

LEGITIMIZATION OF STATEHOOD IN DE FACTO STATES: A CASE STUDY OF SOMALILAND

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ABSTRACT

De facto states constitute an interesting anomaly in the international system of sovereign states. No matter how successful and efficient they are in the administration of their territories, they fail to achieve international recognition. The main priority is given to maintaining their existence and to an effort to convince domestic and international actors of their right to independence. Currently, most scholars consider only six entities as de facto states: Somaliland, Abkhazia, South Ossetia, Nagorno-Karabakh, Transnistria and Northern Cyprus. The aim of this article is to determine which legitimization strategies for the right to independent statehood are applied by Somaliland representatives. The research is conducted through an analysis of official government documents supplemented with an interview with Abdillahi Duale, Somaliland's former Minister of Foreign Affairs, and two representatives of the African Union.

Keywords: Legitimization strategy, De facto states, Unrecognized States, Non-recognition, Somaliland

1. Introduction

Apart from standard states, which are subjects of international law and have full inner sovereignty, there are two other types of countries that go beyond current typology. On one hand there are internationally recognized states that are not able to collect taxes and in return offer at least basic social services and security to its citizens. In the taxonomy of weak statehood these entities range from weak states, through failing states to collapsed states (Jackson 1993; Zartman 1995; Rotberg 2004). The states in the second category are admittedly capable of performing sovereign legislative, executive and judicial power over their territories, they struggle for independence, but lack international recognition, or are recognized by only a few other states (Pegg 1998). There are many terms commonly used in connection with such entities, for example unrecognized states, separatist states, pseudo states or de facto states (Kollosov and O'Loughlin 1998; Pegg 1998; Riegl 2010; Šmíd and Vaďura, 2009).

Somaliland (*Jamhuuriyadda Somaliland*), which is our case study, is one of these de facto states, as we will call these entities in our text. Currently, there are only five other entities in the world which are generally¹ considered as de facto states: Abkhazia (*Apsny*), South Ossetia (*Husar Iryston*), Nagorno-Karabakh (*Lernajin Ghara-bagh – Arcach*), Transnistria (*Pridněstrovskaja Moldavs-kaja republika – PMR*) and Northern Cyprus (*Kuzey Kıbrıs Türk Cumhuriyeti*).² All of these were formed as

a consequence of armed conflicts in the second half of the 20th century, and up to the present time political representatives of these de facto states and their mother countries have not been able to find a mutually acceptable solution to the political status of the newly formed political entities (Hoch, Kopeček, Baar 2012). And thus, even though the armed phases of the conflicts have ended, the conflicts persist and are often labelled as being frozen, protracted or intractable.³

De facto states function in many aspects (as will be described below) as specific actors in the international system of sovereign states. However, they are anything but rare phenomena. They have become relatively common since World War II. Though, most researchers agree that currently there are only six such entities, there are several areas under territorial dispute and in the recent past there have been many de facto states in almost all world macro-regions (e.g. Biafra and Katanga in Africa, Republika

Chinese government – The Republic of China (Taiwan). Kosovo is another specific case. After the unilateral declaration of independence in February 2008, this entity was subsequently internationally recognized by a majority of countries represented in the UN General Assembly (currently by 108) and by three permanent members of the UN Security Council, and thus we no longer consider Kosovo to be a de facto state. Sahrawi Arab Democratic Republic (SADR) represents another case of territorial dispute. We do not include SADR into the group of de facto states because the SADR government controls only about 20–25% of the territory it claims. For more detailed criteria for designation or rejection of a territory into a group of de facto states see chapter 3 of this paper.

³ In the case of Somaliland, the situation is complicated further by the fact that Somalia, which should play the role of the mother country, is itself a failed state where there is no effective government with which the leaders of Somaliland can discuss their political status.

¹ E.g. Kolstø 2006; Pegg 1998; Caspersen 2008.

² Taiwan is a special case due to its economic importance and privatization of bilateral relations with the USA and the EU. It does not declare itself as a state independent of the PRC, but as a parallel

Srpska Krajina and Republika Srpska in Europe, Tamil Eelam, East Turkestan Republic and Tannu Tuva in Asia, Anguilla in America or Republic of North Solomons in Oceania). And because the political map of the world is not stable at the present time, it is highly probable that sooner or later new de facto states will emerge. As a matter of fact, de facto states are not a political-geographical oddity, but an important phenomenon that should be put under scrutiny.

Protection of the existence of de facto states and an effort to convince domestic and international actors of their right to independence are among the most important factors for each of the de facto state governments. Therefore, we see a legitimization strategy to gain international recognition as one of the key components of foreign policy in every de facto state. The aim of this text is to describe and analyse the nature of legitimization strategies for the right to independent statehood applied by the Somaliland representatives.

2. Research Materials and Methods

From the methodological point of view, this is an intrinsic case study. This means that we are guided by interest in the case itself, rather than in extending theory or generalizing across cases (Stake 1995). Our primary goal is to understand the structure of the internal strategies of statehood legitimization by the Somaliland government. Therefore, we will mostly analyse authentic statements of a former member of the Somaliland government and official government documents with the goal of determining the foundation on which the political representation of Somaliland bases the right to independent existence.

The research was conducted through an analysis of the official government documents complemented by an interview with Abdillahi Duale, Somaliland's former Minister of Foreign Affairs (hereinafter an interview with Abdillahi Duale). The interview took place in Addis Ababa on 15 October 2010 and had the character of a semi-structured expert interview. The respondent was also given the freedom for more general expression on the subject under study (e.g. Flick 2009: 165–169). During two study visits in Ethiopia in 2010 and 2011, the authors were fortunate that they were well received at the African Union (AU), where they could informally discuss with two representatives of this organization. Interviews recorded at the African Union aim at supplementing the official government documents of Somaliland and the aforementioned interview with Abdillahi Duale and at placing the problems of Somaliland's de facto statehood into the context of events within the African Union.

