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From Kosovo to Karabakh: International Responses to De Facto States

Abstract: Both in the Balkans and in the Caucasus, the dominant international response to de facto states, or quasi-states, has been one of isolation; they violate the principle of territorial integrity, they are often based on warfare, and the legitimacy of their frequently ethnically-based claims to independence is rejected. This article finds that pragmatism has occasionally led to some form of reluctant engagement, but this has been ad hoc and its depoliticised nature has been stressed. De facto states have been viewed solely through the lens of ethnicity and there has been insufficient understanding of internal dynamics. International policies for Kosovo have long impacted on the strategies adopted by other de facto states and recent developments have reignited hopes for recognition. The US and the EU have rejected any talk of a legal precedent, but Kosovo's recognition does have important political consequences; it introduces a new dynamism into currently stalled peace processes. This could lead to a hardening of positions, but it could also positively impact on the internal dynamics of the de facto states.

The recent recognition of Kosovo's independence has been followed with great interest in other de facto states whose leaderships hope that this case will set a precedent and hence increase their chance of international recognition.¹ This interpretation has been echoed by Russia in its fierce criticism of the decision by states such as the United States (US), the United Kingdom (UK), France and Germany to accept Kosovo's unilateral declaration of independence. As Vladimir Putin put it before the recognition,

*If someone believes that Kosovo should be granted full independence as a state, then why should we deny it to the Abkhaz and the South Ossetians?*²

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¹ De facto states, quasi-states, unrecognised states, pseudo states or separatist states are entities that have achieved de facto independence, often through warfare, but not international recognition; examples include Nagorno Karabakh, Abkhazia, Northern Cyprus, Somaliland, Tamil Eelam, and Transnistria.

² Robert PARSONS, »Russia: Is Putin Looking To Impose Solutions To Frozen Conflicts?«, in: *RFE/RL*, 2 February 2006.

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The states that recognised Kosovo's independence have, on the other hand, argued that Kosovo is unique and that its recognition, therefore, does not set a dangerous precedent which might encourage other secessionist movements. But even if it does not set a legal precedent it will have consequences of a more political nature; it affects the calculations made in other entities that have achieved de facto independence. The decision to recognise Kosovo's independence could be interpreted as signifying an important change in international attitudes to de facto states. These entities have commonly been seen as criminalised, ethnic fiefdoms that constitute a threat to security; they have violated the principle of territorial integrity, and its internal substitute *uti possidetis*, and have mostly been regarded as pariahs with whom any form of engagement is ill-advised.

This article examines international responses to de facto states in the Balkans and the Caucasus; specifically Republika Srpska Krajina (Croatia), Republika Srpska (Bosnia-Herzegovina [henceforth Bosnia]), Abkhazia and South Ossetia (Georgia), Nagorno Karabakh (Azerbaijan) and Kosovo (Serbia, until recently). It finds that territorial integrity has been the guiding principle along with a strictly ethnically-based understanding of these entities. Pragmatism has in some cases ruled and de facto states have reluctantly been accepted as negotiating partners and aid recipients, but this has been on an ad hoc basis and without clear direction. International responses have overall been characterised by a marked reluctance to engage and by a limited understanding of internal dynamics. With the recognition of Kosovo, a new possibility has emerged: could reluctant engagement be transformed into full-blown acceptance, or is Kosovo indeed a one-off? Such questions introduce a new fluidity into hitherto stalled peace processes since they are likely to impact not only on the strategies adopted by the de facto states but also on the willingness of their 'parent states' to compromise. The prospect of independence could lead to a hardening of positions on both sides but it could conceivably also have a positive impact on the internal dynamics of the entities and hence on the stalled peace processes.

Self-Determination in a Time of Territorial Integrity

Notwithstanding the many independent states that emerged from the collapse of Yugoslavia and the Soviet Union, the recognition of new states remains a rare event, especially if independence is contested by the 'parent state'. Since 1965, only five conflicts involving self-determination disputes resulted in independence for substate entities. But even though the odds are against them, entities that have achieved de facto independence maintain an aspiration for inter-

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national recognition.³ However much we talk about globalisation, erosion of the state and the increasing irrelevance of territory, statehood remains the top prize; it legitimises the struggle, guarantees protection for the inhabitants and prestige and power for the leaders. Because, as Dov Lynch argues, in the international system, "there are states and there is little else".⁴ The main argument for independence put forward by de facto states has been the right to national self-determination; they point to their historic links to a territory and their well-developed, common identity. As it reads in Abkhazia's 1999 declaration of independence,

*we appeal to the UN, OSCE, and to all States of the world to recognise the independent State created by the people of Abkhazia on the basis of the right of nations to free self-determination.*⁵

However, even in the heyday of self-determination after the First World War, the principle was not systematically applied. The right to self-determination runs up against the principle of territorial integrity and it usually loses out; sovereignty trumps self-determination. The primary exception post-1945 has been in cases of decolonisation, or more specifically salt-water colonialism. Scott Pegg argues that the process of decolonisation resulted in a new basis for state recognition. As it reads in United Nations (UN) resolution 1514,

*inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.*⁶

Independence is, consequently, a moral entitlement,⁷ or in the words of Robert Jackson, "To be a sovereign state today one needs only to have been a formal colony yesterday."⁸ Decolonisation thus constitutes a departure from previous criteria for recognition, such as viability. Moreover, recognition followed the former colonial borders not national or ethnic identities (the principle of *uti possi-*

³ Paul R WILLIAMS/Francesca Jannotti PECCI, »Earned Sovereignty: Bridging the Gap Between Sovereignty and Self-Determination«, in: *Stanford Journal of International Law*, 40 (2004) 1, pp. 1–40, pp. 1–2, available at <<http://www.publicinternationallaw.org/publications/reports/stanfordearnedsov.pdf>>.

⁴ Dov LYNCH, *Engaging Eurasia's Separatist States*, Washington DC: United States Institute of Peace, 2004, p. 18.

⁵ *Act of State Independence of the Republic of Abkhazia*, 12 October 1999, available at <<http://www.unpo.org/content/view/705/236/>>.

⁶ Quoted in Scott PEGG, *International Society and the De Facto State*, Aldershot: Ashgate, 1998, p. 127.

⁷ *Ibid.*, p. 3.

⁸ Robert H. JACKSON, *Quasi-states: Sovereignty, International Relations and the Third World*, Cambridge: Cambridge University Press, 1990, p. 17.

detis); it is a constricted, non-ethnic form of self-determination. It does, therefore, not set a useful precedent for ethnically-based secessionist movements without a colonial past.

In a time of territorial integrity, arguments for recognition that are purely based on *national* self-determination are, therefore, fighting a losing battle. It seems that the leaders of aspiring states have realised this. They, consequently, combine national self-determination arguments, focused on groupness and historic continuity, with a claim to a 'remedial' right to secession, arguing that the 'parent state' denied them civil and political rights and that they were subjected to egregious abuses.⁹ The proclamation of the Nagorno Karabakh Republic, for example, stressed the alleged "policy of apartheid and discrimination pursued in Azerbaijan."¹⁰ As a possible precedent, the entities can point to Bangladesh, which was recognised, in part, due to severe human rights violations; it was deemed to be a situation of a gross failure of the duties of the state. This was, however, not turned into a coherent doctrine of recognition, which would have resulted in the right to self-determination for a high number of secessionist regions. It was treated as an exception and territorial integrity remained the defining principle of the international system. Even the dissolution of the Soviet Union and Yugoslavia in the early 1990s and the recognition of a large number of new states failed to alter this state of affairs. The International Community primarily adopted a reactive position when it came to the recognition of the states emerging from the two multinational federations. As the conflicts intensified, there was a steady movement away from the principle of territorial integrity and towards the recognition of new states. This movement reflected an attempt to ensure stability but it was couched in the language of international practice and state sovereignty. Recognition did not only reflect facts on the ground and an important limit was put in place: only former republics would be recognised as independent states.¹¹ This had important implications for ethnically-defined entities that were proclaimed during the intensification of the conflict and did not enjoy the status of a republic; internal borders had replaced external ones as the basis for territorial integrity.

