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Why Recognition Matters: The Death Of Absolute Sovereignty

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Why recognition matters: The death of absolute sovereignty.

Cameron Armstrong

Senior Thesis

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Introduction

The terror group known as Islamic State of Iraq and Syria (ISIS)¹ has posed many new challenges to the international state system. Among the challenges presented by ISIS, the most important deal with the theory and application of building a state. ISIS has declared itself in possession of territory that it calls its caliphate. A caliphate is a land that is ruled by a Muslim caliph who draws direct lineage back to the Prophet Muhammad.² ISIS views this caliphate as integral to the survival of their ideology as well as their people. While statehood is certainly an important factor for the long term survivability of any people, establishing a state is a complex international matter. Without a proper understanding of statehood and the obligations that it entails, no fledgling nation will survive. So what have ISIS' mistakes taught the international community about survival?

The idea of statehood is a concept widely expressed in modern political theory, but little is agreed upon. At first, the Treaty of Westphalia³ in 1648 modeled how the international state system would be run. In the 20th century, both the League of Nations⁴ and the United Nations (UN)⁵ would be erected as the applicable definer of statehood. Conventions have also been held

1 Bunzel, Cole. 2015. "From Paper State to Caliphate: The Ideology of the Islamic State." *The Brookings Project on U.S. Relations with the Islamic World*. <https://www.brookings.edu/research/from-paper-state-to-caliphate-the-ideology-of-the-islamic-state/>

2 Epatko, Larisa. 2014. "What is a caliphate?" *PBS*. <http://www.pbs.org/newshour/updates/caliphate/>

3 Tischer, Anuschka. 2015. "Peace of Westphalia (1648)." *Peace of Westphalia (1648) - International Relations - Oxford Bibliographies*. <http://www.oxfordbibliographies.com/view/document/obo-9780199743292/obo-9780199743292-0073.xml>

4 Trueman, C N. 2015. "League of Nations." *History Learning Site*. <http://www.historylearningsite.co.uk/modern-world-history-1918-to-1980/league-of-nations/>

5 Fomerand, Jacques, and Cecelia M. Lynch. 2017. "United Nations (UN)." *Encyclopædia Britannica*. <https://www.britannica.com/topic/United-Nations>

to establish the very meaning of the word. Statehood is the highest status that a collective group of people can attain on the international stage. By examining all that is currently understood of what being a state entails and casting it's light toward the most recent exercise in state building, historians can attempt to formulate a more succinct method of admission into the international state system. In this paper, I will contend that ISIS' misunderstandings of the changes that the international system has undergone, has undermined their collective goals and political longevity. Not only do ISIS' mistakes prevent them from gaining legitimacy on the ground, but also from gaining international legitimacy.

To understand how ISIS actually thinks and operates, we must examine four terms that need explanation. First and foremost is sovereignty. Sovereignty⁶ is essentially the power that gives a leader(s) the ability to govern their territory. By incorrectly utilizing the principles of sovereignty, ISIS has undermined their own local value as a system of governance. The second term to be examined is recognition. Recognition⁷ is the unilateral action taken by an established state to confer legitimacy to the government of another state or nation. ISIS failed to recognize the importance of recognition on the international scale. Lastly, are two diametrically opposed terms that deal with the application of statehood. The constitutive and declarative application of statehood have both been utilized on the international stage before, but clearly one leads the charge today. The constitutive method⁸ of statehood says that once a territory reaches necessary criteria and declares itself a state, it is a state. The constitutive method explicitly states that

6 Sinclair, A., and M. Byers. 2007. "When US Scholars Speak of 'Sovereignty, what do they Mean?" *Political Studies* 55(2): 318–40.

7 Lindemann, Thomas, and Erik Ringmar. 2015. *International Politics of Recognition*. Taylor and Francis.

ISBN: 1-59451-809-2, 978-1-59451-809-6

8 Worster, William Thomas. 2009. "LAW, POLITICS, AND THE CONCEPTION OF THE STATE IN STATE RECOGNITION THEORY." *BOSTON UNIVERSITY INTERNATIONAL LAW JOURNAL* 27: 115–72. <http://www.bu.edu/ilj/archives/volume-27-spring-2009-issue-1/>

recognition doesn't factor into a state's existence. However, the declarative method⁹ views only recognition as the establishment of statehood. By getting other nations to agree to the legitimacy of statehood, states are more welcome to the international community. While certainly the world had previously operated under a constitutive method, the late 20th and 21st centuries have brought about the actualization of the declarative method. ISIS failed to recognize that the international community plays by a different set of rules and therefore set themselves up for failure by adopting a constitutive world view.

Literature Review

Sovereignty

The fact that certain individuals of society hold a platform above reproach and rebuke is something as old as time itself. While there have been tyrants, kings, and caliphs for time immemorial, not much was mentioned about why these people carried the power that they did. This changed when the Roman philosopher Ulpian noted three distinct powers that the Emperor possessed. The first of these is the *imperium* of the people of Rome is given to their emperor. Second, Ulpian states, "princeps legibus solutus est."¹⁰ When translated from Latin, the phrase reads that the Emperor is free from laws. Lastly, Ulpian writes the phrase, "Quod principi placuit, legis habet vigorem."¹¹ This phrase is translated to the English meaning, "what pleases the ruler, has the force of law." Ulpian's third observation confirmed that the emperor could make binding decisions for all people within his sphere of influence. What Ulpian did was

⁹ Ibid, 8.