The text is structured as follows: first we define and conceptualize de facto statehood, and then we proceed with legitimization strategies for claims on independent statehood, which will serve as the theoretical framework

and basis for analysing Somaliland's fulfilment of the four Montevideo criteria of statehood and for addressing the strategies applied by the representatives of Somaliland.

3. Conceptualization of de facto states and their legitimization strategies

In this article, the definition of a state comes from the Montevideo Convention on the Rights and Duties of States.⁴ According to Article 1 of this Convention, the essential criteria of statehood are: a permanent population, a defined territory, a government and the capacity to enter into relations with other states. In addition to a permanent population and defined territory, the traditional state also depends on internal and external sovereignty. As was mentioned in the introduction, the core problem of de facto states is the lack of external sovereignty. Kolstø (2006: 725–726) defines a de facto state as a territory where: (1) the political leadership must be in control of (most of) the territory it lays claim to, (2) it must have sought but not achieved international recognition as an independent state, and (3) it has to persist in the state of non-recognition for more than two years. Pegg (2008) develops this definition, claiming that there is a fairly widespread consensus surrounding the basic elements of how to define a de facto state. In his words, disagreements come only around the edges of the definition, while not disputing the basic elements of it. In his framing of the term:

There are six basic elements of the definition of a de facto state, a number of which come from Article 1 of the 1933 Montevideo Convention on Rights and Duties of States. First, there is an organized political leadership which receives some form of popular support. Second, this leadership has achieved sufficient capacity to provide governance or governmental services to a defined population. Third, the de facto state effectively controls its territory or the large majority of it for at least two years. ... Fourth, the de facto state views itself as capable of entering into relations with other states. Fifth, the de facto state actively seeks widespread international recognition of its sovereignty. Finally, the de facto state is, however, unable to achieve widespread recognition of its sovereignty and remains largely or totally unrecognized by the international society of sovereign states. (Pegg 2008: 1)

Therefore, we consider de facto states to be regions that have a defined state territory, permanent population and their governments are in control of the entire territory they claim, or at least most of it. Their state authorities perform state administration, they have the ability

⁴ Although this Convention was concluded between the United States and eighteen countries in Latin America in 1933, it is often referred to the case of countries outside of the Americas, as do e.g. Pegg (1998), Kolstø (2006), Toal and O'Loughlin 2013, etc.

to enter into relations with other states, they have been seeking independence for at least two years while failing to gain international recognition of their independence (or they have been recognised by only a few countries).

The international community has long emphasized the territorial integrity of a state and the inviolability of the borders demarcating it (Lynch 2004; Pegg 1998). In the African context, the principal of the respect of borders existing upon the achievement of national independence, is enshrined in the Charter of the Organization of African Unity (Resolution AHG/Res. 16(1) on Border Disputes between African States) adopted in Cairo in July 1964 and in the Constitutive Act of the African Union (Article 4b) adopted in Lome in July 2000. This implies an unwillingness of recognised states and international organisations to get involved in *de facto* states. This unwillingness is also due to the poor reputation of *de facto* states (Collier and Hoeffler 2004; Kolossov and O'Loughlin 1998). It is therefore not too surprising that the international community has traditionally supported the return of breakaway regions to the administration of the mother states through various offers of broad autonomy and asymmetric federations (Coppieters et al. 2003; Cornell 2001). In the last few years, more and more authors have begun to address the internal dynamics of *de facto* states, which can affect the future status of *de facto* states in the international system and their relations with neighbouring countries (Bakke, O'Loughlin and Ward 2011; Berg and Mölder 2012; Blakkisrud and Kolstø 2012; Caspersen and Stansfield 2011; Hoch, Souleimanov and Baranec 2014; Jelen 2014; Kopeček 2009; Matsuzato 2011; Ó Beacháin 2012, Souleimanov 2013), but the dominant approach of the vast majority of countries towards *de facto* states continues to be the diplomatic ignoring of their existence.

For *de facto* states, this approach generally means little foreign direct investments and the absence of loans from international financial institutions or banks located in countries that do not recognise the *de facto* state. Export options are similarly limited because most countries place restrictive measures on goods from *de facto* states (Popescu 2010). There are also severely limited opportunities for foreign companies or non-governmental organisations to operate in *de facto* states. Other complications are created by transport, which is made difficult by the mostly closed border with the mother country, and also by the reluctance of most countries to open borders with an unrecognised state. Travel for the citizens of *de facto* states, even those with a passport from another country, is likewise difficult (Kvarchelia 2013: 26). Generally speaking, there is a relatively substantial wall of isolation separating the lives of *de facto* states' citizens from the rest of the world. And thus, it is no wonder that the vision of international recognition is one of the crucial issues for the foreign policy in *de facto* states, which is closely linked with their economic and social development.

During the 20th century the traditional justification strategy for independent statehood was based on the concept of the right of a nation to self-determination that was connected with the decolonization process (Pegg 1998). In the case of *de facto* states which have appeared mostly during the post-decolonization period as a result of armed conflicts, their governments often refer to the historical continuity of their statehood and to a remedial right to secession based on alleged human rights violations (Caspersen 2009). Since 2006, it has been possible to record a significant increase of statements from official state representatives in *de facto* states, who emphasise the importance of democracy promotion in their entities. One possible explanation for this increase of importance of democracy indicates the belief that those states that have demonstrated their economic viability and that promote a democratic state organization should gain their sovereignty. It is an attempt to democratize the state for the purpose of gaining international recognition, the so-called "democratization-for-recognition-strategy" (e.g. Broers 2005; Popescu 2006; Hansen and Bradbury 2007; Caspersen 2009; Berg and Mölder 2012; Kolstø and Blakkisrud 2012).

