

State Legitimacy and the Criteria for Statehood

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Abstract: Defining a 'State' and the criterion for 'Statehood' was found to be ambiguous due to legitimacy issues. State as a subject of international law is enabled with certain rights and duties obliged to perform. While the political relevance of the recognition of states is beyond doubt, the rules of law which apply to this aspect remain uncertain. The establishment of the modern state system in the world roots back to the Westphalian treaties. Montevideo Convention of 1933, initially identified qualifications for a state and subsequently accepted by many states, regional and international institutes with codification. Declaratory and Constitutive theories on the criterion for statehood debated on relevance of 'international recognition' over the other factual qualifications of population, territory, government and the capacity to enter into relations with other States. Admission as a member to the UNO recognizes a new state as a part of the globally organized community by way of co-optation. The globalization and related changes along with humanitarian considerations have created various types of status for states. International recognition for a state expressed through diplomatic relations and the influence of UNSC is found to be prominent aspects over the other domestic settings for statehood except the 'effective control' over its territory. This paper is meant to clarify ambiguities on the legitimacy of a state and the criteria for statehood with reference to sources of international law cases and secondary data analysis methods.

Keywords: State, Statehood, Recognition

Introduction

"There are only very few branches of international law which are of greater, or more persistent, interest and significance for the law of nations than the question of Recognition of States... Yet there is probably no other subject in the field of international relations in which law and politics appear to be more closely interwoven."

Hersch Lauterpacht

When looking at the map of the world, it appears as if almost the whole world is neatly divided into separate parts, with each part representing a defined territorial entity, known as a State. Three different waves that took a role in the establishment of more than 200 new states. The first wave was the First World War which brought the collapse of the Ottoman Empire; the second was the Second World War which put an end to the Europe's overseas sovereignty; and the third wave was the expiration of the Cold War era which ended up with the collapse of USSR and the Eastern Bloc countries. As a result, of these 3 waves, many of the new states existed today have emerged with independence breaking away from ancient system of monarchs and empires (Orman, 2016). But a closer examination of the present status of states reveals that the concept of statehood is shrouded in many ambiguities. Is that the Palestine, Taiwan, Hong Kong and Tibet are states? If not, what are those? What is a Nation and the Nation State? What is the criteria of statehood? What are the rights

and duties of a State? What is the status of Libya, Yemen and Syria at present? These questions will not be precisely answered by the majority due to the level of understanding and the complexity of those terms.

Primarily, it is important to define, differentiate and understand the general meanings of different terms related to a state and the statehood.

1) *A state:* State is a territory with its own institutions and populations (Rosenberg, 2020).

2) *A sovereign state:* Sovereign state is a state with its own institutions and a permanent population, territory and government. It must also have the right and capacity to enter in to treaties and agreements with other states (Rosenberg, 2020).

3) *A nation:* A Nation is a large group of people who inhabit a specific territory and are connected by history, culture, or another commonality. Nations that hold territory but are not sovereign states include: The Indian Nations of the United States, Bosnia, Catalonia (in northern Spain), Quebec, Corsica, Sicily and Tibet. In addition, some nations govern no territory at all. Sindhi, Kurds, Yoruba, Rohingya, and Igbo people share histories, cultures, and languages but have no separate territory (Rosenberg, 2020).

5) *A Country:* A country can be used to mean the same thing as the state, sovereign state, or nation-state but not officially used due to vagueness. A country also use to refer a region or cultural area that has no governmental status. Examples include 'Wine Country' which is used to mention the grape-growing area of northern California (Rosenberg, 2020).

CONCEPT OF STATE

A. *Westphalian System and the Nation State*

Significant identification for a state was established days back to the Peace Treaty of Westphalia, signed in 1648, which ended the 30 years of religious wars in Europe; with the concept of 'nation-state'. This concept was and is associated with the rise of the modern Westphalian system of states in the world. This system is based on the principle of international law that each state has sovereignty over its territory and domestic affairs, to the exclusion of all external powers, on the principle of non-interference in another country's domestic affairs, and that each state no matter how large or small is equal in international law (UKEssays, 2018).

