi.
13Kingston and Spears, States-Within-States: Incipient Political Entities, 7.
14Dent, Filling the Gap between Federalism and Independence, 3.
15Ibid.
the facts on the ground. Very few would argue that the Dayton Accords have succeeded in bringing the conflicting parties closer together. Conversely, Dayton has provided us with a dualistic example of how to encourage de facto states to legitimise their existence and, at the same time, discourage partitioned states from giving up their claims for sovereignty.

In this article, we argue that the conventional understanding of the Dayton Accords providing a normalisation pattern that ‘applies to all’ does not make it a universal legal principle. Instead of taking federal schemes for granted unconditionally, we should first analyse the avenues open for current de facto states in international society. Second, we need to know what variables, other than legal ones, constitute the ‘integration’ of de facto states in world affairs. Finally, we propose recognising the status quo and the ‘hard facts’ on the ground, and call for a new approach towards de facto states along the same lines as the one that sovereign yet dependent territories enjoy in the legal framework of international society.

Constructing a ‘normalisation index’ and recognition scale

The characteristics used to operationalise de facto state’s integration can roughly be divided into three different categories that offer insight into the political, economic and public spheres. The political characteristics comprise formal recognition by other states, de facto states’ representations abroad and foreign representations in de facto states, external involvement in management of the conflict between the de facto state and the former metropolitan state, existence of a patron; and membership in international organisations. Economic characteristics include foreign trade activities, that is, the number of trade partners and the turnover of foreign trade per capita. The third category (the public sphere) involves the spread of information and flow of people, including direct flight connections, (in-)dependence of postal and telecommunication means, as well as border regulations.

These three categories are felt to cover most of the aspects that are usually associated with a state’s integration into international society. Political characteristics demonstrate the willingness of recognised states to interact with non-recognised entities. When international recognition remains unattainable, in most cases de facto states need external patrons to make their voices heard and interests considered. Economic interaction with de facto states reveals the readiness of business circles to ply their trade with non-recognised authorities which, in turn, is an indicator of trust in the existing legal framework and governance. But it may also expose economic sanctions in force, which isolate de facto states from world markets. The third group of indicators shows the willingness of de facto states to open up to the rest of the world and the world’s response to that call. Are these political entities with unclear legal status integrated into the global system of
communications and do they prefer open border regimes with the rest of the world, or conversely, withdrawal into self-isolation?

To measure these variables, a ‘normalisation index’ was drawn up, with a scale extending from negation to quasi-recognition. The placement of de facto states on this scale was based on the results of each with respect to the above variables. Some of them were measured on a two-level scale (0-1) whereas others were measured from 0 to 3 (see Table 1). The variables going up to 3 points (spread of recognition, number of representations abroad, foreign missions within the de facto state, and foreign trade indicators), obviously have the most weight on this scale. Economic variables account for up to 25 percent of the index value, whereas communication indicators add up to another 30 percent of value.

The next step was to set up a recognition scale from 0 to 10 with four equal (2.5 points each) sections – negation, boycott, toleration and quasi-recognition – exposing the openness of de facto states to the world and the level of their integration in international society:

- 0 to 2.5 — negation
- 2.6 to 5.0 — boycott
- 5.1 to 7.5 — toleration
- 7.6 to 10 — quasi-recognition

On the normalisation index, an entity can receive a maximum of 22 points. Therefore, the score for each state was divided by 2.2 to accommodate it on the 10-point scale. The cases selected represent a mix of de facto states of varied origin (secession, partition, dissolution of the state) and longevity (37 years for Taiwan and 14 years for Abkhazia). Although the proposed scale is a bit superficial and demonstrates only linear variations, the approach seems to be justified by its simplicity and comparability.

Seven de facto states were analysed on the basis of the above characteristics and criteria – Abkhazia, Kosovo, Nagorno-Karabakh (NKR), North Cyprus (TRNC), Somaliland, Taiwan and Transnistria (TMR) – and then ranked on a scale from negation to quasi-recognition (Table 2).