4. Creation of Somaliland

Somaliland is a territory situated in northern Somalia covering an area of 137,600 square kilometres and includes the regions of Awdal, Woqooyi, Galbeed, Togdheer, Sahil, Sool and Sanaag. This is a semi-arid savannah region divided into three topographic zones. In the north, on the coast of the Gulf of Aden, there is a coastal plain with a hot climate; further to the south there are highlands with a milder climate, but a lack of water sources. The third topographic zone includes the region of Haudu with water sources, i.e. the region is suitable for agriculture. During the year the territory of Somaliland experiences two periods of rain, nevertheless the region often suffers from a lack of rain and long droughts. This is the reason why the most widespread source of livelihood in the region is pasture farming and agriculture dependent on irrigation in some areas. As a result of the civil war, some pasture communities moved to larger cities, the largest of which is the capital of Hargeysa (Bradbury 2008: 50–52). Somaliland has a strategic position, because its territory is situated on the coast of the Gulf of Aden. Important sea routes from the Indian Ocean to the Mediterranean, through the Suez Canal where oil from the Arab Peninsula is transported, lead along its coast. The geopolitical and the geostrategic position of the region is also emphasized in relation to the combat against terrorism, arms smuggling and drug trafficking (Huliaras 2002: 172–173).

Modern Somaliland corresponds to the area of the former British protectorate of Somaliland which became a member of the union with the former UN Trusteeship

under the administration of Italy in 1960, creating a united Somali Republic. The de facto state of Somaliland was created in response to the repressive rule of General Siad Barre, who seized power in Somalia by means of a military coup in 1969. During Barre's government clan identities were politicized and northern Somali clans were marginalized, in particular the Isaaq clan. Consequently, opposition groups were created, of which the Somali National Movement (SNM), which removed Barre's regime at the beginning of 1991, played the most important role for the future development of Somaliland. On his removal, however, a power vacuum occurred and individual clan factions in the south of the country tried to seize power.

The development in the north of the country took a different direction when on 18 May 1991 the leaders of the SNM from the Isaaq clan, supported by representatives of other Somaliland clans, declared the establishment of an independent state – Somaliland at the conference in Burao, the so-called Grand Conference of Northern Nations (*Shirweynaha Beelaha Waqooyi*) (Bradbury, Abokor and Yusuf 2003: 457; Huliaras 2002: 160). In fact, this was not a declaration of secession from Somalia, but the leaders of the SNM declared that Somaliland “reverts to the sovereign status [it] held at independence from Britain on June 26, 1960 ...” (Quotation in Farley 2010: 783). Thus, this was a one-sided cancellation of the Act of the Union, the basis on which the Italian and British Somalia were united in 1960.

The original essence of the ideology of the SNM was not the idea of an independent status for Somaliland, but of overthrowing the regime of Siad Barre and creating a representative government with guaranteed autonomy for northern Somalia (Bradbury, Abokor and Yusuf 2003: 457; Bryden 2004: 24). With regard to the fact that after the overthrow of President Barre it was the United Somali Congress (USC) which seized control over Mogadishu, it was obvious that the southern Somali clans would re-try to concentrate power into their hands, thus the representatives of the SNM decided to withdraw from the idea of a united Somalia. Moreover, the leaders of the Isaaq clan enforced the idea of an independent Somaliland as the goal of their fight in the civil war, and the independent existence of Somaliland was supported by inhabitants of northern Somalia at demonstrations in cities, such as Hargeysa, Berbera or Burao (Brons 2001: 245–246; Bryden 2004: 24; Hoehne 2009: 258).

Another factor which helped the leadership of the SNM in their decision to accept the declaration of independence was the development in Mogadishu where Ali Mahdi, a leader of one of the armed groups, had himself declared president without consultation with the other opposition movements. This news suggested that the situation in Mogadishu could turn into long-term battles for power among individual fractions. Therefore, it was the interest of the SNM and Somaliland, to dissociate from events in southern Somalia (Hoehne 2011: 312).

5. Somaliland and the Montevideo Criteria of Statehood

Although some authors (e.g. Balthasar 2013; Hoehne 2011; Bryden 2003) focus on the negative sides of Somaliland's statehood, with regard to the goal of our text, which is understanding the internal structures of statehood legitimization, on whose foundation the political representation of Somaliland bases the right to independent existence, in the following two chapters we will rely primarily on the opinions of the political representation of Somaliland presented in official government documents or the interviews mentioned in chapter 2. An important part of the legitimization strategy of Somaliland's government is pointing out the fact that Somaliland meets the basic attributes of statehood defined at the Montevideo Conference in 1933, i.e. it has a permanent population, a defined territory, a government and the capacity to enter into relations with other states (Government of Somaliland 2013a). The following pages thus specify the individual criteria of statehood applied to Somaliland in detail.

5.1 Permanent population

With regard to the nomadic way of life of clans in Somaliland, it is difficult to determine a precise number of inhabitants in this de facto state, but the population is estimated to range from 3.5 to 4 million (interview with Abdillahi Duale). To justify the claims for self-determination, the government of Somaliland emphasized nation building after the declaration of independence and as a result, objective as well as subjective signs of a nation can be identified. The objective signs particularly include a different ethnicity, cultural differences and an independent historical evolution. The population of Somaliland is mostly formed of the Isaaq clan family, where minorities include clans of the Daarood clan families (the Warsangeeli and Dulbahante clans) and Dir (the Gadabuursi and Isse clans). The northern clans differ from the southern Somali clans in their way of life, where pasture grazing prevails in the north of Somalia, in the south settled farming is a way of livelihood (Lewis 2003: 22–24; Carroll and Rajagopal 1993: 673). The subjective concept of a nation of the Somaliland inhabitants is particularly based on the shared experience in the struggle, first against Britain as a colonial power, and later against the regime of Siad Barre (Carroll and Rajagopal 1993: 673). The government also emphasizes achievements in the field of forming a national identity in the period after the declaration of independence and thus creating a distinct nation in Somaliland in contrast to southern Somalia (interview with Abdillahi Duale).