A nation-state: Nation state is a cultural group (a nation) and that is also a state. It may be a sovereign state too.

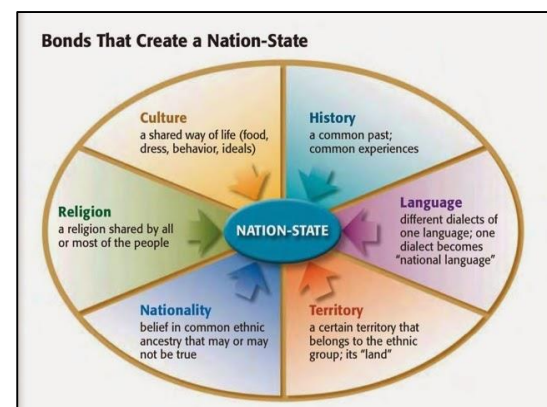


Figure 1. Creation of a Nation- state (Source: slideplayer.com)

The narrow definition of nation state presumes the existence of the "one nation, one state" model. Consequently, less than 10% of states in the world meet this criteria today, due to the presence of minorities. According to a wider working definition, a nation-state is a type of state that conjoins the political entity of a state to the cultural entity of a nation, from which it aims to derive its political legitimacy to rule and

potentially its status as a sovereign state. The concept of a nation-state can be compared and contrasted with that of the multinational state, city-state, empire, confederation, and any other state formations; key distinction being the identification of people with a polity in the nation-state (Watts, 2020). The European colonization of Asia and Africa in the 19th century and two global wars in the 20th century dramatically undermined the principles established in Westphalia pertinent to nation state.

Max Weber defined the state as the monopoly of the legitimate use of force under three characteristics. Accordingly, there is only one government in a state (there is a monopoly in the provision of public governance), the state governs unconditionally, which means that it coerces its citizens into behaving in certain ways and the third characteristic is, the use of coercive force has to be legitimate, which means that it has to be either legal or accepted in some way by the citizens (Orman, 2016).

In the modern day context the term 'Failed State' came into discussion with the involvement of some states who have failed to perform duties and responsibilities of a state in various ways. Key aspects of failed state when summarizing the definitions developed by scholars are; failed states are tense, deeply conflicted, dangerous, and bitterly contested by warring factions, cannot or will not safeguard minimal civil conditions, can be defined in terms of their demise of the practical operation of governmental functions for an internationally recognized state, could be expanded if one were to include states facing serious internal problems that threaten their continued coherence or significant internal challenges to their political order, failure can be also based on cultural indicators such as the restrictions

on the free flow of information, the subjugation of women, the inability to accept responsibility for individual or collective failure, the extended family or clan as the basic unit of social organization, the domination by a restrictive religion, the low valuation of education, and the low prestige assigned to work (Orman, 2016). There are various of failed states have identified in the world today with examples as follows.

Failed States	Representations	Context
<i>Rogue States</i>	North Korea, Cuba, Iraq, Iran and Libya	
<i>Weak States</i>	Senegal, Honduras, Burma, Zimbabwe, Mozambique, Haiti, Sudan, East Timor	
<i>Non-States</i>	All failed states at risk	
<i>Phantom/Mirage States</i>	Zaire, Democratic Republic of Congo, DRC	Political/legal approach
<i>Anemic States</i>	Haiti	
<i>Captured States</i>	Rwanda	
<i>Aborted States</i>	Angola, Mozambique	
<i>Fragile States</i>	Somalia, Sudan, Afghanistan	
<i>Failing States</i>	Ethiopia, Georgia and Zaire	
<i>Collapsed States</i>	Angola, Burundi, Somalia	Historical/ Developmental approach
<i>Quasi-states</i>	Pakistan, Yemen, Kenya, the Philippines, Guinea, Indonesia.	
<i>Monopole States</i>	Congo, Bosnia and Herzegovina	
<i>Anarchic States</i>	Somalia, Liberia	Sociological Approach