⁹ For further analysis of this principle see, for example, Michael SCHARF, »Earned Sovereignty: Juridical Underpinnings«, in: *Denver Journal of International Law and Policy*, 31 (2004) 3, pp. 373–387, p. 382.

¹⁰ *Declaration on Proclamation of the Nagorno Karabakh Republic*, 2 September 1991, available at <<http://www.nkr.am/en/declaration/10/>>

¹¹ James GOW, *Triumph of the Lack of Will. International Diplomacy and the Yugoslav War*, New York: Columbia University Press, 1997, p. 76.

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On 17 December 1991, in a bid to stop the ongoing war in Croatia and the threatening war in Bosnia, the European Community (EC) invited the republics seeking independence to submit applications for recognition. These applications would be assessed by the Arbitration Commission of the Conference on Yugoslavia, also known as the Badinter Commission, which was to publish its legal opinion a month later. The guidelines issued by the EC affirmed a readiness for recognition of the republics "subject to the normal standards of international practice and the political realities in each case" but also warned that the EC "will not recognise entities which are the result of aggression." This warning appears to have concerned the self-proclaimed Serb entities.¹² The Serb Autonomous Region of Krajina (SAO Krajina) had in March 1991 declared its separation from Croatia and was shortly followed by the self-proclaimed Serb autonomous regions in Western and Eastern Slavonia. In Bosnia, the so-called Serb Assembly in November 1991 proclaimed as part of Yugoslavia all municipalities, local communities and populated places in which over 50% of the Serbs had voted for this option in a preceding referendum. Despite the warning contained in the EC guidelines, these Serb statelets also made claims to sovereignty. Thus, on 19 December 1991 the Serb leadership in Krajina (Croatia) proclaimed the Republic of Serb Krajina (Republika Srpska Krajina, RSK); they could now argue that they enjoyed republican status (albeit unrecognised) and submitted an application for recognition. Similarly, the Serb Assembly on 21 December 1991 announced the formation of the Serb Republic of Bosnia-Herzegovina (Srpska Republika Bosna i Hercegovina, later renamed Republika Srpska) and on 9 January 1992 its independence was proclaimed.¹³ A formal application for recognition was, however, not submitted in this case.

If the self-proclaimed republics had hoped for international support, they were left disappointed when the Badinter Commission handed down its opinions. The Commission found that Yugoslavia was in the process of dissolution and that sovereignty rested with the republics, not with the ethno-nations as argued by the Serbs. It thus argued that the principle of *uti possidetis* was applicable and advised that "the former [republican] borders acquire the character of boundaries protected by international law."¹⁴ The principle of *uti possidetis* was seen to have ensured stability following decolonisation in Africa and the hope was that it would do the same for – the now former – Yugoslavia. The EC there-

¹² Enver HASANI, *Self-Determination, Territorial Integrity and International Stability: The Case of Yugoslavia*, Vienna: National Defence Academy, 2003, p. 173.

¹³ Steven L. BURG/Paul S. SHOUP, *The War in Bosnia-Herzegovina. Ethnic Conflict and International Intervention*, Armonk, NY: M. E. Sharpe, 1999, p. 97.

¹⁴ GOW, *Triumph of the Lack of Will* (above fn. 11), p. 74–75

fore refused to accept applications for recognition submitted by the Krajina Serbs and the Kosovar Albanians.¹⁵ The decision implied that ethnic self-determination had a place but only within states;¹⁶ in the form of minority rights and protections, which the Commission argued should be a condition for recognition, along with democracy and the rule of law. This was an attempt to base recognition on territoriality rather than on ethnicity; it was argued that the 'parent state' had dissolved, thus it was *not* a case of recognising ethno-national secessions. It could therefore be argued that no precedent had been set for recognising de facto states resulting from ethno-national movements – even if the dissolution of Yugoslavia had very clearly been driven by such sentiments. Other territorial entities were consequently denied recognition; Kosovo had sought to argue for equal status, but this was not supported by the Commission.¹⁷ The Serb statelets in Croatia and Bosnia had an even weaker case and were denied any legitimate claim to sovereignty: they had not been units in the Yugoslav Federation; they made overtly ethnic claims to self-determination and they were seen to be based on aggression. The case for non-recognition was thus based on the principle of territorial integrity, and its internal substitute *uti possidetis*, but was reinforced by the strategy used by these entities in their bid for independence and recognition. This is a pattern seen in other de facto states as well; the case for non-recognition is strengthened by their overwhelmingly negative image.

Criminalised, Aggressive, Ethnic Fiefdoms

De facto states tend to be ethnically-defined and born out of violence and the image that dominates in the media, in foreign ministries and in the limited academic literature is very much a negative one. These entities are commonly viewed as criminalised, ethnic fiefdoms which are founded on aggression and frequently also on ethnic cleansing. Vladimir Kolosov and John O'Loughlin,¹⁸ for example, argue that de facto states are

predicated on criminal or quasi-criminal organisations, frequently specialising in the

¹⁵ BURG/SROUP, *The War in Bosnia-Herzegovina* (above fn. 13), p. 96.

¹⁶ GOW, *Triumph of the Lack of Will* (above fn. 11), p. 74.

¹⁷ *Ibid.*, p. 75, fn. 26.

¹⁸ Vladimir KOLOSSOV/John O'LOUGHLIN, »Pseudo-States as Harbingers of a New Geopolitics: The Example of the Trans-Dniester Moldovan Republic (TMR)«, in: David NEWMAN (ed.), *Boundaries, Territory and Postmodernity*, London: Frank Cass, 1999, pp. 151–176, p. 152, available at <http://www.colorado.edu/IBS/PEC/johno/pub/pseudo-states_1999.pdf>.

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production and sale of drugs, as well as the illegal traffic of weapons and in the laundering of 'dirty money'.

Other analysts add human trafficking and the smuggling of radioactive material to this list of security threats.¹⁹ Such sentiments are echoed by the 'parent states' of these entities who describe them as little more than criminalised badlands; as Georgian President, Mikheil Saakashvili, puts it, Abkhazia's leaders "have profited from illegal smuggling and contraband [and] now threaten to draw us all into conflict."²⁰ As Lynch argues, *de facto* states are typically dismissed as criminal strips of no-man's land or as the, likewise criminalised, puppets of external states;²¹ Serbia in the case of Republika Srpska and Republika Srpska Krajina; Russia in the case of Abkhazia, South Ossetia and Transnistria; Turkey in the case of Northern Cyprus; Armenia in the case of Nagorno Karabakh etc. Amitai Etzioni, moreover, dismisses the claim that such separatist movements are based on popular will, "a bunch of local autocrats hardly constitutes progress toward genuine self-determination."²² Similarly, Walter Kemp describes their claim to independence as 'selfish determination' and contends,

*[...] in many cases the intractability of these conflicts has more to do with the inability to break vested interests than with the difficulty of brokering a political settlement.*²³

The dominance of this negative image undermines any claim for recognition; it is not only a question of the inviolability of borders, the statelets are deemed undesirable entities that lack legitimacy and constitute a security threat. As argued elsewhere,²⁴ this image appears to be overplayed but it has had a significant impact on the international responses to these entities and on their revised strategies for gaining recognition.