5.2 Defined territory

The territory of the Republic of Somaliland is based on the frontiers of the former British Somaliland which was



Fig. 1 Somaliland and Puntland disputed territory in the regions of Sool and Sanaag.

Source: http://www.lib.utexas.edu/maps/africa/txu-pclmaps-oclc-795784383-somalia_2012_somaliland_and_puntland.jpg

founded in the territory in 1887, and its frontiers were determined on the basis of international treaties among colonial powers in the region and Ethiopia between 1888 and 1897 (Bradbury, Abokor and Yusuf 2003: 457). The Constitution of Somaliland also refers to the colonial past, where it defines the territory of this de facto state as follows: “The territory of the Republic of Somaliland covers the same area as that of the former Somaliland Protectorate and is located between Latitude 8°00’ to 11°30’ north of the equator and Longitude 42°30’ to 49°00’ east ...” (Constitution of the Republic of Somaliland 2001). The existence of colonial frontiers is an important prerequisite for the establishment of new states in Africa, and therefore, it forms part of the legitimization strategies of the Somaliland government (interview with Abdillahi Duale).

However, the real control over the entire Somaliland territory seems to be a problem with regard to the fact that the eastern regions of the state, Sool and Sanaag, are not only inhabited by two Isaaq clan sub-clans, Habr Jalo and Habr Yonis, but also by the Harti clan group from the Daarood clan family which consists of the Dulbahante and Warsangeli clans. These regions have common borders with Puntland, an autonomous region of the Republic of Somalia which defines itself as a state of the Harti clan group. Puntland also defines its borders⁵ on the basis of the geographic distribution of its clans,

⁵ Article 6.1 of the Puntland Constitution defines the territory of this autonomous region as a territory including the regions of Bari, Nugaal, Sool, Southern Togdheer, Mudug and a part of Sanaag, i.e. also the territory which is claimed by Somaliland on the basis of colonial borders.

unlike Somaliland which defines its borders on the basis of the former colonial administration (Henwood 2007: 174; Hoehne 2011: 324). The regions of territorial disputes can be seen in Figure 1.

Using the clan relationship of the Harti group, the administration of Puntland tried approaching the Dulbahante clan in the regions of Sool and Sanaag and provided important positions in the new administration to their members. Its aim was to turn these clans to the idea of the re-unification of Somalia into a federal state which would include the whole territory of the former Republic of Somalia. Paradoxically, its efforts resulted in the strengthening of the national identity of Somaliland which took form in the opposition against the destabilisation efforts from Puntland (Hoehne 2011: 324–325). Several independent states have been declared in the disputed territory between Somaliland and Puntland which declared independence both from Somaliland and Puntland. The first of these was Maakhir, which declared independence on 1 July 2007, however, it was included in the territory of Puntland two years after its formation. A new entity, Khatumo State, historically deriving its origin from the Warsangeli Sultanate and the Dervish state, has laid claim to a major part of the disputed territory since 2012. According to Crawford (2006: 48), the existence of border disputes does not deny the fact that the state in question controls its claimed territory, i.e. one of the Montevideo attributes of its statehood. Thus, the border disputes between Somaliland and Puntland cannot serve as an argument for questioning the statehood of Somaliland.

5.3 Government

As Somaliland has not achieved international recognition, it has not been provided with support for post-conflict reconstruction from foreign countries. The local mediation process thus resulted from internal peace efforts and mechanisms, and in particular, it was based on the traditional role of clan leaders that enabled the creation of a unique governmental system, which corresponds to the Somali social structure. During the first twelve years, the traditional way of government based on clan leaders and clan institutions prevailed, which was later replaced with a western-style system of political parties and institutions (Bradbury, Abokor and Yusuf 2003: 458).

The Grand Conference of the Communities in Somalilandin Borama (*shirbeeleed*), which was held from January to May 1993, established the government system and institutions based on traditional clan principles, the so-called “*beel*” system. The Conference adopted the National Charter which defines government institutions as follows: *Golaha Guurtida* (Council of Elders); *Golaha Wakiillada* (Constituent Assembly); *Golaha Xukuumadda* (the government or the executive power, i.e. the President, the Vice-president and the Board of Ministers). The power in the state was divided according to the patrilineal clan lines to achieve a balance of power among individual clans (Brons 2001: 250–251; Bradbury, Abokor and Yusuf 2003: 460). According to Balthasar (2013) the formation of institutions in Somaliland did not include purely “bottom-up” processes, but also partly “top-down” policies and “elitist power politics”. Mohamed Haji Ibrahim Egal, a former Prime Minister of the Republic of Somalia, descending from the Isaaq clan, was elected President because hardliners within SNM thought they would be able to manipulate him. Paradoxically, civil war for resources and the control over strategic places which were fought for in the territory of Somaliland in the middle of the 1990s resulted in the strengthening of the state and the power of the President (Balthasar 2013).

In 1999 President Egal announced the commencement of the transformation process of the hybrid political system, partly based on traditional clan elites, towards a multi-party parliamentary democracy in relation to Somaliland efforts to achieve international recognition. The transformation of the political system was also motivated by the establishment of the regional autonomy in Puntland in 1998 and the creation of the Transitional National Government (TNG) at a conference in Arta, Djibouti, in 2000, both of which questioned the legitimacy of Somaliland (Bradbury, Abokor and Yusuf 2003: 463).

The first step in the transformation process of the Somaliland political system was the referendum on the Constitution held on 31 May 2001, which was considered to be a referendum on independence. A total of 97.9% of 1.18 million voters voted for the adoption of the Constitution, which was considered as confirmation of support

for the independence of Somaliland.⁶ The Constitution anchored a new political system in Somaliland, i.e. multi-party parliamentary democracy where the president, parliament and regional boards are directly elected by the inhabitants. The Constitution also limited the number of political parties to compete in nation-wide elections to three, in order to prevent a political instability (Bradbury, Abokor and Yusuf 2003: 463–464).