¹⁰ Zane, John M. . 1918. "A Legal Heresy ." *Illinois Law Review* 13(1): 255–86.

¹¹ Ibid, 10.

essentially lay the foundation for sovereignty. These three basic observations that Ulpian describes are what constitutes modern sovereignty.

While Ulpian may have been the forefather of sovereignty, most contemporary scholars will acknowledge Jean Bodin of France as the beginning point of modern international sovereignty. Bodin serves as not only a philosopher but a natural historian who was fascinated by relations to the state and by the state. Upon writing his work, *Six Books of the Commonwealth*, Bodin explored the individual's role in maintaining the state, as well as how state interacted with each other. Importantly, Bodin discussed the idea of what he described as the *puissance souveraine*, or the sovereign power. This power was enumerated upon in chapter eight. Bodin's work is translated as, "Sovereignty is that absolute and perpetual power vested in a commonwealth which in Latin is termed majestas."¹² Bodin's thoughts are the foundation for what was believed about sovereignty for so long. Power was vested in an individual or a small collective to represent the majority. Bodin states "I have described it as perpetual because one can give absolute power to a person or group of persons for a period of time, but that time expired they become subjects once more."¹³

Bodin's argument is that sovereignty is more than just a person or leader who has the ability to make laws and regulations. When that power is removed from a person, they become just like anyone else within the country. Bodin believes that a sovereign should have perpetual power—one that is everlasting. This perpetual power is the highest attainable position as the power of sovereignty gives the individual the ability to make decisions that are binding and unchallengeable by any outside force.

¹² Bodin, Jean, and Michael Tooley. 2009. *Six books of the commonwealth*. Lexington, KY: Seven Treasures Publications.

¹³ *Ibid*, 12.

The only limit that Jean Bodin puts on sovereignty is when he states, “The absolute power of princes and sovereign lords does not extend to the laws of God and of nature.”¹⁴ By including the supernatural and the laws of physics, Bodin clearly understood that the sovereign is the highest potential source of power for a state. Therefore it is rational to say that sovereignty is the ability to rule, dictate, and create policy without interference from anyone within the natural world. A sovereign beholds to no man, aside from himself.

Bodin’s definition of sovereignty is a good starting point to examine perhaps the most influential writer on sovereignty. Thomas Hobbes became a sort of echo-chamber turned amplifier for Bodin. Hobbes published *Leviathan* in 1651 which tried to examine the natural state of humankind. Hobbes states that,

... the Sovereign Power, whether placed in One Man, as in Monarchy, or in one Assembly of men, as in Popular, and Aristocraticall Common-wealths, is as great, as possibly men can be imagined to make it.... And whosoever thinking Sovereign Power too great, will seek to make it lesse; must subject himselfe, to the Power, that can limit it; that is to say, to a greater.¹⁵

Hobbes beliefs were actually slightly different from Bodin. While both agreed that the sovereign of a state must have absolute and perpetual power, Hobbes comes to the conclusion that people should just submit to the will of an absolute power in order to protect themselves. Hobbes says,

14 Ibid,12

15 Hobbes, Thomas . 2009. “Leviathan.” https://www.gutenberg.org/files/3207/3207-h/3207-h.htm#link2H_4_0248 (February 1, 2017).

“In those Nations, whose Common-wealths have been long-lived, and not been destroyed, but by forraign warre, the Subjects never did dispute of the Sovereign Power.”¹⁶ Hobbes’ point is that society is better when ruled by someone with absolute and unassailable power

Ulpian, Bodin, and Hobbes gave us the foundation for sovereignty within a state, but didn’t much examine how sovereignty plays a role internationally. As time has progressed and the world, as well as states, have become further interconnected, sovereignty has changed. Starting in the early 20th century, scholars began to study how sovereignty impacted our global relationships.

External sovereignty or *recognition* is similar to many aspects of internal sovereignty but played on a different stage. Currently, a state is considered sovereign on the international scale when it becomes the representing authority for the territory and people it claims. This was examined in the works of Lassa Oppenheim in the 1912 book, *The Future of International Law*. Oppenheim’s work consisted of examining past systems of international governance, their shortcomings, and potential fixes for future global societies. According to Oppenheim, a world-state wouldn’t generate world peace. He believed that conflicts stemmed from sources other than national identities. This led Oppenheim to the belief that creating an international system of agreed-upon laws would be the only solution to the absolutist rule of pure internal sovereignty. Oppenheim states that, “It would be extremely difficult to enumerate any large number of universally accepted rules of the law of nations—apart from those which have obtained recognition as customary law.”¹⁷ This is an early example of ascribing obligations to the international community. States on a larger scale would have obligations that would bind them to

¹⁶ Ibid, 15

¹⁷ Oppenheim, L. 2013. *The future of international law*. Farmington Hills, MI: Gale MOML Print Editions.

other states. Not only was this a method of peacemaking, but by sharing common laws and rules, nations would build better economic relationships. Oppenheim's early work would be later investigated in the 20th century to examine new state formation and acceptance.