As expected, Taiwan (8.6 points) and Kosovo (8.2 points) led the scale with scores high enough to be classified as quasi-recognition. Both countries received high scores in political variables with some formal recognition and as members of some international organisations. Taiwan, again as expected, scored the highest in economic variables, while both had high scores in communication indicators. Even though Taiwan is gradually losing international recognition (with more and more states shifting their recognition to the People’s Republic of China) and Kosovo is upgrading its legal status (its unilateral declaration of independence in 2008 has been widely recognised by major Western powers), the former still has a higher normalisation index.
| Integration into international society | Recognition 0 – none 1 – recognition by other de facto states only 2 – less than 10 recognitions by recognised states 3 – more than 10 recognitions by recognised states |
| Representations 0 – none 1 – only the de facto state’s representations abroad 2 – under 10 representations of foreign states 3 – over 10 representations of foreign states |
| Involvement of international organisations in the conflict 0 – none 1 – regional 2 – UN |
| International organisation membership 0 – none 1 – observer member in some organisations 2 – full member in some organisations |
| External patron 0 – no patron 1 – existing patron |
| Foreign trade per capita 0 – none 1 – up to $2393 (½ world’s average) 2 – up to $4785 (world’s average) 3 – over $4875 |
| Number of foreign trade partners 0 – none 1 – one dominating partner 2 – several partners |
| Communications Air communication 0 – none 1 – one airline and few destinations or several airlines and one destination 2 – several airlines and many destinations |
| Postal communication 0 – no direct postal communication 1 – direct postal communication |
| Border regulations 0 – restricted entry 1 – general visa regime 2 – general visa-free regime |
| Telecommunications 0 – no country code for telephones and internet domains 1 – separate country code |
A bit surprisingly – and despite decades of economic embargo – the Turkish Republic of Northern Cyprus (6.4 points) is tolerated by international society more than Abkhazia, which has received more international recognition (Russia, Nicaragua and Venezuela) than the TRNC (only Turkey). Its current position is the result of high scores in political variables such as international involvement in conflict resolution and also in foreign trade turnover. The rest of the de facto states (Abkhazia 4.5 points, Transnistria and Somaliland 4.1 points) remain in the boycott zone, with Nagorno-Karabakh (2.7) receiving the lowest score. Not a single de facto state under scrutiny was found to be completely negated by international society because of its illegality.

Table 2. Relative positioning of de facto states on recognition scale

| 0 – 2.5: negation | None |
| 2.6 – 5: boycott  | NKR TMR Somaliland Abkhazia |
| 5.1 – 7.5: tolerance | TRNC |
| 7.6 – 10: quasi-recognition | Taiwan Kosovo |

Notes: NKR = Nagorno-Karabakh, TRNC = North Cyprus, TMR = Transnistria.

Quasi-recognition: more than autonomy, less than independence?

Taiwan

The political status of Taiwan (Republic of China, ROC) is complicated. Ever since the People’s Republic of China (PRC) replaced the Republic of China in the UN, most states have shifted their diplomatic recognition from ROC to PRC. Cross-strait relations have been tense until very recently, with practically no connections since 1949. Non-governmental relations between the two Chinas have increased though. There have been negotiations to re-establish transportation, commercial and communications links. In some cases, People’s Republic courts even recognise the judgements rendered by courts in Taiwan.\(^\text{16}\) As Taiwanese President Ma Ying-jeou has put it, ties between Taiwan and China are not those “between two nations, but rather a ‘special relationship’”.\(^\text{17}\)

Taiwan is somewhat different from the other de facto states covered in this article as it did not obtain de facto status through secession, but because the international community decided to recognise mainland China and withdrew its recognition from Taiwan in confirmation of the ‘one-China policy’. Still, 22 countries and the Holy See recognise Taiwan as the Republic of China. Today, there are 15 foreign

\(^{16}\)In 2008, China’s Supreme People’s Court promulgated the “Regulation on the People’s Courts’ Recognition of the Civil Judgments Made by the Relevant Courts in the Taiwan Area” since 26 May 1998. Chung, Conflict of Law Rules, 35.

embassies and representations of 47 countries, plus that of the EU, located in
Taipei.\textsuperscript{18} Taiwan itself has embassies in all 23 capitals that recognise the state
and 59 other forms of representation called Taipei Economic and Cultural
(Representative) Offices or Taipei Representative Offices. There is also a
Representative Office to the EU and a Permanent Mission of the Separate
Customs Territory of Taiwan, Penghu, Kinmen and Matsu to the World Trade
Organisation (WTO).