At the first stage of transfer to the multi-party democracy, elections to local councils were held with international support and supervision on 15 December 2002 on the basis of which three parties should be identified which should compete in the subsequent nation-wide election (Terlinden and Ibrahim 2008:75). A year later, a presidential election was held in which President Kaahin won by a close margin. According to international observers the election complied with democratic principles, and thus confirmed the legitimacy of the Somaliland political government and their efforts to achieve international recognition (Bradbury, Abokor and Yusuf 2003: 97).

On 29 September 2005 the first parliamentary election was held in Somaliland which represented the factual passage from the political system based on clan membership to modern representative democracy (Terlinden and Ibrahim 2008: 76). The question remained of how the upper chamber of the parliament, *Guurti*, should be transformed to correspond with the standards of modern democracy. With regard to the fact that the parliament was unable to agree on the new form of the upper chamber, its mandate was only prolonged (Henwood 2007: 171).

Between 2007 and 2010 Somaliland faced internal problems due to the growing dissatisfaction with the government of President Kaahin. As a result of the second presidential election held on 27 June 2010, the power passed to the hands of the newly elected President Ahmed Mohammed Silanyo, who was nominated by the Kulmiye party. Thus, Somaliland became only the fourth African state where the defeated current president handed over power to a newly elected one in a peaceful manner (Farley 2010: 787).

5.4 Capacity to enter into relations with other states

Although most authors (Pegg 1998; Lynch 2004) generally perceive de facto states as states surrounded by a wall of isolation, this does not apply to Somaliland, because Somaliland is interconnected with the other states in the region, as well as with the whole world, thanks to a numerous Diaspora living abroad. Now the

⁶ Although according to foreign observers the referendum proceeded according to the rules, a problem for interpreting the results seems to be the fact that in the Sool and Sanaag Regions (whose inhabitants are mostly against the independence of Somaliland), the election could not be held for safety reasons. In this regard one of the observers estimated the ratio of support for independence among Somaliland inhabitants at 70% (UN Office for the Coordination of Humanitarian Affairs 2001).

export of livestock and animal products to the states of the Arab Peninsula, especially to Saudi Arabia and Yemen, and remittances are the most important income sources of the state. Thanks to the important role of the Diaspora in the economic and political life, Somaliland can be called a transnational state. Somaliland's efforts to open itself to the World can be illustrated by the example of the development of an international airport in Hargeysa, the telecommunication sector, media and other services. Somaliland's passports are not only recognized by the states of the region, but also by some European countries, such as Great Britain, France or Belgium (Bradbury 2008).

Somaliland establishes international relations by means of the Ministry of Foreign Affairs and liaison offices which have been opened in Ethiopia, Great Britain, the United States of America, Sweden, Kenya, Ethiopia, France, Norway, Belgium, Djibouti, South Sudan and Canada (Government of Somaliland 2014). The highest representatives of Somaliland regularly travel to official visits abroad, e.g. to Addis Ababa, Ethiopia, or in 2006 President Kaahin visited eastern Africa with stops in Tanzania, Kenya, Rwanda, Uganda and Zambia (Farley 2010: 808; Jhazbhay 2009: 160).

The political representation tries to promote the case of Somaliland abroad and establish at least informal relations with countries which could help to achieve international recognition. In accordance with this strategy, Somaliland developed diplomatic relations with the Republic of South Africa (interview with Abdillahi Duale) which despite being a member of the AU and committed to respect the territorial integrity of African states, pragmatically approaches the problems of self-determination in the African continent with the goal to achieve a solution to conflicts and assurance of regional security (Interview with the official of African Union Peace and Security Council, Addis Ababa, 7 October 2010). The South African President Thabo Mbeki, who successfully engaged in the Sudanese peace process, is perceived in Somaliland as a politician who could be possibly able to promote Somaliland independence on the ground of the AU (Jhazbhay 2009: 170).

Ethiopia is also seen as a key partner in Somaliland. This is the reason the governments of these countries started cooperation, especially in the field of security, and agreed on a mutual exchange of "troublemakers" (interview with Abdillahi Duale). Ethiopia established a wide range of unofficial political and economic relations with Somaliland, e.g. in 2006 the governments of Somaliland and Ethiopia signed an agreement on the use of the Berbera port in the Somaliland coast, or on the establishment of customs offices along the common border (Farley 2010: 789). However, the Ethiopian government approaches the possibility to recognize Somaliland with reservation with regard to its effort to maintain territorial integrity of African states, and especially with regard to the large Somali population in the Ethiopian Ogaden Region (Huliaras 2002: 170).

In view of the fact that the Somaliland government declares that Somaliland is not an African issue (interview with Abdillahi Duale), it endeavours to develop relations with important states outside of Africa, in particular Great Britain and the USA. In 2004, President Kaahin was invited to make a speech in the British Parliament in which he emphasized that Somaliland fulfils the basic Montevideo criteria for the existence of states. Four years later, President Kaahin visited the USA, where he met several state representatives who assured him of the importance to establish mutual contacts (Hoehne 2009: 272).

The government of Somaliland also establishes relations with international organisations in the effort to achieve international recognition. In 1999, President Egal proposed Somaliland be granted the special status of an autonomous territory within the UN as in the case of Kosovo or Eastern Timor, which would enable it to draw funds from the World Bank or the International Monetary Fund. The requests of the Somaliland representation were not granted and the memberships in all international organisations were given to the Somali Transitional National Government in 2000 (Farley 2010: 811; Bryden 2003: 351). Between 30 April and 4 May 2005 an AU fact-finding mission was sent to Somaliland which found that Somaliland fulfilled many of the aspects of a state and a positive development had been achieved there. A report, which was elaborated on the basis of the mission, says that, e.g. Somaliland deserves a special consideration and attitude. As a result, the AU should try to find a way in which to approach Somaliland (an interview with an official of the AU Peace and Security Council, Addis Ababa 7 October 2010). In the same year the Somaliland government filled an official application for membership in the AU in which it highlighted why Somaliland should be internationally recognized and mentioned its independent existence during the period of de-colonisation in 1960, as well as the fact that the modern Somaliland was declared within the frontiers of the former British colonial borders. The Somaliland government also based its request for international recognition on the achievements it has managed to reach, especially in the field of good governance and security (International Crisis Group 2006).