¹⁹ Alexandre KUKHIANIDZE/Alexandre KUPATADZE/Roman GOTSIRIDZE, *Smuggling through Abkhazia and Tskhinvali Region*, Tbilisi: Transnational Crime and Corruption Center (TraCCC), 2004, pp. 31, 36.

²⁰ Quoted in Charles KING, »Black Sea Blues«, in: *The National Interest*, 78 (2004) 5, pp. 144–147.

²¹ LYNCH, *Engaging Eurasia's Separatist States* (above fn. 4), p. 4.

²² Amitai ETZIONI, »The Evils of Self-Determination«, in: *Foreign Policy*, 89 (Winter 1992/93), pp. 21–35.

²³ Walter KEMP, »Selfish Determination: The Questionable Ownership of Autonomy Movements«, in: *Ethnopolitics*, 4 (2005) 1, pp. 85–104, pp. 88–89.

²⁴ Nina CASPERSEN, »Separatism and Democracy in the Caucasus«, in: *Survival*, 50 (August-September 2008) 4, (forthcoming).

Dealing With De Facto States

Following from this image of de facto states and the rejection of their claims for recognition, one would expect a great reluctance to engage with their leaderships. And this has indeed been the dominant international response. Pragmatic considerations have at times led to some forms of reluctant engagement, but the guiding principle has been territorial integrity and the disinclination to defy the 'parent states' has been considerable. Moreover, the authorities have almost exclusively been viewed through the lens of ethnicity and monolithic representation, with no understanding of more complex dynamics. One de facto state, however, constitutes an exception to the general picture of international isolation: the case of Kosovo. This case differs in important respects due to the NATO intervention in 1999 and the subsequent establishment of an international administration; international intervention, in effect, created the de facto state of Kosovo. It could, therefore, be argued that Kosovo cannot really be grouped with other de facto states; the international presence, for example, greatly minimised Kosovo's internal sovereignty but it also made the entity's existence less precarious.²⁵ Even so, the policies adopted for Kosovo have been followed with intense interest in other de facto states and it has affected their strategies for achieving recognition; this tendency has only been strengthened by the recent recognition of Kosovo's unilateral declaration of independence.

Serb Statelets in War-Time Croatia and Bosnia: Reluctant Engagement

The leaders of the self-proclaimed Serb statelets, Republika Srpska Krajina (RSK) and Republika Srpska (RS) were from the beginning regarded as the protégés or puppets of Slobodan Milošević; the ethnic definition of the war had been accepted and the Serbian President could, therefore, be regarded as speaking for all Serbs. In addition, there was often a reluctance to engage with the local Serb leaders who were considered unpredictable and often crude. Initially, Milošević therefore played the dominant role in international negotiations, even those directly involving the Serb statelets. Thus, the Vance Plan for Croatia was

²⁵ Pål Kolstø, moreover, characterises Kosovo as a borderline case since he argues that it had not, at the time, formally declared independence. Pål KOLSTØ, »The Sustainability and Future of Unrecognized Quasi-States«, in: *Journal of Peace Research*, 43 (2006) 6, pp. 723–740. However, independence was in fact declared already in 1990, so it is only the international presence that constitutes a significant difference from the other de facto states. Thanks to Denisa Kostovicova for alerting me to this point

negotiated without the participation of the local Serb leaders. Such marginalisation of the local leaders was based on an assumption of either intra-Serb consensus or on Belgrade's ability to dictate its position to the Croatian and Bosnian Serbs. However, events were soon to demonstrate that such consensus or control could not always be assumed. Milošević's regime in Serbia initially enjoyed an almost symbiotic relationship with radical Serb leaders in Croatia and Bosnia, but relations underwent a considerable change over the years and from being loyal supporters of the Serbian President, the local leaders became increasingly autonomous actors who were at times in direct conflict with Belgrade.²⁶ Based on such conflicts, and the position of the local leaders as potential veto players, it was therefore problematic to assign the Serb statelets to the status of pariahs and insist on complete marginalisation. Pragmatism prevailed when their acceptance of peace proposals was deemed necessary. Thus, there was a considerable change from the London Conference in 1992 when the Bosnian Serb leaders were not even official participants²⁷ to later peace talks when they played a central, and frequently obstructing, role. This emergence from the shadow of Milošević was necessary to ensure a viable settlement, but it also benefited the Serbian President as it allowed for responsibility to be shared.²⁸

This set-up, however, began to change in July 1995 when Ratko Mladić and Radovan Karadžić were indicted for war crimes. These indictments added to the marginalisation of the local Serb leaders which international mediators had tried to foster for some time; the Bosnian Serb leaders, the following month, signed the so-called Patriarch Paper which gave Milošević the deciding vote in a joint Serb delegation. The reluctant engagement could, consequently, be scaled back significantly. Mladić and Karadžić would be prevented from taking part in the upcoming Dayton talks due to their indictments; as Richard Holbrooke, the US envoy, put it to Milošević, "Under international law they will be arrested if they set foot on the soil of the United States or any member of the E.U."²⁹ The de facto president of the Croatian Serbs, Milan Martić, had also been indicted, but following the fall of Krajina in August 1995, the RSK was no longer a central concern; the leaders of the Croatian territories that remained under Serb control were now willing to negotiate the dissolution of their de facto state. In the run-

²⁶ Nina CASPERSEN, »Between Puppets and Independent Actors: Kin-State Involvement in the Conflicts in Bosnia, Croatia and Nagorno Karabakh«, in: *Ethnopolitics*, (forthcoming, 2008).

²⁷ Laura SILBER/Allan LITTLE, *The Death of Yugoslavia*, London: Penguin Books, 1996, p. 262.

²⁸ Ibid.

²⁹ Richard HOLBROOKE, *To End a War*, New York, NY: Modern Library, 1999, p. 107.

up to the Dayton Peace Agreement, limited engagement with the Bosnian Serb leaders continued, but the international mediators insisted anew on perceiving the leaders of the de facto entities as Belgrade's puppets; pragmatic considerations still led to willingness to talk to them but the intra-Serb dynamics had changed and their self-proclaimed independent status held less and less sway. Holbrooke describes how he agonised over whether or not to meet Mladić and Karadžić in September 1995: "But in the end I decided it was justifiable under these circumstances." It was considered acceptable as long as it would help the negotiations. However, he made it a condition that they did *not* present themselves as a separate delegation or tried to negotiate on their own; to Milošević he stated: "they must be part of your delegation, you must lead the discussions and you must control them."³⁰

While their demands for recognition were dismissed as illegitimate, there was consequently a reluctant acceptance to engage with these entities, or rather their leaderships, in negotiations. This is, however, as far as the engagement went and it only lasted for as long as it was deemed necessary; for as long as they could be regarded as veto players. Any other engagement was regarded as strictly depoliticised and was limited to humanitarian aid and impartial peace keeping in the entities. No attempts were made to engage with, and try to take advantage of, internal dynamics in the statelets; beyond some recognition of a brewing conflict between the military and civilian leadership. Otherwise, monolithic representation was accepted.³¹ The international mediators preferred to deal with leaders of recognised entities and accepted a purely ethnic definition of the war according to which these leaders could speak for all their co-ethnics. The reluctance to engage with these entities was, at least initially, based on a refusal to accept their ethnically-based claims and a fear of being seen to be rewarding aggression and ethnic cleansing. However, ethnically-defined solutions were eventually accepted and Republika Srpska was recognised as a constituent entity of Bosnia with considerable levels of autonomy. Yet the Serb insistence on the right to ethnically-defined self-determination did not result in independence, despite their overwhelming coercive powers at the beginning of the war and early military success. Other de facto states appear to have taken note of this experience and have most notably tried to alter their negative image; first in the hope that an exception from the principle of territorial integrity could be made and later in the hope that a new precedent has been set.