Figure 2. Various versions of failed states (Orman, 2016)

B. Fundamental Rights of a State

The formulation of a list of the so-called fundamental or basic rights and duties of a State has been a persistent preoccupation of international conferences and bodies. The Montevideo Convention of 1933 on the Rights and Duties of States was initially attempted for such and subsequently followed by the adoption of Resolution 2625 of 1970 in the General Assembly of the United Nations (UNGA) entitled the 'Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States'. Accordingly, States are entitled to enjoy certain fundamental rights and bound by certain duties under International Law (General Assembly, 1970).

1) *The Right of Independence:* Independence as defined by under the Rights and Duties of States is the capacity of a State to provide for its own well-being and development, free from the domination of other states. The right of independence in International Law includes a number of rights, such as, the right of territorial integrity, and the right to have an exclusive control over own domestic affairs.

2) *The Right of Sovereignty:* Sovereignty has twofold meaning. Primarily, sovereignty means that a State has the supreme undivided authority over its territory which is known as territorial sovereignty. Secondly, sovereignty means the capacity of a State to enter into relations with other States which is connected with the concept of 'International personality'. These rights includes; sending and receiving diplomats, engaging in treaty making, and the enjoyment of certain immunities and privileges from the jurisdiction of other States. Today, state sovereignty is not seems absolute and there are limits due to the emergence of powerful national States. A State has subjected its sovereign powers to several limitations by virtue of treaties or decisions of international organizations of which it is a member, or by virtue of its consent.

3) *The Right of Territorial Jurisdiction:* The Right of Territorial Jurisdiction is derived from the right of sovereignty. This right entitles a State to have the absolute and exclusive authority over all persons, property and events within the limits of its national territory. This authority implies jurisdiction of the State to enact the law, to enforce the law and to adjudicate persons and events within its territorial land, its internal and territorial water, and national air space.

4) *The Right of Sovereign Equality:* Sovereign equality means that all states have equal rights and duties, have the same juridical capacities and functions, and are equal members of the international community, notwithstanding differences of an economic, social, political or other nature. Sovereign equality is mentioned in the Charter of the United Nations as the principle on which this Organization is based.

5) *The Right of Self-Defence:* The right of self-defense to which a state is entitled is recognized by Customary International Law as well as Article 51 of the Charter of the United Nations. However, this right cannot be exercised by a State unless an armed attack occurs against it and or until the UN Security Council has taken the measures necessary to maintain international peace and security. In invoking this right, the state must comply with the requirements of Customary International Law, which are the use of peaceful procedures if they are available. Due consideration for the 'Necessity' and 'Proportionality' when taking actions is also a must (General Assembly, 1970).

C. Fundamental Duties of a State

In correlation to the rights of the states mentioned in above UNGA's resolution 2625 of 1970, there are duties binding the states. Non-compliance of a state with its duties constitutes a violation of International Law (General Assembly, 1970).

1) *The Duty to Refrain from the Threat or Use of Force:* A State is under a duty to refrain in its international relations from the threat or use of force against the territorial integrity or political independence of any State. This duty includes within its scope certain recognized duties, such as, the duty to refrain from propaganda for wars and

aggression, the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands for incursion into the territory of another state, the duty to refrain from organizing, assisting or participating in acts of civil strife or terrorist act in another State and the duty to refrain from forcible action which derives peoples from their rights to self-determination, freedom and independence. However, the use of force is accepted and considered lawful under International Law only if it is exercised in case of self-defense and in accordance with the provisions of the Charter of the United Nations.