6. Legitimization strategies of Somaliland Government

Somaliland fulfils more or less the Montevideo criteria of statehood. Though, it has not managed to achieve international recognition nor the consent of Somalia for its separation. The non-recognition limits Somaliland's possibilities to reach out to foreign aid provided by international financial institutions and close bilateral agreements. International recognition would thus certainly extend its possibilities for socioeconomic development (interview with Abdillahi Duale). The government

of Somaliland therefore tries to justify its requirement for international recognition by means of various legitimization strategies which correspond to the theoretical framework proposed at the beginning of the paper. They especially include emphasizing the historical continuity of Somaliland's statehood during the British protectorate and the existence of colonial frontiers associated therewith, the right to self-determination on the basis of the remedial rights theory, and emphasizing the successful democratisation process and importance of Somaliland for achieving security in the region of the Horn of Africa.

In 2001 the Somaliland government issued a publication where it submitted its arguments on why Somaliland should achieve international recognition. It bases its claim on the right of nations to self-determination and refers to the Universal Declaration of Human Rights. With regards to the fact that during the rule of Siad Barre inhabitants of the northern Somalia were subject to long-term and extreme violation of human rights, they applied their right to self-determination through the declaration of Somaliland's independence and according to the government, the international community is obliged to recognize the independence of Somaliland (Government of Somaliland 2001: 5–6).

States of the international community are waiting to see whether Somaliland will be recognized by the AU. In this regard, President Egal sent a letter of 24 May 1997 to the then Organization of African Unity (OAU) in which he explained the reasons for the declaration of independence of Somaliland on the basis of interpretation of historical events. The disintegration of Somalia resulted from the repressive government of Siad Barre against whom opposition was formed not only in the north of Somalia. President Egal contrasted the chaotic development after the overthrow of Barre, which ended in a civil war in south Somalia and the state's collapse, with the development in Somaliland. Thanks to the different colonial history and involvement of the traditional authorities, Somaliland "resurrected its previous statehood and without help or even encouragement, conquered the anarchy and reconciled its people and established democratic institutions of government which, in contrast to the surrounding anarchy, are working as the instruments of the will of their electorate." (Quotation in Abraham 2002: 439). President Egal appealed to the OAU to recognize the independence of Somaliland within its colonial borders because according to him, the political separation is a basis for the reconstruction of both the parties. The President did not exclude further cooperation with Somalia and potential re-unification "in times when the wounds of the present have been healed ..." (Quotation in Abraham 2002: 439).

6.1 Historical continuity of statehood

The political representation and authors justifying the right of Somaliland to independence emphasize the

previous independent existence of British Somaliland before the unification of the two colonial units, the British and the Italian, into a unitary state (interview with Abdillahi Duale; Bradbury, Abokor and Yusuf 2003; Carroll and Rajagopal 1993). The most important argument is the independence of British Somaliland declared on 26 June 1960, i.e. five days before UN Trust Territory of Somalia. Therefore, before the unification of both the colonies to a single state there was an independent political unit territorially defined by colonial frontiers, recognized by 35 states of the international community (Bradbury, Abokor and Yusuf 2003; Farley 2010: 780; Bryden 2003: 342; Shinn 2002: 1).⁷ In this regard the establishment of the Republic of Somalia was the result of joining an independent Somaliland with a newly decolonized Trust Territory of Somalia. Although it was not confirmed by a nation-wide vote, it was negotiated by democratically elected political representatives and was particularly motivated by efforts to achieve unity of all Somali territories (interview with Abdillahi Duale; Government of Somaliland 2001: 3). As the British Somaliland joined the union with the UN Trust Territory of Somalia voluntarily, it should also have the possibility to voluntarily withdraw from the union (Government of Somaliland 2013a).

The unification of the former British Somaliland with the UN Trust Territory of Somalia under the administration of Italy is considered invalid because no agreement on the union was concluded which would be confirmed by both the parts. Instead, different Acts on Union were passed which were ratified independently by the parliaments of northern and southern Somalia (Government of Somaliland 2013a). According to Bryden (2003: 343), the united Republic of Somalia could only exist because it was recognized by the international community without this union having been confirmed by legally binding documents approved in both parts of the country.

Inhabitants of northern Somalia felt discriminated in the newly established state because all the key ministries as well as important positions in the government and the majority in the parliament belonged to representatives of southern Somalia and therefore representatives of northern Somalia could not efficiently influence policy of the new state (interview with Abdillahi Duale; Lewis 2010: 24). In addition, Mogadishu which is situated in

⁷ Records on the recognition of Somaliland of 1960 were destroyed during the civil war in the 1980s and 1990s. However, the Somaliland government declares the independence of Somaliland was recognized by all the permanent members of the UN in 1960. In addition, according to David Shinn, the Minister of Foreign Affairs of the USA sent a message with congratulations and the government of Great Britain concluded a series of bilateral treaties with the Somaliland government on 26 June 1960 (International Crisis Group 2006: 4; Shinn 2003). The international recognition of Somaliland in 1960 was also confirmed in an interview with the director of the AU Legal Counsel, Addis Ababa, 17 November 2011.

the south of the country was elected as the new capital and Hargeysa, the former capital of British Somaliland, was marginalized. Due to all these reasons inhabitants of northern Somalia voted against the adoption of the new Constitution in the referendum of 20 June 1961. This dissatisfaction also resulted in the first attempt at a military overthrow which ended without success, but caused the adoption of numerous measures which helped the unification of the whole country (Brons 2001: 160).