³⁰ Ibid., pp. 148–149.

³¹ For an analysis of internal dynamics in Republika Srpska, see Nina CASPERSEN, »Contingent Nationalist Dominance: Intra-Serb Challenges to the Serb Democratic Party«, in: *Nationalities Papers*, 34 (2006) 1, pp. 51–69.

De Facto States in the Caucasus: Depoliticised, Limited Engagement

There are currently three entities in the Caucasus that can be described as de facto states: South Ossetia (Georgia), Abkhazia (Georgia), and Nagorno Karabakh (Azerbaijan). These entities have enjoyed de facto independence since the early 1990s but lack international recognition. They share a number of similarities with the Serb statelets analysed above; they all resulted from conflicts which took place in a transitional context following, or accompanying, the disintegration of a multiethnic federation. Furthermore, they all involved a 'stranded minority' that expressed demands for joining its kin-state, or alternatively becoming independent. Finally, they made similar claims to independence, based on self-determination and popular will; the use of referenda was popular in all cases. These similarities were recognised in the mid-1990s when Arkady Ghukasian, then foreign minister of Nagorno Karabakh (NK), stated: "I think the Serbs [...] are very close to receiving their desired goals. Of course, this will have an effect on the status of Karabagh."³² There are, however, also some important differences. Firstly, the Caucasus entities can point to a pre-war constitutional status which was lacking in the case of the Serb statelets: Abkhazia was an autonomous republic in the Soviet Union while South Ossetia and Nagorno Karabakh were autonomous regions. Their status was therefore more akin to that of Kosovo, although they were not identical. Secondly, at least two of the Caucasus entities, Abkhazia and Nagorno Karabakh, are more 'state-like' than the Serb statelets ever managed to become; they have existed for longer, during periods of relative stability, and have made some progress when it comes to institution-building. The Serb statelets, in comparison, struggled to create even the most rudimentary institutions; the economy, insofar as one existed, was almost entirely based on smuggling and other forms of war profiteering; factional conflicts were prominent and the authorities lacked full control over the territory to which they lay claim.³³

When it comes to institution-building, Abkhazia and Nagorno Karabakh have arguably been more successful than Kosovo, despite the international presence in Kosovo and the very substantial financial support made available to the province. In comparison, the de facto states in the Caucasus have hardly

³² Alexander MURINSON, «The Secession of Abkhazia and Nagorny Karabagh. The Roots and Patterns of Development of Post-Soviet Micro-Secessions in Transcaucasia», in: *Central Asia Survey* 23 (2004) 1, pp. 5–26, p. 6.

³³ See, for example, Filip ŠVARM, «The Untouchable Dealers», in: *Vreme News Digest*, 27 September 1993; IDEM, «The Krajina Economy», in: *Vreme News Digest*, 15 August 1994; Miloš VASIĆ, «Imitating life», in: *Vreme News Digest*, 4 November 1991.

seen any international engagement at all. Territorial integrity has guided and restricted any form of engagement and the arguments of the 'parent states' have largely been accepted: the entities are illegal, they represent a de facto occupation, they are based on ethnic cleansing and their leaderships lack any popular legitimacy. Thus, international engagement is only undertaken if explicitly approved, or even requested, by the 'parent states'. In Abkhazia, the European Union (EU) and other international organisations have, for example, provided humanitarian aid and support for civil society development. These projects are encouraged by the Georgian Government, which hopes to counteract Russian influence in the entity and improve the prospect for a settlement.³⁴ This approach is deliberately depoliticised;³⁵ the international organisations do not engage with the Abkhaz authorities and the involvement can therefore largely be framed as an issue of human security and grassroots developments. Even the latter is limited and few projects have supported the rule of law, free media or a critical civil society.³⁶ Any actions or any contacts that could be seen to legitimise the existence of the de facto states, or their leaderships, and hence violate the principle of territorial integrity, are fiercely resisted. Involvement in internal political processes is ruled out in particular, and the legitimacy of elections is routinely denied.³⁷ The EU, despite its increasing involvement in the Caucasus, has had virtually no projects in Nagorno Karabakh, which is in large parts explained by Azerbaijan's strong discouragement of any involvement in the entity. However, the lack of engagement continues even though the Baku Government has now suggested that it might be willing to modify its approach.³⁸

The de facto states are, therefore, confined to a pariah status reinforced by trade blockades, lack of possibility for international loans or any form of international assistance; beyond the, often very significant, assistance provided by their 'patron states', Russia in the case of Abkhazia and South Ossetia, Armenia

³⁴ INTERNATIONAL CRISIS GROUP, *Conflict Resolution in the South Caucasus: The EU's Role*, EU Report No 173, Tbilisi/Brussels: ICG, 20 March 2006, available at <http://www.crisisgroup.org/library/documents/europe/caucasus/173_conflict_resolution_south_caucasus.pdf>.

³⁵ *Ibid.*, p. 18.

³⁶ Nicu POPESCU, *Europe's Unrecognised Neighbours: The EU in Abkhazia and South Ossetia*, CEPS Working Document No. 260, March 2007, p. 14.

³⁷ As NATO's spokesman put it when commenting on the 2007 elections in Nagorno Karabakh, "Like other international organisations and institutions, NATO does not recognise the so-called Nagorno-Karabakh elections." Hasmik MKRTCHYAN, »Karabakh Hails Election Condemned by Azerbaijan«, in: *Reuters*, 19 July 2007, available at <<http://www.reuters.com/article/latestCrisis/idUSL19918180>>.

³⁸ INTERNATIONAL CRISIS GROUP, *Conflict Resolution in the South Caucasus* (above fn. 34), p. 21.

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in the case of Nagorno Karabakh. Otherwise, the only engagement consists of peace talks under international auspices; pragmatism dictates that the leaderships of the self-proclaimed entities take part in such talks, just like they did in the former Yugoslavia. However, Nagorno Karabakh is even excluded from this. Azerbaijan had in 1994 accepted Nagorno Karabakh as a military party to the war and therefore accepted its involvement in the ceasefire talks; however, it now insists on framing the conflict as a case of Armenian irredentism and will therefore only accept Armenia as an interlocutor. This has been accepted by the international mediators, even though the Karabakh leaders have shown themselves as veto players in past negotiations.

The self-proclaimed states are rarely actively opposed – travel bans are not imposed, the 'parent states' do not receive military backing – they are rather ignored; they are not part of the exclusive 'club of independent states' and there is great reluctance to engage in any activity that could be seen as endorsing them. Moreover, there appears to be a fear of becoming enmeshed in unresolved conflicts. However, the principle of territorial integrity can sometimes be trumped by other interests. For example, Somaliland has seen more international involvement than any of the other *de facto* states; due to its strategic position on the Horn of Africa, fear of instability, and arguably due to the lack of effective opposition from the 'parent state' Somalia. The question is, however, if the realm of internationally acceptable solutions has changed since the mid-1990s? The leaders of the Serb statelets were included in international peace talks in the 1990s, but it was always made clear that the basis for any solution would have to be the territorial integrity of the republics; even though the Z4 plan, proposed for Croatia in early 1995, and the Dayton Agreement, adopted in late 1995, promised very extensive autonomy. In comparison, the recent peace talks over Nagorno Karabakh reportedly proposed a status referendum in the entity, following an interim period of 10–15 years, which would almost guarantee a vote for independence.³⁹ Likewise, a number of suggestions have been made for forms of shared sovereignty in the case of Abkhazia. For example, the 1999, UN-prepared 'Boden Paper' envisioned 'sovereignty' for Abkhazia inside a Georgian state. In 2004, a more detailed proposal by a group of independent Georgian experts suggested that Abkhazia be given "domestic sovereignty" according to which it would be considered an "equal and independent

³⁹ See, for example, Harry TAMRAZIAN, »Officials Say Karabakh Deal Close at Hand«, in: *RFE/RL*, 12 July 2005; Karl RAHDER, »Nagorno-Karabakh Summit Ends in Failure«, in: *ISN Security Watch*, 27 February 2006. Disagreement over the status issue was reportedly one of the primary reasons behind the collapse of the talks.