Another theorist who delved into the idea of external sovereignty is Erik Ringmar. Ringmar is the co-author of a book entitled, *International Politics of Recognition*. Understanding the work of Oppenheim, Ringmar states that, "The state is the persona of international law in much the same way as individuals are the persona of civil law and corporations the persona of commercial law."¹⁸ The international system is conceived of sovereign nations that act as the sole representative for other nations to interact with. There is only one sovereign representative for all citizens of the United States. This type of sovereignty is outside of the sovereign powers that are held within the given territory of the state. The state has now become the de facto apparatus of interaction on the global stage. Ringmar goes on to say that, "... the struggle for recognition surely provides the motivation for many of the things that states do."¹⁹ External sovereignty and the struggle to be a member of the international community is one of the biggest challenges that any new government faces. This sort of identity crisis for members of a society who have undergone a governmental transformation must be agonizing. Recognition on the international stage certainly provides a sense of dignity to any group of people.

As state formation is a constant struggle, currently recognized states must safeguard the idea of statehood. Christian Hillgruber of the University of Heidelberg argues that current states must place obligations on fledgling nations and hold these obligations in the highest regards of international law. Hillgruber begins his piece by stating, "By the procedure of recognition, these

¹⁸ Ibid, 7.

¹⁹ Ibid, 7.

states exercise their prerogative to determine in advance whether the newcomer, in their judgment, is able and willing to carry out all its obligations as a subject of international law...”²⁰ This is the crux of external sovereignty. Established states are the determining factor on statehood. A government might be independent and have all the criteria enumerated to qualify as a state but as long as other nations don't validate the existence of that government, it will never thrive. Hillgruber also elaborates on the effect of non-recognition. He writes,

Thus, non-recognition is only considered as an option if the unreliability of the new state as a partner in international relations appears to be so serious that the community of states, on account of its self-image as a legal community, refrains from integrating the new state and keeps it away from the international community, despite the problems pertaining to international law that arise from the new state's position as an outsider in legal terms.²¹

Nations that have already withstood the rigor of statehood claim a legitimacy to the word. With this legitimacy come the power to withhold it from states that do not meet current obligations to the international community. While this may seem largely symbolic, it actually has profound effects. Nations that aren't considered states aren't offered the protection of international law. Furthermore, nations that aren't part of international law have no way to shape it. Without a seat at the table, policies are difficult to change. External sovereignty is a matter of accepting the motives, culture, and values of another group of people.

20 Hillgruber, C. 1998. "The Admission of New States to the International Community." *European Journal of International Law* 9(3): 491–509.

21 *Ibid*, 20

Declarative Theory

When looking at the actual application of statehood on the international stage, two competing methods of acceptance emerge. The first mode of conferring statehood is through the declarative method of statehood. The declarative theory is best examined through the lense of internal sovereignty. Declarative theory is described as a,

purported state's assertion of its sovereignty within the territory it exclusively controls to determine if it can access the international plane. It is the opposite of the constitutive theory in that it holds that recognition is almost irrelevant because states have little to no discretion in determining whether an entity constitutes a state.²²

Declarative theory was the predominant method of ascribing statehood throughout human history. Once a state had fought for independence and a legitimate government declared itself active on the international stage, a nation became a state. Even if other states had issue with the operation and expression of governance, their recognition or lack thereof had no bearing on the existence of another state. The best example of this type of declarative theory would be the 1933 Montevideo Convention on the Rights and Duties of States.²³

²² Ibid, 8.

²³ "Montevideo Convention on the Rights and Duties of States." *CFR.org*. Council on Foreign Relations, 31 Dec. 1969. Web.

The 1933 Montevideo Convention of States was a meeting to determine the qualifications needed for independence and official statehood. The participants of this convention were all American countries. This treaty was also only ratified by American countries and has never been ratified internationally, but it does set the precedent for the declarative theory of the 20th century. There are three distinct articles of the treaty that apply to declarative theory. Article one of the treaty states, “The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states.”²⁴ The opening of the treaty essentially defines a state as having a population, territory, government, and an alliance. Article three dictates that, “The political existence of the state is independent of recognition by the other states.”²⁵ This is perhaps the most important piece to pull from the 1933 Convention. This means that states have the right to fight for their own existence without being recognized by other countries. Article 4 of the Montevideo Convention reads, “States are juridically equal, enjoy the same rights, and have equal capacity in their exercise.”²⁶ This gives further weight to sovereignty being important to the statehood of a country. The Montevideo convention is solely the application of internal sovereignty theory. States are states when they declare themselves as such. Recognition holds no validity when determining the legitimacy of a state. The power of the sovereign is free from outside influence. While the 1933 Montevideo Convention is the best example of declaratory theory, international practice has often tacked in the direction of constitutive theory.

Constitutive Theory

²⁴ Ibid, 23.

²⁵ Ibid, 23.

²⁶ Ibid, 23.

While the declarative theory is best operated with an indifference to international recognition, the constitutive theory is based upon gaining recognition from other states. This has largely been the model that the UN has used when applying statehood to new members. Constitutive method of statehood is best stated as, “recognition of an entity as a state is not automatic. A state is only a state when it is recognized as such and other states have a considerable discretion to recognize or not. Moreover, only upon recognition by those other states does the new state exist, at least in a legal sense.”²⁷ Recognition has become the preferred method of international state building. This is the model that the UN has used during its time as the premier body of international relations. As the UN has been the best example of international cooperation in the 21st century, it is important to analyze the path in which a state can become a member of the UN.