Taiwan’s foreign trade turnover is by far the largest of this group of de facto
states, with estimated exports of $US 255.7 billion and imports of $US 236 billion
in 2008.\textsuperscript{19} This makes an overall turnover of $US 491.7 billion. With a population
of 23 million,\textsuperscript{20} foreign trade turnover per capita is $US 21,406. Taiwan has many
foreign trade partners, with China and the US leading exports and Japan, China
and the US leading imports. Although not a member of the International
Telecommunication Union (ITU), Taiwan has its own international country
code, listed as ‘Taiwan, China’.\textsuperscript{21} Taiwan also has its own internet domain (.tw).

Three Taiwanese airline companies are members of the International Air Transport
Association (IATA) with their country of origin listed as ‘Chinese Taipei’. Taiwan is
not a contracting party to the Chicago Convention, but there are three airports
operating regular international flights to many places in the world. Since April
2009, regular direct flights between mainland China and Taiwan have also started.
The total number of passengers that went through Taiwan’s Taoyuan International
Airport in 2008 was 21,936,083.\textsuperscript{22} Even though Taiwan is not a member of the
Universal Postal Union (UPU), it has direct mail connections with the rest of the
world. In December 2008, direct mail connections between the People’s Republic
and Taiwan were also established and mail no longer has to go through Hong Kong
or Macau.\textsuperscript{23} Taiwan also has separate zip codes.\textsuperscript{24} It is a member of several inter-
national organisations, apart from those already mentioned, ranging from the Asian
Development Bank (ADB) and Asia-Pacific Economic Cooperation (APEC) to the
Unrepresented Nations and Peoples Organisation (UNPO).\textsuperscript{25} As a member of
the International Olympic Committee (IOC), Taiwanese athletes compete in the
Olympic Games under the country name of ‘Chinese Taipei’.

\textsuperscript{18}Ministry of Foreign Affairs of the Republic of China (Taiwan), \textit{Foreign Policy Guidelines}.
\textsuperscript{20}Ibid.
\textsuperscript{21}ITU, \textit{Annex to ITU Operational Bulletin, no. 892}.
\textsuperscript{22}Taiwan Taoyuan International Airport, http://www.taoyuanairport.gov.tw/english/statistics/
passengerqueryresult_e.jsp.
\textsuperscript{23}“Mainland, Taiwan start direct transport, mail services”, \textit{China Daily}, 15 December 2008 http://
www.chinadaily.com.cn/bizchina/2008-12/15/content_7304971.htm
\textsuperscript{24}FreeSearching.com, http://www.freesearching.com/zip_codes_intl-t.htm#Taiwan.
Kosovo

Kosovo is also a little different from the other de facto – in this case, secessionist – states. UN Security Council resolution 1244 of 1999 authorized “...the Secretary-General, with the assistance of relevant international organisations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo...”. Never before had a de facto state enjoyed such an international administration. Kosovo unilaterally declared its independence on 17 February 2008 and has been recognised by 62 states so far (23 August 2009). Sixteen of these countries have established an embassy, thirteen Liaison Offices and one, Denmark, a Representative in Prishtina. The European Commission also has a Liaison Office in Kosovo. Since October 2008, the Republic of Kosovo has opened ten embassies around the world.

Kosovo’s foreign trade relations are tilted towards imports. In 2007, annual imports were $2.6 billion, while exports only reached $527 million. That makes an overall turnover of around $3.1 billion. With a population of 1.8 million people, per capita foreign trade turnover was approximately $1720. Macedonia was Kosovo’s largest import and export market (averaging $308 million and $13 million respectively) from 2003 to 2005, followed by Serbia and Montenegro ($155 million and $7 million). In 2005, 35 percent of imports and 37 percent of exports were from the 25 European Union countries.