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partner, with a state's qualities and characteristics."⁴⁰ The lengthy situation of 'no war, no peace,' the entrenchment of the de facto independence and the stalled peace talks all spur the need for more creative solutions.

Pragmatism may, therefore, trump or mediate territorial integrity; so far, however, this remains conditioned on acceptance by the 'parent states'. But the de facto states perceive that this may not necessarily be required in the future, and they take their cue from the recent recognition of Kosovo which has reignited their own hopes for external sovereignty: the international recognition of a province against the expressed wish of the 'parent state' and significant international actors. This recognition was made conditional on the establishment of a democratic state that guarantees the protection of minority rights. The de facto states assert that this sets an important precedent and even before the recognition they argued that it would have significant implications. Thus, the president of Nagorno Karabakh, Arkady Ghukasian, stated,

*If the world community is ready to recognize the independence of [...] Kosovo, I think it will be very hard for them to explain why they don't recognize Nagorno-Karabakh [...].*⁴¹

His counterpart in Abkhazia, Sergei Bagapsh, similarly argued,

*If the issue of Kosovo is settled [in favour of independence], let's say, and not the issue of Abkhazia, that is a policy purely of double standards.*⁴²

They contend that Kosovo's recognition constitutes a departure from the principles that have hitherto formed the basis of the recognition of new states.

Kosovo has long been of interest to the de facto states in the Caucasus: a de facto independent entity under international administration with an unresolved status. The international policy regarding Kosovo and especially the 2003 'standards before status' policy caught the interest of the entities; it seemed to suggest that recognition might be awarded to entities that had succeeded in building effective, democratic institutions. Partly in response to this, the leaderships

⁴⁰ INTERNATIONAL CRISIS GROUP, *Abkhazia: Ways Forward*, Europe Report No 179, Tbilisi/Brussels: ICG, 18 January 2007, p. 9–10, available at <http://www.crisisgroup.org/library/documents/europe/caucasus/179_abkhazia_ways_forward.pdf>. Abkhazia rejected the former proposal while the latter was not taken up by either side.

⁴¹ Viktor YAKUBIAN, »Kosovo-Karabakh – Strategic Fork«, in: *Regnum*, 13 November 2006, available at: <<http://www.regnum.ru/english/737310.html>>.

⁴² Thomas DE WAAL, »Abkhaz Leader Presses Independence Claim«, in: Institute for War & Peace Reporting (IWPR), *Caucasus Reporting Service*, No. 329, 2 March 2006, available at <http://www.iwpr.net/?p=crs&s=f&o=259987&apc_state=henicrs2006>.

of the entities, therefore, began to emphasise their success in state-building and in democratisation; these arguments gradually began to dominate over past claims to groupness and grievances. They argued that they have *earned* their sovereignty; they have proven their viability as effective, democratic entities.⁴³ This hope for a changed basis of external sovereignty finds support in an argument in the globalisation literature which holds that sovereignty has increasingly been redefined as legitimate authority based on the maintenance of human rights and democracy.⁴⁴ However, with Kosovo's recognition 'standards before status' has become 'status then standards' (under international supervision), which suggests a different basis for international recognition. So what impact is this likely to have: in the de facto states and in the 'parent states'? How will it affect their willingness to compromise on a settlement? How will it impact on the legitimising strategies adopted by the entities?

Impact of Kosovo's Independence?

Following the breakdown of talks on Kosovo's status in December 2007, it was clear that a unilateral declaration of independence was only a matter of time. This came on 17 February 2008 presumably after the Kosovar leaders had received a green light from their strongest international backers, the US. Kosovo's independence was quickly recognised by the US and the UK, who were soon followed by most of the EU. The states that have recognised Kosovo have all maintained that this is a unique case: Kosovo is an exception, no precedent for recognition has been set, territorial integrity still prevails. As Benita Ferrero-Waldner, the EU external relations commissioner put it, "Kosovo is not a blueprint that can be applied to any other area."⁴⁵ Similarly, Javier Solana, the EU's High Representative for the Common Foreign and Security Policy, argued that Kosovo is a *sui generis* situation, "this is so evident that those who don't see it, don't see it because they don't want to."⁴⁶ The EU Council reiterated its adher-

⁴³ For analysis of 'earned sovereignty' see, for example, WILLIAMS/PECCI, »Earned Sovereignty« (above fn. 3).

⁴⁴ David HELD, *Global Covenant. The Social Democratic Alternative to the Washington Consensus*, London: Polity, 2004, p. 119. This argument does not primarily relate to state recognition, but it does suggest a changed understanding of the legitimate basis of the state. See also, J. Samuel BARKIN/Bruce CRONIN, »The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations«, in: *International Organization*, 48 (1994) 1, pp. 107–130.

⁴⁵ Leigh PHILLIPS, »Kosovo Independence Emboldens South Caucasus Breakaway Republics«, in: *EUobserver*, 18 February 2008, available at <<http://euobserver.com/24/25683>>.

⁴⁶ *Ibid.*

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ence to the principle of territorial integrity and argued that the case of Kosovo is unique in view of two factors: the international administration established by Security Council Resolution 1244 and "the conflict of the 1990s."⁴⁷ Regarding the latter argument it has previously been argued that Kosovo's recognition could be seen as the final step in the Yugoslavia's dissolution, but the EU now primarily seems to refer to the ethnic cleansing committed by Milošević's regime.⁴⁸ In addition to these arguments for uniqueness, the EU also emphasised that the resolution adopted by the Kosovo Assembly

*commits Kosovo to the principles of democracy and equality of all its citizens, the protection of the Serbs and other minorities [...] and international supervision.*⁴⁹

However, not everyone agrees that the recognition of Kosovo does not set a precedent and judging from reactions in de facto states in the Caucasus, and elsewhere, significant political consequences are to be expected. Russia, in particular, has argued that the recognition of Kosovo sets a dangerous precedent. A number of Russian politicians actively advocate unilateral recognition of Abkhazia, South Ossetia and Transnistria, and Kosovo's recognition might provide a useful window of opportunity.⁵⁰ One Russian MP, Aleksey Ostrovskiy, quickly announced that "the recognition of Kosovo allows Abkhazia and South Ossetia to expect a similar decision in respect of their territories."⁵¹ However, the Russian foreign minister, Sergey Lavrov, denied that such recognition was part of Russia's agenda;⁵² the Russian Government seems to relish the opportunity to claim that it, unlike the West, seeks to uphold international law and the principle of territorial integrity. Steps short of recognition therefore appear more likely. The Duma speaker, Boris Gruzlov, stated that in view of Kosovo's recog-

⁴⁷ COUNCIL OF THE EUROPEAN UNION, 2851st Council meeting, *General Affairs and External Relations*, Press Release, 18 February 2008, <http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/98818.pdf>.