In the 21st Century, the highest body of governance is the UN. The UN is a collection of 193 countries which each send representatives to convene on international issues.²⁸ Membership to the UN is a highly controversial matter. The UN charter states that, “is open to all peace-loving States that accept the obligations contained in the UN Charter and, in the judgment of the Organization, are able to carry out these obligations.”²⁹ While the charter gives a basic outline of what is required for all member states, it doesn’t lay out the exact criteria of what that state must adhere to. Furthermore, it doesn’t say what criteria it defines a state as. The application process is an important hurdle to gain access to the UN but is highly politicized.

²⁷ Ibid, 8

²⁸ “Overview.” *United Nations*. <http://www.un.org/en/sections/about-un/overview/>

²⁹ “Chapter II.” *United Nations*. <http://www.un.org/en/sections/un-charter/chapter-ii/index.html>

Today's procedure to join the UN is slightly more complicated but is still as ambiguous as the declaration in the charter. First, a potential state must lodge a to the Secretary-General of the Security Council. In this application, the potential state must agree to abide by all rules and responsibilities placed on it by the UN. Once the Secretary-general accepts the application, a vote is conducted. All five permanent members (the United States, Russia, China, the United Kingdom, and France) must agree with the inclusion of the nation. From there, a prospective state must secure a total of nine votes from the 15-member Security Council. This is the most difficult hindrance to overcome when becoming a member state of the UN. Lastly, a vote within the UN General Assembly is held. A prospective country needs a two-thirds majority vote to finally be accepted into the ranks of the UN. If the two-thirds standard is met, a nation becomes a UN member that same day.³⁰ This recognition places you within the most powerful body on the face of the planet.

Historical Context

Since the UN is the highest body of applicative statehood, it is important to examine the historical context and power that recognition from the UN confers. Historically, very few sovereign nations have ever been excluded from the UN.³¹ Therefore it is imperative to examine the cases of some countries that are not members of the UN and examine why this is. Furthermore, since the UN is the highest attainable power position for any state on the international stage, states overwhelmingly crave to be admitted to such a group. With the

30 "About UN Membership." *United Nations*. <http://www.un.org/en/sections/member-states/about-un-membership/index.html>

31 Rosenberg, Matt. "3 Countries That Are Not Members of the United Nations." *ThoughtCo*. <https://www.thoughtco.com/non-members-of-the-united-nations-1435429>

application process being ambiguous, as well as controversial, states have to navigate international interests and rivalries to gain admittance. Three examples that highlight the complexities of joining the UN would be the countries of Taiwan, Kosovo, and Palestine. While there are a handful of other examples, these three highlight the failings of the international system the best.

The first country to examine when detailing acceptance into the UN is that of Taiwan. Currently there are two governments which claim the legitimate authority over the country of China. First is the People's Republic of China, led by the communist party in Beijing. This is contrasted against the Republic of China which is governed out of Taipei. Both of these governments have existed since the 1940s and have been in contention over their respective legitimacy to lead China.³² Since the passage of UN General Assembly (GA) Resolution 2758, the UN has ceased recognition of Taiwan as anything other than a piece of Beijing's territory. The GA Resolution established that, "the representatives of the Government of the People's Republic of China are the only lawful representatives of China to the UN and that the People's Republic of China is one of the five permanent members of the Security Council."³³ This gave the Beijing government all power on the international stage which essentially stripped sovereignty away from Taiwan. Furthermore, the GA Resolution expelled Taiwan from the UN altogether. The GA Resolution 2758 reads, "to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the UN and in all the organizations related to it."³⁴ This removed the Republic of China from any and all committees, organizations,

32 M, J. 2014. "Why China and Taiwan are divided." *The Economist*. <http://www.economist.com/blogs/economist-explains/2014/08/economist-explains-16>

33 United Nations. 1971. United Nations General Assembly Resolution 2758. 2

34 Ibid, 33.

and treaties through the UN. While this may have been seen as a death blow for the Republic of China, Taiwan has surprisingly thrived even though they are not members of the UN.

Taiwan has undergone an extensive transformation since the 1971 resolution. Today, it has established a constitution, an elected president, and a standing military,³⁵ and has even applied to become an independent member again in the UN. Their most recent bid was turned down in 2007.³⁶ Taiwan has historically been blocked from joining the UN by China. The Chinese government is included on the Security Council of the UN and has veto power which prevents Taiwan from ever becoming a member. Sigrid Winkler of the Brookings Institute writes, “China also claims Taiwan as part of its territory and denies that Taiwan is a sovereign state.”³⁷ Winkler also keenly notes that, “Membership – the highest form of participation – in the UN is inextricably linked with the question of sovereignty. Both China and Taiwan are highly aware of this problem...”³⁸ Taiwan in 2017 presents a conundrum for the UN as well as International Relations Theory. While Taiwan has both internal sovereignty and a limited scope of external sovereignty, it clearly constitutes a state. Yet, political rivalries plague the international system and prevent representation for millions of people. Taiwan’s situation is still ongoing and doesn’t seem to be changing anytime soon.

The crisis of disputed territory and political rivalry is no different than with the admission of Palestine to the UN. While not a full-fledged member, Palestine has obtained the same rights

35 “The World Factbook: TAIWAN.” 2017. *Central Intelligence Agency*. <https://www.cia.gov/library/publications/the-world-factbook/geos/tw.html>

36 Winkler, Sigrid. 2016. “Taiwan’s UN Dilemma: To Be or Not To Be | Brookings Institution.” *Brookings*. <https://www.brookings.edu/opinions/taiwans-un-dilemma-to-be-or-not-to-be/>

37 *Ibid*, 36.