International involvement in conflict resolution has been extensive. The UN Security Council established the United Nations Mission to Kosovo (UNMIK) on 10 June 1999. In the ten years since “Kosovo’s Provisional Institutions of Self Government (PISG) were established and gained capacity to assume more responsibilities, UNMIK has moved back from an executive role to one of monitoring and support to local institutions”. Embedded in the UN interim administration is a mission from the Organisation for Security and Cooperation in Europe (OSCE), the largest OSCE field operation. In addition to administration, UNMIK also carries out policing duties with a peak in manpower of about 3300 police officers from more than 50 countries in 2001.

Even though Kosovo is not a party to the Chicago Convention and no Kosovo airlines are members of IATA, 22 airline companies serve international destinations

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27Ibid.
28Ibid.
30World Bank, Kosovo Monthly Economic Briefing.
33Ibid.
from Prishtina International Airport.\textsuperscript{34} The airport handled just under one million passengers in 2006.\textsuperscript{35} Kosovo does not have a telephone country code of its own, and therefore uses the Serbian code for landlines and Monaco’s and Slovenia’s codes for mobile phones. Nor does Kosovo have its own internet domain. While not a Universal Postal Union (UPU) member, mail goes directly to Kosovo under the address ‘Kosovo (UNMIK)’.\textsuperscript{36}

As a fairly young state with contested recognition (for example, EU member states such as Spain, Romania, Slovakia, Greece and Cyprus, together with Russia and China support Serbia’s territorial integrity), Kosovo is not a member of most international organisations, nevertheless, it is a member of two international trade union organisations, the International Trade Union Confederation (ITUC) and the World Federation of Trade Unions (WFTU).\textsuperscript{37} In December 2006, Kosovo joined the Central European Free Trade Agreement (CEFTA).\textsuperscript{38} Unlike Taiwan, Kosovo is not a member of the IOC.

\textbf{Toleration: breaking out of legal limbo}

\textbf{North Cyprus}

The Turkish Republic of Northern Cyprus (TRNC) unilaterally declared its independence in 1983 after two decades of conflict between Greek and Turkish Cypriots. Turkey is the only country that has recognised the breakaway region so far. In the Greek Cypriot view, attribution of any kind of validity to any law, court or other organ of the TRNC must be avoided to safeguard “the state entity” and “the international statehood of Cyprus [that is, the Greek ROC], on the basis of which we function as a member of the international community”.\textsuperscript{39} Nevertheless, there are representations of six countries in TRNC as well as an EU Support Office, and TRNC has 15 representative offices in 11 countries.\textsuperscript{40}

From the 1974 partition of the island until the 2003 opening of the ‘Green Line’ for regular border-crossings, there were no social, cultural or economic links between the two communities in Cyprus. The embargo imposed on the Turkish Republic of Northern Cyprus by the (Greek) Republic of Cyprus destroyed almost all the economic links that had existed through trade and joint businesses. In addition, a 1994 European Court of Justice ruling banned direct Turkish

\textsuperscript{39}Statement by Greek Cypriot Attorney-General, 7 April 2005, http://www.cyprusembassy.net/home/index.php?module=article&kid=2410; See also Özersay and Gürel, “The Cyprus Problem at the European Court of Human Rights”.
Cypriot exports to Europe. After the 2004 EU enlargement brought only the southern part of the partitioned island into the European Union, the Green Line Regulation introduced by the Council of the EU was meant to get around the fundamental problem of recognition to allow legal bilateral trade between the parties: the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control (that is TRNC) to areas under their control have to be accompanied by a document issued by the Turkish Cypriot Chamber of Commerce (an institution that predates the division of Cyprus, and hence enjoys international standing) which is authorised and recognised by the EU.