⁴⁸ See, for example, EUROPEAN PARLIAMENT, *Kosovo: a Special Case Say MEPs*, Press Service, 20 February 2008, available at <http://www.europarl.europa.eu/news/expert/tous_les_infopress/default/default_en.htm>. This argument would, however, seem to undermine the claim to uniqueness.

⁴⁹ COUNCIL OF THE EUROPEAN UNION, 2851st Council meeting, Press Release (above fn. 47).

⁵⁰ Oksana ANTONENKO, »Russia and the Deadlock Over Kosovo«, in: *Survival*, 49 (2007) 3, pp. 91–106, p. 100.

⁵¹ »Russian MP Says Kosovo Sets Precedent for Breakaway South Ossetia, Abkhazia«, in: *RIA Novosti*, 18 February 2008 [from *Georgia News Digest*, a service of the Georgian Foundation for Strategic and International Studies].

⁵² »Russia Denies Nationhood Deals With Georgia Breakaway Regions«, in: *Russia Today*, 18 February 2008, available at <<http://www.russiatoday.ru/news/news/19984>>.

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niton, the Government should "reshape its relations with the self-proclaimed republics;"⁵³ there is speculation that Russia will open representations in Abkhazia and South Ossetia⁵⁴ and it was announced in early March 2008 that sanctions against Abkhazia would be lifted.⁵⁵ This is in some ways merely a formalisation of existing relationships; the blockade has never been effectively enforced and Russia constitutes a very significant external backer to the entities.

Moscow Times has argued that the recognition of Kosovo may force Kremlin to take a clearer stand:

*It is becoming increasingly difficult for Russia to offer tacit support for separatist regimes while officially backing the territorial integrity of former Soviet republics.*⁵⁶

However, ambiguity so far persists even though the recent moves signal a weakened commitment to territorial integrity; these moves are easier to justify following Kosovo's recognition and there is a fear in the 'parent states' that this new position will be used to blackmail them. Such intentions could be deduced from Vladimir Putin's somewhat cryptic response when asked if Russia would consider recognising Abkhazia and South Ossetia,

*If someone takes a bad, incorrect decision, it does not mean that we should act the same way. But [...] we would respond to the behaviour of our partners in order to ensure that our interests are protected. If they believe that they have the right to promote their interests in this way, then why can't we?*⁵⁷

In a similar vein, Russia's ambassador to NATO, Dmitry Rogozin, has warned that if Georgia were to join NATO, Abkhazia and South Ossetia would begin "real secession."⁵⁸ Thus, Russia argues that a dangerous precedent has been set, but that it will not act on it. This position appears to, in part, reflect Russia's own problems with potential secessions and, in part, reflect the potential strategic use of a continued ambiguous position. It is important to remember that arguments over whether or not a precedent has been set are ultimately political

⁵³ Nikolaus VON TWICKEL, »Moscow Wary with CIS Separatists«, in: *Moscow Times*, 19 February 2008, p. 1.

⁵⁴ PHILIPS, »Kosovo Independence« (above fn. 45).

⁵⁵ These sanctions were introduced by the Commonwealth of Independent States in 1996.

⁵⁶ »Kosovo Should Serve as a Wake-up Call«, in: *Moscow Times*, 19 February 2008, p. 10.

⁵⁷ [President of Russia Vladimir PUTIN], *Transcript of Annual Big Press Conference*, Moscow, 14 February 2008, available at <http://www.kremlin.ru/eng/speeches/2008/02/14/1011_type82915_160266.shtml>.

⁵⁸ IWPR, *Caucasus Reporting Service*, News Update, 11 March 2008.

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arguments, and depend to a large extent on whether or not the implications of such a precedent are seen as beneficial. Thus, it is unsurprising that the existence of a precedent is denied by the 'parent states' but eagerly claimed by de facto states; if the decision on Kosovo's status had been reintegration with Serbia, then the positions would undoubtedly have been reversed. But this expected pattern of responses does not mean that Kosovo's independence will not have an impact on the self-proclaimed entities or on their 'parent states'.

The de facto states are basically arguing: "if Kosovo then why not us?" They point to their former status as provinces in now dissolved states; alleged human rights abuses; the right to national self-determination and what they argue to be their proven viability as effective, democratic states. These arguments are not limited to the Caucasus, but also heard in other secessionist conflicts.⁵⁹ Abkhazia and South Ossetia are the two entities that have most eagerly jumped at this chance for renewing their claims to independence. Thus, at a joint press conference on 18 February 2008, the leaders of the two entities announced that they would shortly apply to the leadership of Russia, the Commonwealth of Independent States, the UN and other international organisations to recognise their independence.⁶⁰ These applications were duly submitted the following month. However, the leaders also expressed a certain scepticism regarding the likely international response. Thus, Yury Morozov, the prime minister of South Ossetia, stated:

*We've got used to the double standards of the West. I believe that the people of South Ossetia have much more reason for gaining independence than the Kosovan Albanians.*⁶¹

And the entity's president declared:

*Abkhazia and South Ossetia will move toward independence step by step, in accordance with international law. We have our speed, independent of Kosovo.*⁶²

Compared to these two entities, the leadership of Nagorno Karabakh has

⁵⁹ Renewed demands for independence have even been heard in the Balkans; the Assembly of Republika Srpska has supported a referendum on independence, even though of the arguments mentioned above, only the ones linked to national self-determination can be made with some justification.

⁶⁰ Kazbek BASAYEV, »We're No Worse than Kosovo Say Ex-Soviet Separatists«, in: *Reuters*, 18 February 2008, available at <<http://www.reuters.com/article/topNews/idUSL1847595520080218>>.

⁶¹ »Kosovo Independence to Spark Chain Reaction in Caucasus?«, in: *Russia Today*, 27 December 2007, available at <<http://www.russiatoday.ru/news/news/19066>>.

⁶² VON TWICKEL, »Moscow Wary with CIS Separatists« (above fn. 53).

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been remarkably subdued. The NK foreign minister, Georgy Petrossian, stated in an interview in early February 2008, when asked about Kosovo,

all of them [the de facto states] have a number of identical parameters, so the settlement of any one of them [...] would have certain political and legal consequences for the others.

He also added that the determining contemporary criterion for recognition is viability: "the ability of these states to ensure security and protect the rights of their citizens."⁶³ Nevertheless, no official reactions to Kosovo's independence were issued, no press conferences were held. The celebrations of the 20th anniversary of the Karabakh Movement, a few days after Kosovo's recognition, were used to reiterate the case for independence but few explicit references to Kosovo were made. The leaders of Nagorno Karabakh have previously expressed their interest in Kosovo due to the prospect of recognition in defiance of the 'parent state', but have also maintained that they have an even better case for recognition than Kosovo.⁶⁴ Perhaps they now fear being lumped together with the other de facto states, such as Abkhazia and South Ossetia, perceiving that this could reduce their chance of recognition.

Nevertheless, this reignited optimism in the self-proclaimed states has been mirrored by fears in their 'parent states', which have argued that Kosovo's recognition might be misused. This argument is especially heard in Georgia. Although relations between Russia and Georgia have recently improved there is a fear that Russia will use the alleged precedent set by Kosovo's independence to further its influence in the region. Thus, Georgian President Mikheil Saakashvili rejected the idea that Kosovo sets a precedent, but warned that it could be used to fan tensions in Abkhazia.⁶⁵ The speaker of the Georgian parliament, Nino Burjanadze, likewise dismissed any comparison with Kosovo as "completely groundless and completely unacceptable."⁶⁶ Azerbaijan similarly fears the consequences of Kosovo's recognition and the authorities reacted angrily to the an-

⁶³ MINISTRY OF FOREIGN AFFAIRS NAGORNO-KARABAKH REPUBLIC, *NKR Foreign Minister Georgy Petrossian's Interview to 'Demo' Newspaper*, 4 February 2008; available at <<http://www.armtown.com/news/en/aza/20071122/2372/>>.