2) The Duty to Settle International Disputes by Peaceful Means: A State is under a duty to settle its international disputes with other States by peaceful means in such a manner that international peace, security, and justice are not endangered. The Charter of the United Nations, in Chapter 6, provided the machinery for the fulfillment of this duty by the States. Accordingly, States must seek a just settlement of its international dispute by any of the peaceful means stated in the Charter or by any peaceful means agreed upon by them. In case of their failure to reach a peaceful settlement by themselves, they are under a duty to comply with the actions taken by the United Nations.

3) The Duty not to Intervene in the Affairs of Other States: A State is under a duty not to intervene, directly or indirectly, for whatever reason, in the internal or external affairs of any other State. It constitutes a violation of International Law when in any use, encourage the use or threat to use of military, economic, political or any other form of intervention against a state or against its political, economic and cultural elements.

4) The Duty to Co-Operate with One Another: A State is under a duty to co-operate with other States, irrespective of the differences in their political, economic and social systems, in various spheres of international relations, in accordance with the Charter of the United Nations.

5) The Duty of a State to Fulfill Its Obligations in Good Faith: A State is under a duty to fulfill in good faith the obligations assumed by it under the Charter of the United Nations and the International Law, including international treaties. The concept of good faith implies that a State should perform its assumed obligations honestly, without malice and defraud, and without seeking unconscionable advantage (General Assembly, 1970).

D. Qualities of a Sovereign State

A sovereign state, sometimes called an independent state has following qualities:

1. Space or territory that has internationally recognized boundaries.
2. People who live there on an ongoing basis.
3. Regulations governing foreign and domestic trade.
4. The ability to issue legal tender that is recognized across boundaries.
5. An internationally recognized government that provides public services, security and police power and has the right to make treaties, wage war, and take other actions on behalf of its people.
6. Sovereignty; no other state should have power over the country's territory (Rosenberg, 2020).

E. Non-Sovereign States and Entities

Many entities have geographical and cultural significance and many of the qualities of a sovereign state, but are not independent sovereign states. These include territories, non-sovereign states,

and nations. Many entities have most of the qualities of sovereign states but are officially considered to be non-sovereign. Many have their own histories, and some even have their own languages. Examples include: Hong Kong, Bermuda, Greenland, Puerto Rico and non-sovereign parts of the United Kingdom (Northern Ireland, Wales, Scotland, and England). The word state is also used to refer to geographic sections of sovereign states that have their own governments but are subject to a larger federal government. The 50 United States are non-sovereign states in USA (Rosenberg, 2020).

F. State Sovereignty and the Diplomacy

The Vienna Convention on Diplomatic Relations, which was agreed in 1961 and went into force in 1964, sets out how sovereign states can establish, maintain and, if need be, terminate diplomatic relations. It defines who is a diplomat and thus entitled to special privileges and immunities. These include immunity from civil and criminal prosecution in the host state and exemption from all dues and taxes (Ottawa, 2019). One best latest example for this diplomatic sovereignty is the interrogating of Michael Kovrig, who was on leave from the Canadian foreign ministry and working for an international organization when China detained him in December 2018. In questioning Mr Kovrig, the Canadian Prime Minister says that, China did not respect “the principles of diplomatic immunity” referring to the Vienna Convention. Mr Kovrig’s immunity under the convention, which includes exemption from arrest or detention, said to be ended when he took a leave of absence from the government to work for the International Crisis Group. Yet it partially remains as it covers activities performed while he is still a diplomat. This is what led to Canadian accusation. China points to a different part of the convention, which

stipulates that diplomats should not interfere in the internal affairs of the host country. This Diplomatic spat can be brought to the International Court of Justice, which the US did in 1979 when Iran held more than 50 Americans hostage for more than a year (Ottawa, 2019).