Due to high costs of production, weak capital structure and low technology, domestic industry has not been able to satisfy internal demand, which is met mainly by imports. Northern Cyprus’ foreign trade reached $US 1.27 billion in 2007, but the balance between imports and exports is heavily biased towards the former with $US 1.2 billion in imports as compared to a mere $US 68.1 million in exports. With a population of around 265,000, this sets per capita turnover of foreign trade at around $US 8450. Turkey is its main trading partner, accounting for 40 percent of exports and 60 percent of imports. Moreover, financial aid from Turkey to the TRNC was on average $US 70 million per annum until the mid-1990s, but since the signing of the 1997 Economic Protocol between the two countries, this has more than doubled.

International involvement in the conflict management between TRNC and the Republic of Cyprus is arguably the most intensive of all the cases examined in this article. The United Nations Peacekeeping Force in Cyprus (UNFICYP), present since 1964, together with the UN mediated inter-communal talks that have taken place since 1975 are important examples of toleration of a conflicting party that does not legally exist.

As a rule, communication with TRNC goes via Turkey. Flights to Europe from unrecognized Ercan airport have to make a stopover in mainland Turkey. Similar restrictions are applied to the TRNC’s marine ports. Turkish Cypriots do not have an internet domain and have to use the Turkish international country code for phone connections. Mail has to be sent to the address ‘Mersin 10, Turkey’. The ‘Turkish Cypriot State’ has only observer status in the Organisation of the Islamic Conference; other international organisations have not yet opened their doors to the TRNC.

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41 Council Regulation (EC), No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession
42 Kaymak, “Growing Apart, Cementing Division”.
44 Ibid.
45 Yilmaz, “Turkey and TRNC during the Process of EU”.
Boycott: back to the ‘normal’ state of affairs

Abkhazia

Abkhazia is a breakaway region of Georgia that first declared its sovereignty in 1990 and then confirmed its independent statehood by adopting a constitution in 1994 after a brief war with the metropolitan country. In 2001, a list of basic principles for a future peace settlement was drafted by Dieter Boden, the Special Representative of the UN Secretary-General, with the consultation of France, Germany, the United Kingdom, the United States and Russia. According to this ‘Boden document’, Abkhazia is a sovereign political entity, but not yet a fully independent state. It defines Abkhazia as a sovereign entity within the sovereign state of Georgia. In 2008, Abkhazia received its first international recognition from Russia, and then from Nicaragua and Venezuela. Most of the states in the world, however, still consider Abkhazia an integral part of Georgia whose territorial integrity must be respected. Using the criteria in this article, this entity ranks simply as a de facto state under boycott from the international community, like Transnistria, Somaliland and Nagorno-Karabakh.

Russia is the only state that has an embassy in the country, while Abkhazia has representations in six Western European countries, as well as several missions in Russia, Turkey and Syria. These foreign representations are actually manned by a single person: presumably various people rather than a network of diplomatic missions represent the secessionist region abroad.

Abkhazia’s foreign trade relies mainly on Russia, with an export turnover of $US 23.8 million and import turnover of $US 124.2 million in 2006. Since population data varies between 220,000 and 340,000, the BBC’s middle approximation (250,000) was taken as the basis for calculating foreign trade turnover per capita, which is around $US 590.

International involvement in conflict management used to be quite intensive on both the regional and global level with a UN Observer Mission in Georgia (assisted by the local OSCE Mission) until Russia vetoed the extension of the UN mandate on 15 June 2009. Other links to the world have remained fairly modest. There are no air communications and the region can be entered only by land through Russia. Entry is visa-free only for citizens of countries belonging to the Commonwealth of Independent States (CIS). All the rest need the Entry Permit Letter which they have

47 Coppieters, The Georgia-Abkhaz Conflict, 29.
to present to the Consular Department of the Abkhazia MFA in order to obtain a visa. Abkhazia uses Georgian phone codes and is not a member of UPU, thus mail has to be redirected through a third country (Russia). Abkhazia does not belong to any international organisation.