38 *Ibid*, 36.

and obligations as a “non-member observer state.”³⁹ Palestine comprises the government that has been elected to represent the disputed territories of the West Bank and the Gaza Strip. Caused by disagreement between Israel and the Palestine Liberation Organization (PLO), the sovereignty of Palestine has been a massive international dispute.⁴⁰ The West Bank and the Gaza Strip have been contested lands since the end of 1967. When the Six-Day War ended, Israel claimed that the territory it now controlled was its own. Furthermore, Israel refused to engage with the PLO due to the fact that the PLO was established as a terrorist organization, even though they were the democratically-elected representatives for the people of Palestine.⁴¹

While trying to steer clear of the actual Israeli-Palestinian conflict, a larger discourse took place on the international stage about the right to self-determination by the Palestinians. In 2012, Palestine was granted non-member observer state status within the UN.⁴² According to the UN a non-member observer state, “received a standing invitation to participate as observers in the sessions and the work of the General Assembly and maintaining permanent observer missions at Headquarters.”⁴³ Currently the only other non-member observer state is the Holy See.⁴⁴ Since Palestine and Israel have both expressed interest in finding a two-state solution, Palestine is considered a separate entity and its own sovereign state.⁴⁵ As of September 2015, 136 out of the

39 “Non-Member States.” *United Nations*. <http://www.un.org/en/sections/member-states/non-member-states/index.html>

40 Katirai, Negar. 2001. “A History of the Israeli/Palestinian Conflict.” *PBS*. <http://www.pbs.org/pov/promises/photo-gallery-conflict-timeline/>

41 *Ibid*, 40

42 “General Assembly Votes Overwhelmingly to Accord Palestine ‘Non-Member Observer State’ Status in United Nations | Meetings Coverage and Press Releases.” *United Nations*. <https://www.un.org/press/en/2012/ga11317.doc.htm> (April 18, 2017).

43 “United Nations, main body, main organs, General Assembly.” *United Nations*. <http://www.un.org/en/ga/about/observers.shtml>

44 *Ibid*, 41.

45 *Ibid*, 40.

193 UN members recognize Palestine as a sovereign country, yet that is still not enough to become a full member.⁴⁶

Lastly, we must examine the contested territory of Kosovo. Kosovo is a disputed territory and a partially recognized state. It is a landlocked mass which is historically claimed by Serbia. Kosovo was originally placed under UN administration in 1999 after the ending of the Kosovo War. Fought as a war of independence from the Republic of Serbia, the Kosovo Liberation Army fought to destroy the influence Serbian police and paramilitary had. An international coalition eventually intervened and bombed portions of Greater Yugoslavia in an attempt to limit further violence. Even though Kosovo was placed under UN control in 1999, it has never been permitted sovereignty or admission into the UN.⁴⁷ This is due to the historic claim that Serbia has over Kosovo's land. Even though Kosovo has attempted to become part of the UN, any time they lodge a bid to become a member, their prospective membership is vetoed by Russia. Russia maintains a strong relationship with Serbia and has stated that Kosovo is an illegal government and will view it that way until Serbia changes its position or Kosovo is returned to Serbian possession.⁴⁸

While Kosovo has not gained acceptance into the UN, it is a significantly recognized state. Over 113 countries recognize Kosovo as an independent, sovereign nation.⁴⁹ While Kosovo's status as a UN member doesn't seem to be changing, the Serbian government has

46 Moore, Jack. 2016. "Jimmy Carter to Barack Obama: Recognize the state of Palestine." *Newsweek*.

<http://www.newsweek.com/jimmy-carter-barack-obama-recognize-state-palestine-526252>

47 The Editors of Encyclopædia Britannica. 2011. "Kosovo conflict." *Encyclopædia Britannica*.

<https://www.britannica.com/event/Kosovo-conflict>

48 Makarova, Natalia. 2010. "UN membership door closed for Kosovo – Moscow." *RT International*.

<https://www.rt.com/politics/churkin-kosovo-un-resolution/>

49 "International Recognitions Of The Republic Of Kosovo - Foreign Policy." *Ministry of Foreign Affairs - Republic of Kosovo*.

<http://www.mfa-ks.net/?page=2%2C224>.

agreed to normalize relations with Kosovo. As a result, there is some light at the end of the tunnel in terms of recognized statehood for Kosovo.

While the UN is the highest body of statehood that is achievable in the 21st century, it isn't without problems and complexities. From historical rivalries to old vendettas, these are all played out on the security council. It is important to understand that even though states may join together to try to cooperate on world issues, each state looks out for its own interests. Circumnavigating around these interests is the most difficult aspect of any international accord. Examining the old cases of contention and applying them to new cases can help to demonstrate how broken the idea of sovereignty has become.

Isis: A Model for Destruction

Trying to understand the formulation of a new state is much like trying to fit jigsaw pieces together. Many of the determining factors within state formation are heavily reliant on each other. By dissecting each of the four criteria down into bite-sized pieces, a more clear picture is able to be discerned. Beginning with the initial criteria of territory and progressing to relations for ISIS, their attempt at statehood shall be enlightened.