STATEHOOD

The Statehood plays an important role in the International Law when empowering states with ‘Legal Personality’ which has the authority to file cases at the International Criminal Court (ICC) and International Court of Justice (ICJ) and to be accepted for entering into International agreements. The modern state being a political form that has been singularly successful featured with mechanisms of;

- 1) Monopoly: control of the means of violence,
- 2) Territoriality,
- 3) Sovereignty
- 4) Constitutionality: the quality of being in accordance with a political constitution
- 5) Impersonal power: Not influenced by or involving personal feelings,
- 6) Public bureaucracy
- 7) Authority/legitimacy
- 8) Citizenship
- 9) Taxation (Pierson, 2004)

A. Legal Status of a State - Montevideo Convention

In general, a subject of law is an entity to whom the law provides rights and assigns obligations. The requirements to be met for an entity to be considered a subject of International Law are the ability to have rights and obligations under International Law, the capacity to enter into relations with other subjects and to stand before international courts. States are, in this sense, clearly subjects of International Law

since they fulfill all of these requirements. A State is the primary legal subject or person in International Law.

There is no exact definition of the term “State” in International Law. However, the essential criteria for statehood are well settled. Article 1 of the Montevideo Convention on the Rights and Duties of States of 1933, indicates that, the state as a person of international law should possess the following qualifications:

1. A permanent population,
2. A defined territory,
3. Effective Government
4. The capacity to enter into relations with other States.

The Convention, and the law at that time, viewed States as a kind of legal entity operating and existing under its own authority and power. Article 3 of this convention provides, “The political existence of the state is independent of recognition by the other states. Even before recognition, the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts”. Article 6 of the same convention states that, “The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable” (Davids, 2012).

There is a debate taking place in the international legal world over whether or not satisfying the Montevideo criteria alone is enough to be a State or if recognition is also necessary. The two main doctrinal views in the present day world for this case are known as the declaratory and

constitutive theories of Statehood (Davids, 2012).

1) *The Declarative theory:*

The Declarative theory of statehood, defines a state as a person in international law if it meets the criteria mentioned in the Montevideo convention. It however fails to adequately describe the creation of “States” in international practice, as there are entities in the world that ‘de facto’ satisfy the criteria of the Montevideo convention but do not benefit from the rights that come with such a status due to lack of recognition. One example is the nominally Moldovan territory of ‘Transnistria’. The new practice of recognition of the recently established states of Eastern Europe and the former Soviet Union since 1991 is said to have overridden the traditional principles of public International law regarding recognition. Indeed, the predominant declarative theory cannot explain this new practice convincingly (Hillgruber, 1998).

2) *Constitutive theory:* Constitutive theory of statehood, defines a state as a person in international law, only if, it is recognized as sovereign by other states. This theory also have lapses as it fails to explain why certain entities that have received numerous recognitions yet, are not considered as States and also raises the question of how many recognitions are necessary in order for an entity to become a State. One clear example of this problem is the ‘State of Palestine’. As of July 2011, the Palestinian Liberation Organization (PLO) had received up to 122 recognitions of its ‘Statehood’. That means around 63%, of the United Nations recognizes Palestine as a State. However, it could not obtain the full membership. The regulatory function of states in the world is to administer a portion of the planet where people live. If they cannot serve that function due to lack

of authority over a territory or people, they will lose the statehood. In the Palestine; neither PLO nor Hamas in the Gaza strip have the effective control over the territory they claim. So, it seems that “Statehood” is the product of a balance between the Montevideo criteria and the recognition. (Davids, 2012). In case of Taiwan, an island 180km off the coast of China; Its democratically elected leaders say they run a country called the Republic of China. Yet, to the Communist government in Beijing the island is the ‘Taiwan Province of China’. International organizations, desperate not to offend either side, struggle to name it at all. Many opt for the deliberately ambiguous “Chinese Taipei”, after its capital city. Taiwan is not a member of the WHO. Between 2009 and 2016, when a China-friendly government held power in Taiwan, it attended assembly meetings as an observer. But when the other party is in power, it has been prevented from participating, at China’s behest. Though, America and most of the allies have backed its bid to attend WHO assembly, an invitation could be extended only if a majority of the WHO’s 194 members vote in favour; which is unlikely due most countries will fall in line with China’s demand as China is trying to step up pressure on other countries to freeze out Taiwan. Hence, they do not challenge the view of the government in Beijing that it alone represents China, and that China includes Taiwan. In 1971 the UN voted to recognize that government as China’s sole representative (H, 2020).