**Transnistria**

Transnistria (Transnistrian Moldavian Republic – TMR) is a region in Moldova, east of the river Dniestr, which unilaterally declared independence in 1990. So far, TMR has been recognised only by fellow de facto states, Abkhazia and South Ossetia. In May 1997, the presidents of Moldova and Transnistria signed the Memorandum on the basic principles of their relations’ normalisation, which was also signed by representatives of Russia, Ukraine and the OSCE as guarantors, agreeing to build a common state within the borders of the former Soviet Republic of Moldova. Transnistria has no diplomatic missions abroad and no foreign representations in the country. Instead, Russian consular officials residing in Chisinau (the capital of Moldova) make daily trips to Tiraspol (the capital of Transnistria).

Most of the industrial infrastructure of Soviet Moldova was located on the territory now controlled by Transnistria. One factor that initially helped Transnistria in exports was the decision, taken in 1996, to grant Moldovan customs stamps to TMR authorities and to create a common customs area. This meant that TMR could legally export with Moldovan stamps any goods that it produced or re-exported. The customs stamps with the inscription ‘Republic of Moldova, Tiraspol Customs’ were granted as part of a package deal in the conflict resolution process. This was partly halted in 2001 when Moldova, as a result of its accession to the WTO, withdrew the right to use Moldovan customs stamps in Transnistria. Since then, new stamps have been granted only to those TMR companies registered as legal entities in Chisinau. By March 2008, over 450 large and medium-sized enterprises had been legalised in this way.

Foreign trade in Transnistria seems to be relatively active. The entity has 99 trade partners, the major ones being the US, Germany, Russia, Ukraine and Moldova. Transnistria’s total exports were $US 727 million and total imports $US 1131.6

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54 Kolossov, “A Small State vs. a Self-proclaimed Republic”, 27.
56 UNHCR, Moldova and Russia, http://www.unhcr.org/refworld/country,QUERYRESPONSE,RUS,42df61d33f,0.html.
57 Munteanu and Munteanu, “Transnistria: A Paradise for Vested Interests”, 15.
58 Popescu, The EU in Moldova, 50.
59 Munteanu and Munteanu, “Transnistria: A Paradise for Vested Interests”.
million in 2007.\textsuperscript{61} With a population of 555,350 people (2004),\textsuperscript{62} the per capita turnover of foreign trade is around $US 3350. This has been on the increase since 2000, when the total volume of Transnistrian export–import operations exceeded three times the per capita turnover in the rest of Moldova.\textsuperscript{63}

International involvement in the conflict between Moldova and its breakaway region has been at regional level only. In 1993, the OSCE (then CSCE, the Conference on Security and Cooperation in Europe) established a Mission in Moldova to support efforts to find a peaceful solution to the conflict.\textsuperscript{64} The European Union has only recently started to engage in this conflict area through its European Union Border Assistance Mission (EUBAM) and European Neighbourhood Policy (ENP).

Entry into Transnistria from either Moldova proper or Ukraine is visa-free and subject to relatively mild border regulations (migration control of foreign citizens). Transnistrian passports are largely valid in the former Soviet space (CIS). There are no regular flights from Tiraspol to the rest of the world. Nevertheless, Tiraspol airport, through which arms have allegedly been exported, is licensed by the Moldovan Aviation Authority to operate international flights.\textsuperscript{65} Despite the ‘frozen’ conflict, buses to Tiraspol and Bender (Tighina) depart from Chisinau every 30–45 minutes.\textsuperscript{66} Transnistria uses Moldovan phone codes and, strangely enough, uses 3G–CDMA mobile communication, a standard brought in by a US company.\textsuperscript{67} Its international mail goes through Moldova and uses Moldovan post stamps. Transnistria is not a member of any international organisation.