At the height of power in 2014, ISIS encompassed a mass geographical area of approximately 34,000 square miles.⁵⁰ This area is roughly the size of the state of Maine in the United States.⁵¹ This area is geo-strategically influential due to its location as well as the resources that it contains. Syria has borders with both Iraq, Jordan, and Turkey. Iraq is currently

50 "ISIS Fast Facts." 2017. *CNN*. <http://www.cnn.com/2014/08/08/world/isis-fast-facts/>

51 "34,000 Square Miles." *The Measure of Things* .

<http://www.bluebulbprojects.com/MeasureOfThings/results.php?comp=area&unit=mi2&amt=34000&sort=pr&p=1>

undergoing its own crisis, but Jordan and Turkey are two of the largest geopolitical allies that the United States has in the Middle East. With the destabilization of a major regional player in Syria, the entire region has become compromised. Having direct access to United States allies presents many issues with the virtually free movement that ISIS had in early 2014. Furthermore, while many people know that the entire Middle East is a booming hub of crude oil production, many fail to realize how vital Syria's wheat production is to the Middle East. An International Dryland Development Commission report from 2008 listed the net exportation of wheat as generating \$350 million dollars annually for the Al-Assad regime. This number is inflated compared to most other Middle East countries which are wheat importers.⁵² In 2014 ISIS controlled the vast majority of wheat fields in Syria and over 40 percent of wheat fields in Iraq.⁵³ The combination of extensive necessary resources coupled with its geo-strategic location demonstrated that territory is very necessary to the long-term success of a group such as ISIS. While still embroiled in a civil war in Syria and a war of conquest in Iraq, ISIS does have a demonstrable territory that it can reference when discussing the notion of statehood in the same breath as the caliphate. Yet, the most dangerous consequence that territory could provide ISIS is compliance with local populations.

With massive control of such a vital commodity, ISIS could exert its control over new territory incredibly easily. By providing bread at little or no cost to members of society, ISIS created a sustainable method of insuring that their rule went unchallenged in the areas it

52 El-Beltagy, A. S., and Mohan C. Saxena. 2010. *Sustainable development in drylands: meeting the challenge of global climate change: proceedings of the Ninth International Conference on the Development of Drylands: 7-10 November 2008, Alexandria, Egypt*. S.I.: International Dryland Development Commission.

53 Ciezadlo, Annia. 2015. "The most unconventional weapon in Syria: Wheat." *The Washington Post*.

https://www.washingtonpost.com/opinions/the-most-unconventional-weapon-in-syria-wheat/2015/12/18/781a0ae0-9cf4-11e5-bce4-708fe33e3288_story.html?utm_term=.9d986f80dde7

captured. This policy of subsidized bread also helped to provide ISIS with a sense of security: they could move more fighters to the frontline as they would not have to worry about holding the territory that they had just captured. Providing people with a necessity forced compliance. This policy of subsidized bread helped to expand the ISIS caliphate population. At the height of its territorial expansion in 2014, ISIS claimed to have over 10 million people under its control.⁵⁴ 10 million people is roughly the population of Portugal, an established country with a proud history in Europe.⁵⁵ While this would rank ISIS toward the bottom of the list in population size, it is clearly large enough to be considered a state. There are over 100 countries that have smaller populations than what would be considered with ISIS's caliphate. With a clear territory and a defined population, next on the ticket is an established government.

ISIS is somewhat of an enigma even to most Islamic Scholars. ISIS claims to be a salafist-jihadi organization that is set to destroy the international state system and reclaim the caliphate. Yet, ISIS's vision for a caliphate seems to be a torrid reality of bureaucracy and taxation. While ISIS is strictly controlled on the whims of one man, Abu Bakr al-Baghdadi, al-Baghdadi has appointed governorates to rule over territories for him. Not only does al-Baghdadi have governors, he also employs advisors, ministers, and directors. Each of these roles comprises another aspect of attempted emulation of civil society. Some of these roles include running prisons, publishing propaganda, and maintaining finances.⁵⁶ While ISIS appears to be an abomination of governance, in reality, it is a highly efficient bureaucratic system. Taxation revenues rival that of oil production. ISIS has even gone so far as to issue passports to citizens

54 "Islamic State and the crisis in Iraq and Syria in maps." 2016. *BBC News*. <http://www.bbc.com/news/world-middle-east-27838034>

55 "Portugal Population (LIVE)." *Portugal Population (2017) - Worldometers*. <http://www.worldometers.info/world-population/portugal-population/>

56 Lister, Charles. 2016. "Profiling the Islamic State | Brookings Institution." *Brookings*. <https://www.brookings.edu/research/profiling-the-islamic-state/>

within its control. All of these signs point to the establishment of a strong central government which simulates some of the characteristics of modern democratic governance.

While ISIS has set up a system of governance within the area it controls, the final piece of statehood continues to elude ISIS. The Montevideo convention clearly outlines that a state must have the capacity to enter relations with other nation-states. ISIS has set itself on a difficult path in terms of international relations. Core to the fundamental beliefs of ISIS are the notions that the world can only be peaceful once the non-believers are subjugated or eradicated.⁵⁷ This ideology has led ISIS to become an irrational actor on the international stage. Lurching from one extreme violation of human rights to the next, ISIS burned all international bridges aside from those groups who have pledged allegiance to ISIS. They have also definitively separated from Al-Qaeda over ideological differences.⁵⁸ This will be entirely detrimental to the long-term longevity of ISIS as a state.