Hence, it is understood that, requirements mentioned in the Montevideo Convention are not exhaustive; other actual requirements including sovereignty, Independence, self-determination and recognition; are considered in correlation.



Figure 3. Statehood of Taiwan (source: The Economist)

B. *Understanding the Requirements for Statehood*

It is noteworthy to understand actual meanings of the said requirement for the statehood.

1) *A Permanent Population:* The existence of a permanent population is naturally required as an initial evidence of the existence of a State. This requirement suggests a stable community. The size of the population, is not relevant since International Law does not specify the minimum number of inhabitants as a requirement of statehood. Nevertheless, an acceptable minimum number of inhabitants is required with regard to self-determination criterion.

2) *A Defined Territory:* The requirement of a permanent population is intended to be used in association with that of territory. What is required by a defined territory is that there must be a certain portion of land inhabited by a stable community. A defined territory does not suggest that the territory must be fixed and the boundaries be settled since these are not essential to the existence of a State, although in fact all modern States are contained within territorial limits or boundaries. The past practice shows that, what matters is the existence of an effective political authority having control over a particular portion of land. Israel was admitted to the United Nations as a State in spite of disputes over its existence and territorial delineation. The existence of a particular territory over which a political authority operates is

essential for the existence of a State. For this reason, the “State of Palestine” declared in November 1988 at the conference of Algiers was not legally regarded as a valid State since the Palestine Liberation Organization had no control over any part of the territory it was claiming. The size of the territory of a State and alterations to its extent, whether by increase or decrease, do not of themselves change the identity of that State. A State continues to exist as long as a portion of land is retained (Zadeh, 2012).

3) *A Government:* For a stable community to function reasonably effectively, it needs some sort of political organization. It is required that an effective government be created, and this political authority must be strong enough to assert itself throughout the territory of the State without a foreign assistance. The existence of an effective government, with some sort of centralized administrative and legislative organs, assures the internal stability of the State, and of its ability to fulfill its international obligations. However, in modern practice, the requirement of an effective government was not regarded as precondition for recognition as an independent State. The State of Croatia and the State of Bosnia and Herzegovina were recognized as independent States by the member States of the European Community, and admitted to membership of the United Nations at a time when substantial areas of the territories were outside the control of each government. On the other hand, in the cases of Burundi and Rwanda, the requirement of an organized government was unnecessary or insufficient to support statehood. These States had arisen before government was very well organized, yet, were admitted as States to the membership of the United Nations in 1961. Moreover, a State does not cease to exist when it is

temporarily deprived of an effective government because of civil war or similar upheavals. The long period of de facto partition of Lebanon did not hamper its continuance as a State. The lack of a government in Somalia did not abolish the international personality of the country. Even when all the territory of a State is occupied by the enemy in wartime, it continues to exist as in the cases of the occupation of European States by Germany in the Second World War and the occupation of Germany and Japan by the Allied powers after that war. Nevertheless, the requirement of effective government remains strictly applied in case when part of the population of a State tries to break away to form a new State (Zadeh, 2012).

4) *A Capacity to Enter into Relations with Other States:* A State must have recognized capacity to maintain external relations with other States and is essential for a sovereign State. Lack of such capacity will avert the entity from being an independent State. Capacity distinguishes States from lesser entities such as members of federation or protectorates, which do not manage their own foreign affairs, and are not recognized by other States as full-members of the international community.

C. Supplementary Requirements of Statehood

Independence, sovereignty, self-determination and recognition are other requirements of statehood identified in recent times, used either as separate criteria or in association with the above major requirements.

1) *The concept of independence:* means that the State is subject to no other State. Many jurists stress on independence as the decisive criterion of statehood. Some consider independence as the essence of a capacity to enter into relations with other States, in association with the requirement

of effective government with own executive and other organs, and conducts its foreign relations through its own organs.