\section*{Somaliland}

Somaliland is a secessionist region of Somalia that has been de facto independent without international recognition since 1991. A country with an estimated population of 3.5 million people in the Horn of Africa, it sometimes claims to be a democracy although it is rated as ‘partly free’ by Freedom House, mainly due to constraints on freedom of the press. One thing that has prevented recognition of Somaliland is the attitude of the UN and the African Union (AU) towards preserving existing national borders in Africa, even though the AU has accepted that Somaliland’s “case should not be linked to the notion of ‘opening a Pandora’s box’”.\textsuperscript{68}

\begin{footnotesize}
\textsuperscript{61} Ibid.
\textsuperscript{62} Ibid.
\textsuperscript{63} Gudym, Kutyrkin, and Shelari, “Transnistrian Economy: Initiatives and Risks”.
\textsuperscript{65} Popescu, \textit{The EU in Moldova}, 50, p. 21
\textsuperscript{67} Candea and Ozon, “Pridnestrovskaya Moldavskaya Respublika – Terra Incognita”.
\end{footnotesize}
Somaliland’s case is unique in that the state that it is trying to break away from is not capable of carrying out state functions. Various transitional governments have tried to establish their rule in Somalia, to no avail. In 2000, the Somali Transitional National Government “obtained a remarkable degree of international recognition even before it had gained effective control over the capital city, let alone other parts of southern Somalia”. Since 2004, the Transitional Federal Government is the internationally recognised Somali government, but does not control the entire country either. Somaliland’s government, on the contrary, has control over its territory and is able to perform the functions of a state.

Somaliland’s search for international recognition has gained some credit during its eighteen-year history in terms of political interaction with existing states, with the president of Somaliland having made a few visits to major world capitals, including one to the United Kingdom in March 2009 to meet with the UK foreign minister. Somaliland has representations in five countries – the US, the UK, Ethiopia, Djibouti and Italy. Ethiopia has a diplomatic representation in Hargeysa, Somaliland’s capital. In addition, the UN Development Programme has a compound in the country.

Data on Somaliland’s economic activities is scarce and not easily obtainable. What is known is that its economy is largely dependent on livestock exports to major markets in the Gulf countries, such as Saudi Arabia, United Arab Emirates, Yemen and Oman. Somaliland has signed an agreement on cooperation with neighbouring Ethiopia, but business with other countries is on an ad hoc basis. An important factor in Somaliland’s foreign trade activities is the port of Berbera, which serves landlocked Ethiopia. According to some unspecified reports, the entity’s total exports were $US 176.6 million, while imports exceeded $US 200 million. Somaliland’s foreign trade turnover is around $US 380 million, which sets the per capita figure at around $US 110.

International organisations do not recognise Somaliland as an independent country and therefore missions to Somaliland are in general the same as to Somalia. Nor is Somaliland a member of organisations such as the Universal Postal Union. It does not have its own internet domain or telephone code, thus Somalia’s phone code is used and mail is delivered through Ethiopia. The only
international organisation in which Somaliland is a member is the Unrepresented
Nations and Peoples Organisation (UNPO). Although Somaliland is not a party to
the Chicago Convention, it has flight connections with Ethiopia, Kenya and
Djibouti.76 Visitors to Somaliland require visas that are issued from the
Somaliland Missions in either London or Addis Ababa.77

Nagorno-Karabakh

The Nagorno-Karabakh is a region in Azerbaijan, which is populated mostly by
ethnic Armenians. It is de jure part of Azerbaijan, but de facto controlled by an
independent government. It declared its independence as the Nagorno-Karabakh
Republic (NKR) in 1991 and waged a war against Azerbaijan that ultimately ended
in victory for the ethnic Armenians in 1994, who then pushed on to occupy
Azerbaijani territory outside Karabakh to create a buffer zone linking Karabakh
to Armenia.78 Three UN Security Council resolutions (853, 874, and 884), all
considering the region to be part of Azerbaijan, have been passed on this matter.
Although NKR has declared its independence, the country’s close ties with
Armenia might suggest that its real aim is not full sovereignty. Marietta König
argues that the majority of the Karabakh population have Armenian citizenship and
that “Nagorno-Karabakh would prefer union with Armenia and the creation of a
corridor to link them”.79 Therefore one cannot entirely rule out the possibility of
irredentism rather than ordinary secession in this case.