This longevity has been put into further questioning as ISIS has not only denounced the international system but also provoked some of the world's largest superpowers. To date ISIS has killed over 1,200 people in countries outside of Syria and Iraq. This includes attacks in Brussels and Russia, as well as multiple attacks in both Paris and Istanbul.⁵⁹ Furthermore, there have been two terror attacks in the United States in which the perpetrators have declared allegiance to al-Baghdadi and ISIS.⁶⁰ Even more sickening is the fact that ISIS turned to killing journalists James Foley and Steven Sotloff, among others, and aid workers such as Haruna

⁵⁷ Ibid, 1.

⁵⁸ Baker, Aryn. 2014. "Al-Qaeda disowns Syria franchise ISIS." *Time*. <http://time.com/3469/why-al-qaeda-kicked-out-its-deadly-syria-franchise/>.

⁵⁹ Yourish, Karen, Tom Giratikanon, and Jasmine Lee. 2016. "How Many People Have Been Killed in ISIS Attacks Around the World." *The New York Times*. https://www.nytimes.com/interactive/2016/03/25/world/map-isis-attacks-around-the-world.html?_r=0.

⁶⁰ Ibid, 59.

Yukawa and Kenji Goto.⁶¹ This propaganda was used to attract foreign nationals to join the ranks of ISIS fighters. Public execution videos depicting decapitation have had the opposite effect intended and galvanized the world against ISIS. Not only have these killings prompted the world to respond, this fight has actually forged new alliances strictly against ISIS. Despite being former enemies, Russia and the United States have seemed to come to common ground over the threat of ISIS. With Russian airstrikes in Syria and United States airstrikes in Iraq, as well as a massive coalition force of primarily Muslim nations, all are rapidly moving to dismantle anything related to ISIS.⁶²

Since the conception of a resurrected Islamic caliphate was officially announced in 2014, ISIS has been on the decline. While ISIS meets three of the four requirements for statehood, they are crucially missing the capacity for relations. ISIS' refusal to participate in the current state system has led to an open season on its fighters. Even in the face of destruction, ISIS fighters would rather fight to the death than conform to what is necessary to gain survival from international foes. This sentiment doesn't seem to be changing even though the nature of ISIS has radically shifted in the past few months. With the eventual fall of Mosul, ISIS will finally be on its last legs, with very little strength to carry on.⁶³

Conclusion

61 Khomami, Nadia. 2015. "Mohammed Emwazi: who were his victims?" *The Guardian*. <https://www.theguardian.com/uk-news/2015/nov/13/mohammed-emwazi-who-were-his-victims>.

62 Payne, Ed. 2015. "34 Islamic nations form coalition to fight terrorism." *CNN*. <http://www.cnn.com/2015/12/14/middleeast/islamic-coalition-isis-saudi-arabia/>.

63 Al-Jawoshy, Omar, and Sewell Chan. 2017. "Iraqi Forces Enter Western Mosul, in Fierce Battle Against ISIS." *The New York Times*. <https://www.nytimes.com/2017/03/07/world/middleeast/mosul-iraq-isis.html>.

There are some stark conclusions that can be drawn when examining ISIS as an attempt at state building. While most people want to focus only on how violent and apocalyptic they are, many pass over the lessons that ISIS can teach us about new state formation.

- ISIS failed at establishing true sovereignty.
- ISIS failed to understand the value of recognition.
- The international system has clearly moved to a declarative system of governance.
- Hobbes' absolute sovereignty is dead.
- Future research should examine new regional cases such as Rojava and Iraqi Kurdistan.

Sovereignty is about as vital an aspect of state formation as there is. By missing the boat and failing to gain legitimate sovereignty, ISIS undermined their own ability to govern. ISIS clearly demonstrated that building a state based on coercion and force is not tenable. It has been shown throughout history that building a government based off of institutional coercion is doomed to failure. The long term effectiveness of a coercion based governmental system is almost negligible. Throughout time, people always maintain similar grievances against oppressive regimes. Coercion is not a substitute for legitimate authority that a population consents to. This lack of legitimacy signifies that ISIS had very little to no internal sovereignty. This can be further demonstrated by ISIS' need to recruit foreigners to fight for their cause. The only way to ensure the extended survival of any government is to gain support on the ground. Fear can only operate so far when it comes to controlling people's lives. Furthermore, ISIS' extreme ideology which led them to imprison, attack, and decimate any non-Sunni ethnic and

religious groups led to further isolation of their ideology. Ethnically or religiously homogenizing a state through the use of genocide will certainly make a pariah out of any ideology which adopts it. This was echoed by a United Nation's panel which declared that ISIS had committed war crimes and its leaders were being sought by the International Court of Justice.⁶⁴ Without gaining at least a shred of legitimacy on the ground with its own base, ISIS rushed too quickly to establish their own state.