2) *The concept of sovereignty:* This denotes, internally, the supreme undivided authority possessed by a State to enact and enforce its law with respect to all persons, property and events within its borders, and externally, the capacity of a State to enter into relations with other States, such as sending and receiving diplomats and engaging in treaty making, and the enjoyment of certain immunities and privileges from the jurisdiction of other States. Sovereignty, in this regard, is the indication of the international personality of an entity seeking a status of a State in the community of nations. Lack of sovereignty suggests that an entity is not independent and has no international legal personality.

3) *Principle of self-determination:* In the practice of States, the principle of self-determination has been used as a criterion modifying the requirement of effective government. The evolution of the right of self-determination has affected the level of effectiveness a concerned government required to exercise in order to fulfill such requirement of statehood. Moreover, the principle of self-determination has been used as an additional criterion of statehood in certain circumstances, such as, in the case of Rhodesia when it unilaterally declared independence on November 11, 1965, and in the cases of the successor States of the former Yugoslavia. This additional criterion may be required in the future in cases of certain national minorities seeking independence and the creation of their States (Hillgruber, 1998).

D. *UN Recognition of States*

Recognition of a new state is an act that confers the legal status of a entity under International law. In this sense, a (new)

state is not born, but chosen as a subject of international law. When the new state has been recognized by certain amount of states, it become a subject of international law, only with respect to the existing states recognizing it. On admission as a member of the United Nations, the new state then becomes part of the globally organized community of states by way of co-optation. After the decision has been taken to admit a state to the United Nations, its statehood cannot be called into question with the effect of contesting the validity of mutual rights and obligations arising from co-membership (Hillgruber, 1998).

United Nations Organization is the world's largest International Governmental Organization (IGO) which was established aftermath of WWII. As of 2020, 193 out of 195 sovereign states in the world are members of the United Nations (UN) whilst the Palestine and the Holy See has only the Observer status (Non-Voting membership). Taiwan and Kosovo, are recognized by most but not all members of the UN specifically by China and Russia respectively (Rosenberg, 2020).

The criteria for admission of new members to the UN are set out in Chapter II, Article 4 of the UN Charter. Membership in the UN is open to all peace-loving states which accept the obligations contained in the present Charter whilst accepting its judgements. Any such admission will be effected by a decision of the General Assembly upon the recommendation of the Security Council. The Security Council's recommendation requires affirmative votes from at least 9 of the 15 members, with none of the 5 permanent members using their 'Veto' power. This recommendation must then be approved in the General Assembly by a two-thirds majority vote. The 'Veto' power rested with the five permanent members is one of the main barrier for new states to be recognized and to practice its sovereign

rights at present. (Hillgruber, 1998). The issue with the status of Taiwan and the Hong Kong is due to the negative influence of China and the status of Palestine is affected by the USA's support to Israel being permanent members of the Security Council.

Conclusion

The definition of the State and the Statehood itself considered complex and changed with the time since its first appearance through the peace treaty of Westphalia in 1648. Yet, there are accepted criteria for consideration through Montevideo convention, UN Charter and the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States agreed on 1970.

A permanent population, A defined territory, Effective Government and the capacity to enter into relations with other States are identified as major requirements for statehood. Independence, sovereignty, self-determination and recognition are the other requirements used either as separate criteria or in association with major requirements. Criteria for addition of new members to UN being the largest International Governmental Organization and the recent examples are well suited to understand the present practice State recognition in the world.

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Author Biography



The author had followed Diploma in International Relations from Bandaranayake Centre for International Studies (BCIS) in year 2014 and presently following (last phase) a Master of International Relations programme from the University of Colombo. Further, the author was awarded with the Trophy for the Best Commandant's Service Paper during the Junior Naval Staff course in the Naval and Maritime Academy, 2016 and also won the first place of the Admiral Clancy Fernando memorial Essay competition 2018.