The Karabakh economy is closely connected to that of Armenia. According to
the NKR National Statistical Service, the overall foreign trade turnover in NKR
was $US 305 million in 2007.80 Exports contributed $US 55 million to this and
imports $US 250 million. Given a total population of 136,60081, per capita for-

eign trade turnover is around $US 2200. According to 2007 data, 97 percent of
Karabakh’s exports went to and 92 percent of its imports came from Armenia.82
Yet, Nagorno-Karabakh’s foreign relations are not as unidimensional as its foreign
trade. The NKR Foreign Ministry declares on its webpage83 to have representa-
tions, called NKR Permanent Missions, in seven countries (Armenia, Russia, the
US, Australia, France, Germany and Lebanon).

International involvement in the conflict in NKR has been through the OSCE’s
Minsk Process, initiated in 1992, tasked with providing an appropriate framework

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79König, “Effects of the Kosovo Status Negotiations”, 14.
81Ibid.
82National Statistical Service of Nagorno-Karabakh Republic, Main socio-economic indicators.
83Ibid.
for conflict resolution and peacekeeping. The process is still ongoing as the tasks have not been fulfilled.

Communication with NKR is limited. The country does not have its own internet or telephone country codes, so Armenia again acts as the intermediary country. NKR is not a party to the Chicago Convention and there are no flight connections to NKR; visitors can only enter the NKR through Armenia. Yerevan is also the only place where one can obtain visa for visiting NKR although border control is hardly evident. NKR is not a member of the UPU: mail reaches Nagorno-Karabakh via Armenia, even though NKR’s postal company, ArtsakhPost, issued three stamps in 15,000 copies in 2008, which are used by tourists to send postcards to their home countries. Nagorno-Karabakh is not a member of any international organisation.

**Conclusion**

This article has presented data pertaining to characteristics that reflect the degree of normalisation of de facto states in their relations with the rest of the world. These characteristics covering the political, economic and public spheres, made it possible to construct a ‘normalization index’ and set up a recognition scale exposing the openness of de facto states to the world and the level of their integration in international society: negation, boycott, toleration or quasi-recognition. Taiwan and Kosovo led the scale with scores high enough to be classified as ‘quasi-recognition’, followed by North Cyprus which unexpectedly received ‘toleration’. All the other cases analysed (Abkhazia, Transnistria, Somaliland and Nagorno-Karabakh) remained in the boycott zone. Surprisingly enough, not a single de facto state under scrutiny was found to be completely ‘negated’ by international society because of its illegality.

One can ask, then, what factors condition the relative positions of de facto states? Do the legality of secession, democratic governance and external patronage matter? Yes, they do. Secession, although legally taboo, may provide some grounds for a shift towards recognition when it is the last resort against serious injustices. Liberal democracies always receive more recognition from the international community than authoritarian regimes. Last but not least, an external patron can easily provide more access and help in dealing with the rest of world. Yet, variables that reveal the international community’s attempts to integrate de facto states, and conversely, the de facto state’s willingness to open up to the world, can tell us more about relative differences between stages of quasi-recognition, toleration, boycott and negation.

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than legal principles (external sovereignty) or matters of governance (internal sovereignty) can.

What to do with this knowledge? This exploratory article has attempted to demonstrate that there can be different levels of acceptance of de facto states by international society. If this differentiation as exposed by the ‘normalisation index’ can be related to the range of normalisation of relations – from recognised to unrecognized – then one might be able to start to look for solutions within the status quo and perhaps call for a new approach towards de facto states.

Instead of favouring often illegitimate and in many cases dysfunctional power-sharing options or proposing a reinforced reunification agenda – usually achieved by military means – it is argued here that the status quo may offer various forms of normalisation even when legal recognition has not been granted. Especially, when the political nature of the ‘recognition game’ leaves no space for evolving opportunity structures and does not enable de facto states to legalise their practices. Yet, as demonstrated in this article, it would be wrong to treat all de facto states as ‘internationally unrecognised territories’ since recognition varies.

Engagement could be pursued with more or less sovereign yet formally dependent territories that are accepted by international society even if not legally recognised. Greater engagement with de facto states could lead to integrationist tendencies (such as Turkish Cypriots’ willingness to reunify), whereas a policy of ‘turning the clock back’ or ‘closing an eye’ will ultimately support an increase in separatist forces (as in Abkhazia).

References