ISIS also failed to recognize the impact that the theory of statehood would have on their formation, but even more damaging is the fact that they also failed to examine international policy shifts toward a recognition based system. With the moderate successes of the UN, the international state system has begun to grow more and more powerful. At this point, the UN is comprised of 193 countries as well as two non-member observer states. This is the overwhelming majority of the global population.⁶⁵ By going against the international population, ISIS demonstrated a lack of adherence to international norms. Violating these international norms and standards leads to countries withholding their recognition. By not recognizing a state, the state has a much more difficult gaining legitimacy. Recognition is not only a tool that helps ensure survival, but also helps to establish real-world legitimacy with your constituency. An example of this survival mechanism is with the state of Palestine. Palestine would have been swallowed up by Israel long ago if not for international pressure toward a two-state solution. Many international states have agreed that the Palestinian people should have the right to govern

64 Cumming-Bruce, Nick. 2016. "ISIS Committed Genocide Against Yazidis in Syria and Iraq, U.N. Panel Says." *The New York Times*. <https://www.nytimes.com/2016/06/17/world/middleeast/isis-genocide-yazidi-un.html>.

65 "Total Population - Both Sexes". *World Population Prospects, the 2015 Revision*. 2015. United Nations Department of Economic and Social Affairs, Population Division, Population Estimates and Projections Section.

themselves. While Palestine isn't a UN member and offer little in the way militarily, they are still protected and have their international political rights. The same cannot be said for ISIS.

The UN, while not perfect, has certainly made progress toward international cooperation and civility. The only way that this can be achieved is by holding individual nations to higher standards than the anarchic system that would befall us without the UN. Therefore, the UN has no choice but to pick and choose the members that join its ranks. The declarative method is the only means by which that is possible. In a constitutive system, any state that gained the four criteria could be considered a state. This could give rise to damaging styles of government and shady dealings on the international stage. From tyrants and despots to fascists, all governments are considered legitimate based upon the criteria. This isn't the case anymore. Entities like ISIS may qualify with the four criteria but the people around them reject their ideology. ISIS hasn't been given an international platform to negotiate or compromise with. The declarative method wields the power to remove harmful forms of governance from the world, especially when it is backed by 193 countries.

Not only did ISIS fail to establish any real form of sovereignty, the style they tried to establish was doomed to fail. This form of absolute sovereignty should be considered Hobbesian Sovereignty. In addition to the ruler of a state having all of the power, this power must be free and absolute from outside influence. ISIS utilized a form of governance which dictated that they had the power to do as they pleased, as long as it fell somewhere along the lines of Quranic scripture. ISIS believes that they have a divine right to do and take as they please.⁶⁶ This form of absolute sovereignty and actions with impunity doesn't exist any more. Where kings and queens had all the power and no fear of consequences, the time and place where they exercised their

⁶⁶ Ibid, 1.

power is no longer. The international state system has set up courts of justice in an attempt to hold people accountable for their actions. The interconnected global state system that we all now live in tries to prevent genocide and massacre above the local scale. By not recognizing that this form of absolute sovereignty and freedom of action is on the decline, ISIS set itself up to become an international pariah.

The death of Hobbesian sovereignty comes from this new precedent. If a fledgling nation adopts a law or act that is contradictory to the established state system, it can now be attacked. This destroys the ability for a sovereign to make laws as he sees fit. While this might not be seen as a dangerous idea, to prevent the widespread enactment of terrible policies, ethical questions must be addressed: who gets to decide what is or isn't a violation of international norms? The UN states that it accepts peace-loving nations, yet many of its members still utilize capital punishment and are bombing foreign countries. Furthermore, while the UN has only sanctioned ISIS, at least four of the security council members are directly involved with strike missions within Syria. The UN might not be actively engaged in fighting ISIS, but all of its important members are. This club of nations wields immense power and especially in today's globalized world, can dictate the policy of another nation. This shouldn't serve to be viewed as a critique so much of the UN but more as a launching point for the many questions that still need to be addressed when facing newly independent nations.

Further research is needed to determine what is or isn't a legitimate state in its early days. There is the potential for new governments to just say what the international community wants to hear, in order to gain early legitimacy before establishing totalitarian elements of governance. Furthermore, the UN system of acceptance for new states should be revised. The international state system is sloppy and ambiguous at best. By detailing how a state is obligated to conduct

itself, standards can be raised further for justice and tranquility. It also must be said that the UN must become more embolden if it wishes to achieve success on the international stage. Avoiding scandals on the ground coupled with higher officials adhering to the principles established by the UN Charter should also help to ensure the future prosperity of UN peacekeeping missions. By kowtowing to petty regional disputes and political rivalries, or shying away from crucial intervention moments like Kosovo leaves the international state system vulnerable. Creating common standards for governments to adhere to as well as prosecuting those who deviate from the core values of the UN is how future progress will be made.

Lastly, it should be noted that new countries are already emerging from the battlefields of Syria and Iraq, as well as across the globe. One of the most promising places to study would be the cantons of Rojava in Northern Syria. Rojava is a fledgling state made up of autonomous regions protected by the Kurdish People's Protection Units. An estimate emerged in late 2015 which stated that Rojava now comprised over 4.6 million inhabitants.⁶⁷ There are complex political reasons as to why Rojava might not see statehood and presents another obstacle for the UN and the global relations system. On the other hand, the established constitution of Rojava is much more in line with international standards as well as the Kurdish leadership embracing the international system. By giving support to local humanitarian efforts on the ground and utilizing the UN, hopefully a resolution to this long and bloody tragedy will be over. While ISIS may have tried to buck off the international system, hopefully future nations will embrace and prosper from it.

⁶⁷ Enzinna, Wes. 2015. "A Dream of Secular Utopia in ISIS' Backyard." *The New York Times*.
<https://www.nytimes.com/2015/11/29/magazine/a-dream-of-utopia-in-hell.html> (April 18, 2017).

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