With regard to dissatisfaction with the government in Mogadishu, at least half of the voters in the north of Somalia boycotted the referendum and the majority of submitted votes were against the adoption of the new constitution. The majority of voters in southern Somalia voted for the adoption of the constitution, and therefore the government managed to enforce it. However, the referendum was accompanied by irregularities, e.g. the election commission in Wanla Weyn near Mogadishu registered more pro-votes than there were registered voters (Adam 1994: 25). This is the reason that the representation of Somaliland considers the referendum on the constitution invalid and manipulated (interview with Abdillahi Duale).

6.2 Remedial right on secession based on alleged human-rights violations

An important argument for the recognition of independence of Somaliland is continuous marginalisation and repression of northern Somali clans by the government, especially during the autocratic rule of Siad Barre. This argument corresponds to the theory of the remedial right on secession, according to which the territorial unit in question is entitled to negotiate the possibility of independent existence with the mother country if its inhabitants are subject to continuous denial of participation in the political decision-making in the country and repressions.

Siad Barre used clan loyalties to achieve his political goals and supported other clans in northern Somalia, in order to suppress the Isaaq clan. He settled refugees from the Ogaden, who had come to Somalia after the war for Ogaden at the end of the 1970s, and Dulbahante clans in their territory (Brons 2001: 259; Huliaras 2002: 159). The opposition against Barre's regime resulted in the formation of opposition groups by northern Somalia clans. A violent campaign of the regime against the opposition in the north of the country culminated in 1988 when Burao and Hargeysa were bombed. This attack caused the deaths of about 50,000 inhabitants and the displacement of another half million Somalis, particularly to Ethiopia (Human Rights Watch 2006). The violation of the rights of the northern Somalia inhabitants during the period of the united Republic of Somalia thus questions the right of Somalia to the preservation of territorial integrity. During this period Somaliland was deprived of the right to internal self-determination and thus it has the right

to independent existence (Government of Somaliland 2001). In the case of Somaliland, the situation is complicated because since the overthrow of Siad Barre in 1991 there has not been an efficient and legitimate government for a long time with which the political representation could negotiate about its right to self-determination (interview with Abdillahi Duale).

6.3 Democratization-for-recognition strategy

An important factor and argument in the efforts of Somaliland for international recognition is the emphasis put on the democratic character of the country. Peace among individual clans in Somaliland and stability in the region was achieved by means of 38 peace conferences held on the clan basis between 1990 and 1997 (Terlinden and Ibrahim 2008: 70). The political representation emphasizes these achievements in its legitimization efforts and especially the fact that the peace process in Somaliland was initiated from the bottom with the involvement of traditional clan elites, and the power was transferred to the citizens by means of a referendum on the constitution. It contrasts the successful process of creating institutions, which was a key factor in the process of nation building, with the development in southern Somalia, where the peace process was initiated from abroad and did not reach such success by far. In this context, it is proposed that southern Somalia should be inspired by the government system created in Somaliland (interview with Abdillahi Duale; Government of Somaliland 2013b).

The fact that Somaliland took the direction of a multi-party liberal democracy, primarily before the attack on the WTC in 2001, should convince the international community in its recognition. In the period following this, the political representation of Somaliland started emphasizing the geopolitical importance of the country in the struggle against terrorism and piracy and the possible independent existence of Somaliland started to be perceived as a factor which could help stabilize the whole region (interview with Abdillahi Duale). In line with this concept, Kurt Shillinger (2005) argues that with regard to its geographic location, potential recognition of Somaliland would help in creating a barrier to the penetration of Islamic terrorist organisations to the region and gaining control over the Somali coast, and thus the transit zone to the Arabic Peninsula. Aside from the fight against terrorism and piracy, Somaliland was also successful in disarming the clan militia and removal of land mines, which contributes to the safety in the region (Government of Somaliland 2013b).

The democratisation process and especially the parliamentary election in 2005 helped to get the attention of the international community in developments in Somaliland. In spite of the fact that governments of states refused to recognize the independence of Somaliland, they provided it assistance, especially of a technical character and also

sent observers to Somaliland to supervise the course of election. The interest of the international community was perceived as a positive step which should help the political reconstruction of the country (Terlinden and Ibrahim 2008: 77–78).

Although definite success was undoubtedly achieved in the democratisation process of Somaliland, state institutions face many problems, such as the lack of financial funds and qualified personnel. Another problem is nepotism and corruption, which are caused particularly by filling the vacancies in the government on the basis of the clan membership at the expense of qualification. Up to now, the three constituents of power in the state have not been separated, i.e. the executive, the legislature and the judiciary. Moreover, the power of parliament is highly limited and almost all legislative initiatives come from the government. The judiciary faces a lack of qualified judges and the continuing existence of parallel systems, i.e. the Italian and the British, the traditional clan (*xeer*) and the Islamic (*sharia*), which is a remnant of the united Somali state. Another problem which makes the democratisation process in Somaliland more complicated is undoubtedly the still lacking international recognition and unsettled relationship with Somalia (Terlinden and Ibrahim 2008: 79–83).

The democratisation process in the country is also complicated by the efforts of the government to suppress the freedom of speech, as shown in the case of the Haatuf Daily in 2007 when its journalists were imprisoned for publishing articles criticizing President Kaahin and his wife. Another similar example was the prohibition of activity of Qaran, a political organisation, in the same year. Tensions in Somaliland were also caused by disputes among governmental parties and the opposition regarding the registration of voters to the presidential election which should have originally been held in 2008, but were postponed by the Parliament until 2010. Although international recognition would help Somaliland obtain larger volumes of international aid and facilitate its inhabitants in travelling abroad and participation in economic transactions, Hoehne (2011: 336) similarly to Bryden (2003: 363) also see the negative influence of international recognition on the democratisation process in the country and call the inhabitants of Somaliland a hostage to peace, which means the government uses its efforts for achieving international recognition as an argument for suppressing the opposition in the country.