⁶⁴ Interview with high-ranking official in the NK foreign ministry, Stepanakert, 11 September 2006. The NK foreign minister recently argued that NK, unlike Kosovo, has proved its viability, cf. *NKR Foreign Minister Georgy Petrossian's Interview* (above fn. 63).

⁶⁵ BASAYEV, »We're No Worse than Kosovo« (above fn. 60).

⁶⁶ »Breakaway Regions 'Groundless' – Speaker«, in: *BBCM*, 18 February 2008 [from *Georgia News Digest*, a service of the Georgian Foundation for Strategic and International Studies].

nouncement; President Aliyev declared that it emboldened the Karabakh separatists and the Parliament voted to withdraw a 33-strong Azeri peacekeeping team that had been serving in Kosovo since 1999.⁶⁷

Impact on Peace Processes

Regardless of whether or not Kosovo's independence sets a legal precedent, it has already had political consequences which may start unravelling the current stalemates; it introduces a new dynamism which makes the status quo increasingly unstable. This could both hinder and aid the goal of a peaceful solution; a lot depends on how the (political) precedent set by Kosovo is managed. As Thomas de Waal puts it, "Events set precedents, whether international leaders like it or not."⁶⁸ If this is not acknowledged and managed then the de facto states in the Caucasus might learn the wrong lessons from Kosovo's recognition.

Some observers argue that Kosovo's independence will lead to a hardening of positions. For example, Oksana Antonenko holds that it makes the de facto regimes less flexible in negotiations;⁶⁹ independence now appears increasingly realistic and they therefore see less need to backtrack on their maximalist goals. As Charles King has put it, "Why be a mayor of a small city if you can be president of a country?"⁷⁰ This is not just the dream of aspiring separatists, this is the current reality, and the perception is that this reality is increasingly likely to be internationally recognised. When it comes to the 'parent states', it has also been argued that they will now be less likely to compromise. Antonenko again argues that Kosovo's recognition encourages efforts to restore territorial integrity since a potential Russian response is feared.⁷¹ Thus, if the 'parent states' fear losing their territory altogether then it makes a military solution appear all the more attractive. Such ominous tendencies appear to have been borne out by the recent statement from Azerbaijan's President who announced that Azerbaijan was ready to take Nagorno Karabakh back by force if need be and was buying

⁶⁷ Lada YEVGRASHINA, »Azerbaijan May Use Force in Karabakh after Kosovo«, in: *Reuters*, 4 March 2008, available at <<http://www.reuters.com/article/latestCrisis/idUSL04930529>>.

⁶⁸ Thomas DE WAAL/Zeyno BARAN, »Abkhazia-Georgia, Kosovo-Serbia: Parallel Worlds?, in: *openDemocracy*, 1 August 2006, available at <<http://www.opendemocracy.net/node/3787/pdf>>.

⁶⁹ ANTONENKO, »Russia and the Deadlock Over Kosovo« (above fn. 50), p. 100.

⁷⁰ Charles KING, »The Benefits of Ethnic War: Understanding Eurasia's Unrecognized States«, in: *World Politics*, 53 (2001) 4, pp. 524–552, p. 551.

⁷¹ ANTONENKO, »Russia and the Deadlock Over Kosovo« (above fn. 50), p. 100.

military equipment and arms in preparation.⁷² The same day saw unusually violent clashes across the ceasefire line and these were in Karabakh argued to reflect Azerbaijan's fears of a Kosovo precedent.⁷³ The possibility of similar preferences for a military 'solution' in the case of Georgia is strengthened by the current instability in the country and by increasing hardline dominance in Saakashvili's cabinet; the Government has, for example, renamed its conflict resolution ministry into the more hawkish Ministry for Reintegration.⁷⁴

But this hardening of positions is by no means inevitable. The 'parent states' could also conclude that Kosovo's independence adds a hitherto lacking urgency to the peace talks; if territorial integrity is not guaranteed then other solutions, including forms of shared sovereignty, may start to appear more attractive. The leaderships of de facto states will also not necessarily take a more maximalist position; in fact, Kosovo's recognition could provide further incentives for creating more democratic, inclusive entities. This could in turn bring new forces to power who might be more inclined to compromise. The consequences of Kosovo's independence depend to a large extent on what lessons are learned; why was Kosovo's independence recognised? What lessons does it hold for other territories that are striving for recognition? Does recognition depend on powerful friends; military superiority; demographic majorities; political and economic viability; democratic principles and protection of minority rights; or on other factors? As De Waal argued before the recognition,

Let's hope that the final-status arrangement will protect the Serb minority and make the Balkans more stable. An outcome that grants independence on less rigorous terms would merely look like a reward for Kosovo's loyalty to the west.⁷⁵

To that should be added: to what extent will these conditions actually be implemented during the period of 'supervised independence' and to what extent are they merely rhetorical? So far the de facto states have concluded from the case of Kosovo that viability and democratic institutions is the key to recognition. During the last couple of years, significant internal changes have taken

⁷² YEVRASHINA, »Azerbaijan May Use Force« (above fn. 67).

⁷³ Azerbaijan, on the other hand, argued that they were started by Armenian forces. Karine OHANINA/Samira AHMEDBEYLI/Seda MURADYAN, »Mutual Recriminations After Karabakh Clash«, in: IWPR, *Caucasus Reporting Service*, No. 434, 7 March 2008, available at <http://www.iwpr.net/?p=crs&apc_state=henh&s=f&o=343239>.

⁷⁴ Thomas DE WAAL, »Separation Anxiety«, in: IWPR, *Caucasus Reporting Service*, IWPR Comment, 20 February 2008, available at <http://www.iwpr.net/?p=crs&s=f&o=342806&apc_state=henicrs2008>

⁷⁵ DE WAAL/BARAN, »Abkhazia-Georgia, Kosovo-Serbia: Parallel Worlds?« (above fn. 68).

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place, most notably in Abkhazia and Nagorno Karabakh. These changes have been driven, in large parts, by a belief that democratisation will make recognition more likely. As, David Babayan, advisor to the NK president, sees it, "recognition will not be possible without democracy; we have to be ahead of Azerbaijan."⁷⁶

Nagorno Karabakh has held regular elections since 1995, which have been deemed largely 'free and fair' by international observers, and the leadership continuously emphasise the entity's democratic credentials. For example, the parliament speaker argues that Karabakh has

*a serious basis for the international recognition of our sovereignty, we have held free elections for 16 years, law-enforcement bodies are formed, powers are divided, [the] army is under civil control [...].*⁷⁷

The opposition has yet to gain power through elections at the national level but an opposition candidate did become mayor of Stepanakert, the NK 'capital', in the 2004 local elections and the opposition, overall, secured victories in 70 per cent of settlements. The NK authorities note that this is unheard of in the South Caucasus.⁷⁸ Pluralism was slower to emerge in the case of Abkhazia and the authorities were, moreover, more reluctant to loosen their grip on power. The first president of Abkhazia, Vladislav Ardzinba, was unopposed when he ran for re-election in 1999 and the opposition withdrew most of its candidates in the 2002 parliamentary elections in protest over the conduct of the campaign.⁷⁹ However, things had changed in 2004 when the opposition candidate won the presidential election despite (or because of) Moscow's backing for the regime candidate. Previously, the opposition had been weak but an assortment of civil society organisations, the veterans' association, businessmen, and disgruntled former government ministers managed to wrest power from the incumbent regime. Change in leadership through contested elections is an important aspect of democratisation but by no means the only one. The holding of elections has,

⁷⁶ Interview with David BABAYAN, Stepanakert, 13 September 2006.

⁷⁷ »Karabakh Has Serious Grounds for International Recognition of Sovereignty«, in: *Karabakh Open*, 20 February 2008, available at <<http://www.karabakh-open.com/src/index.php?lang=en&nid=7849&id=3>>.

⁷⁸ Interview with David BABAYAN (above fn. 76).

⁷⁹ See, for example, Inal KHASHIG, »Abkhazia: Government Poll Landslide Contested«, in: IWPR, *Caucasus Reporting Service*, No. 119, 8 March 2002, available at <http://www.iwpr.net/?p=crs&s=f&o=161432&apc_state=henicrs2002>; FREEDOM HOUSE, »Abkhazia [Georgia] (2007)«, *Freedom in the World, Country Reports 2007*, available at <<http://www.freedomhouse.org/template.cfm?page=22&country=7313&year=2007>>.

however, been accompanied by increasingly pluralistic civil society and media, especially in the case of Abkhazia.⁸⁰ Moreover, both entities are eager to dismiss the image of them as mono-ethnic; especially in Abkhazia there is now an, at times lively, debate over what it means to be Abkhaz. These processes have been driven by internal pressures but also by a perception that there is an external incentive to democratise. There are still significant shortcomings and obstacles but these processes arguably open up for new solutions; it constitutes a tentative move away from the military, zero-sum logic that otherwise dominates these conflicts. However, it is not irreversible: transition is difficult for any entity, but even more so for an unrecognised one. The leaderships currently legitimise their claim to independence through a narrative combining national self-determination, grievances and democratic viability. This narrative, however, contains a number of tensions and contradictions and depending on the conclusions drawn from the case of Kosovo, the proclamation of democratic values could therefore easily be abandoned in which case a return to strict authoritarian mono-ethnicity would result.

By rejecting the very idea of a precedent, even in the form of political consequences in other conflicts, the EU has closed off such a discussion. But by doing so the interpretation is left largely in the hands of Russia, which may pursue interests other than a peaceful outcome. Part of the problem is a very static conception of intra-state conflicts in general and of self-proclaimed states in particular; there is an insufficient understanding of their internal dynamics and possibility for change. The de facto states in the Caucasus are in some ways very different from the Serb statelets from the early and mid-1990s, or indeed from Chechnya in the late 1990s, yet they tend to be treated according to the same formula. The Caucasus entities have had time to build state institutions and an international pressure to democratise has been perceived; this has been compounded by internal pressure for reform, which was largely absent in the more top-down Yugoslav conflict.⁸¹ The failure to recognise such fluidity and

⁸⁰ Nicu POPESCU, *Democracy in Secessionism: Transnistria and Abkhazia's Domestic Policies*, Budapest: Central European University, Center for Policy Studies/Open Society Institute, August 2006, p. 17, available at <<http://www.policy.hu/news/NPopescu-PS/22>>; INTERNATIONAL CRISIS GROUP, *Abkhazia Today*, Europe Report No. 176, Tbilisi/Brussels: ICG, 15 September 2006, p. 15, available at <http://www.crisisgroup.org/library/documents/europe/caucasus/176_abkhazia_today.pdf>; IDEM, *Nagorno-Kara-bakh: Viewing the Conflict from the Ground*, Europe Report No. 166, Tbilisi/Brussels: ICG, 14 September 2005, p. 11, available at <http://www.crisisgroup.org/library/documents/europe/caucasus/166_nagorno_karabakh_viewing_the_conflict_from_the_ground.pdf>.

⁸¹ For the difference between the conflicts, see for example, Stuart J. KAUFMAN, *Modern Hatreds: The Symbolic Politics of Ethnic War*, Ithaca: Cornell University

the insistence on understanding these conflicts through reified ethnic categories makes it less likely that significant changes will take hold and that a more peaceful solution can be found. Pragmatism, and the goal of stability, has previously characterised international engagement with de facto states. This has, however, been largely ad hoc, unpredictable and has lacked direction and does therefore not bode well for more productive developments.

Conclusion

International policies towards de facto states have generally been guided by the principle of territorial integrity; this has been the case both in the Balkans and in the Caucasus. Their claims to independence have been rejected as being ethnically-based and in violation of the principle of *uti possidetis*. As a result, these entities have often been relegated to a form of pariah status and their isolation has been compounded by a frequently highly negative image; they are seen to be based on aggression, ethnic cleansing and a criminalised economy. While there is certainly some truth to this image, it has in some cases been overplayed and failed to acknowledge developments within these entities. International engagement with these de facto states has therefore been limited; any actions that could be seen to legitimise their existence, or that were opposed by the 'parent states', have generally been resisted. Reluctant engagement has, however, occasionally occurred; in the form of humanitarian aid or participation in peace talks. Such engagement has been driven by pragmatism; it has been on an ad hoc basis, the uniqueness of the situation has frequently been stressed as has its depoliticised nature. International responses to de facto states have thus been marked by a strict dichotomy; full recognition, or no relations at all. Non-recognition is therefore accompanied by almost complete isolation. But such a position overlooks the possibility for other forms of engagement, short of recognition. Rather than promoting stability, international policy towards de facto states could be argued to reinforce the zero-sum nature of the conflict; independence for the de facto entity or territorial integrity for the 'parent state' are the only options; there is no in-between.

However, the stalled peace processes in the Caucasus and the lengthy existence of an unstable situation of 'no war, no peace' may have led to greater pragmatism when it comes to the de facto states. The 'parent states' appear to accept greater international involvement in the entities, possibly as a counter-

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balance to their external patrons, and solutions that propose some form of shared sovereignty or even a form of independence are more frequently put forward. Such developments remain conditional on acceptance by the 'parent states', but the recent recognition of Kosovo's independence has reignited hopes in other de facto states that such acceptance may not be needed. The states that have recognised Kosovo have been keen to stress the uniqueness of this case and therefore reject the argument that the recognition creates a dangerous precedent. However, even if this recognition does not result in a coherent principle for state recognition, it does have political consequences that are likely to significantly impact on the stalled peace processes in the Caucasus. It introduces a new dynamism, which could lead to a hardening of positions on both sides and hence increase the risk of renewed warfare. But it would be a mistake to see this as the only possible outcome; much depends on how the recognition is interpreted and by refusing to acknowledge the possibility of a political precedent, the EU and the US make it harder to manage this. If the conditional nature of the independence is stressed and the implementation of democratic reforms and minority protections is closely monitored, then this sends an important signal to other de facto states: that they need to move away from authoritarian mono-ethnicity. This has already happened to some extent in the Caucasus statelets, but it is by no means irreversible. Kosovo's recognition could therefore have an important impact on the internal dynamics of these entities; such dynamics are usually overlooked or ignored when it comes to de facto states and they have also played a very limited role in the recognition of new states. Positive engagement does not necessitate a promise of recognition, but it does entail an end to unproductive isolation and a serious discussion of status.⁸²

⁸² The Kurdistan Regional Government in Iraq provides an example of how international engagement can lead to greater pragmatism regarding maximalist positions; it has so far halted the drive towards full independence. Thanks to Denise Natali for making this point.

Abbreviations and Acronyms

EC	European Community
EU	European Union
NATO	North Atlantic Treaty Organization
NK	Nagorno Karabakh
NKR	Nagorno Karabakh Republic
OSCE	Organization for Security and Co-operation in Europe
RSK	Republika Srpska Krajina
SAO	Serb Autonomous Region
UN	United Nations
US	United States