7. Conclusions

Somaliland fulfils the basic Montevideo criteria of statehood, i.e. a permanent population, a defined territory, a government and the capacity to enter into relations with other states. Its population mainly consists of members of the Isaaq clan. Sub-clans of the Daarood

clan live in eastern parts of the country and the Dir clan lives in western parts. Clan membership is still an important factor which determines political processes in the country and the whole region inhabited by the Somalis. The territory of Somaliland is defined on the basis of colonial frontiers demarcated by European powers and Ethiopia at the end of the 19th century and it corresponds to the former British protectorate of Somaliland. During the peace process at the beginning of the 1990s, state institutions were created and on the basis of the democratisation process, which started in 2001 when the referendum on the Constitution was held, there is a two-chamber parliament, government and president in Somaliland that are elected in democratic elections. Only the upper chamber has not been transformed; its representatives are still appointed on the basis of the clan lines. Unlike some other de facto states (especially Abkhazia and South Ossetia), Somaliland is not surrounded by a wall of isolation and political and economic processes in the country are influenced by the Diaspora living in many countries around the world. Somaliland also tries to establish relations with states which could help it achieve international recognition. A key partner is particularly Ethiopia with which Somaliland has entered into numerous economic and political agreements, although Ethiopia is against recognition of Somaliland due to its geopolitical position. Somaliland also established relations with some EU member states, in particular with its former colonial power of Great Britain, and the USA. The western states, however, see the problems of Somaliland recognition as an African issue, and thus expect that the African states and the African Union will be the first that grant international recognition to Somaliland. In this context, the political representation of Somaliland has submitted its claims to the African Union and strives for cooperation with important African states, such as the Republic of South Africa.

To justify the declaration of independence in 2001 and to achieve international recognition, the Somaliland political representation uses a wide range of legitimization strategies. They include emphasizing the historical continuity, where the government of this de facto state refers to a different colonial past, when Somaliland existed as a British protectorate, unlike southern Somalia which formed part of the Italian colonial domain. With regard to the fact that documents of the OAU and AU emphasize the inviolability of frontiers, the existence of demarcated frontiers is important to justify secessions in the African context. Therefore, Somaliland uses the argument of the British protectorate colonial frontier demarcation in its legitimization strategies. The union with the UN Trust Territory of Somalia under the administration of Italy in 1960 is considered invalid by the current representation of Somaliland, because no agreement on the unification of both the parts, which would have been ratified by both the parliaments, was concluded.

After the unification into a united state the inhabitants of northern Somalia felt marginalized when they obtained a low number of mandates in the new government as well as the parliament. During the rule of General Siad Barre the marginalisation policy of the Somali government resulted in the violation of human rights of the northern Somalia inhabitants and in particular the Isaaq clan, against whom military campaigns were conducted and culminated later in the bombing of strategic cities in 1988. The repressive policy of the Somali government resulted in the denial of northern Somalia inhabitants' rights to internal self-determination, and therefore according to the Somaliland political representation, Somaliland has the remedial right to secession due to the violation of human rights within the united Somalia.

In their legitimization strategies, the Somaliland government emphasizes success which has been achieved in the process of democratisation and creation of institutions, and the fact that this process was initiated from the bottom, i.e. is supported by the inhabitants of Somaliland. In addition, the support for the independence of Somaliland was expressed in the referendum on the Constitution in 2001. After the attacks on the WTC in 2001, democratisation is particularly considered as an important factor which should help convince the international community to grant international recognition and moreover, Somaliland also joined the struggle against terrorism and piracy in the region in the effort of ensuring its own safety and obtaining support from foreign countries. Despite this fact, the democratisation process in Somaliland has encountered numerous problems, such as a partial lack of freedom of the media, a restriction on political party formation or disputes regarding the registration of voters during the preparation for the presidential election in 2008–2010.

As it follows from the analysis of Somaliland legitimization strategies, this de facto state tries to justify its claim for independence and international recognition by means of legal arguments about the existence of colonial frontiers, the remedial rights to secession and the successful democratisation process. The process of state recognition is not only influenced by their justification in the international law, but especially by geopolitical interests of powers and international organisations. To achieve international recognition, it will be very important for Somaliland to convince the international community that the project of the united Somalia is already dead and that the international recognition of Somaliland would not necessarily cause a domino effect in Africa and could help the stability in the region.

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Interviews

- Interview with the African Union Director for Legal Counsel, Addis Ababa, 17th of November 2011.
- Interview with the official of African Union Peace and Security Council, Addis Ababa, 7th of October 2010.
- Interview with Abdillahi Duale, the former Somaliland's Minister of Foreign Affairs, Addis Ababa, 15th of October 2010.

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RESUMÉ

Legitimizace státnosti v neuznaných státech: případová studie Somalilandu

De facto státy představují zajímavou anomálii v mezinárodním systému suverénních států. Bez ohledu na to, jak dlouho a jak efektivně jsou schopny kontrolovat své území a zabezpečovat veřejné služby a bezpečnost svým občanům, nedaří se jim dosáhnout širšího mezinárodního uznání. Mezi jejich hlavní priority patří udržení vlastní existence a snaha přesvědčit domácí aktéry i mezinárodní společenství o oprávněnosti nároku na vlastní nezávislost. Většina akademiků se shoduje v názoru, že v současné době existuje pouze šest entit, jež odpovídají označení de facto stát: Somaliland, Abcházie, Jižní Osetie, Náhorní Karabach, Podněstří a Severní Kypr. Cílem tohoto textu je analýza strategií k legitimizaci nároku na vlastní nezávislou státnost v případě Somalilandu. Výzkum je prováděn na základě analýzy oficiálních somalilandských vládních dokumentů, jež jsou doplněny o rozhovory s Abdillahim Dualem, bývalým ministrem zahraničních věcí Somalilandu a dvěma představiteli Africké Unie.