

Geopolitical Anomalies: Exceptionalities and Regularities of International Politics

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Abstract

As international law and legally recognised states have been generally taken as the primary structures and actors of international politics, polities without those legal rights and privileges have been subordinated as rather insignificant in international relations. Over the past few years, however, events in Ukraine, as well as in Iraq and Syria, have reminded us of the persistence of such unrecognised polities claiming a semblance of statehood in international politics. This thesis, therefore, contends that the abundance and tenacity of these unrecognised political entities suggests a reconsideration of purely “legal” notions of international political life. It employs the term “geopolitical anomalies” (McConnell 2009a; 2009b; 2010) – political entities without the recognised rights and privileges of legal states, but with state-like structures and manifestations nonetheless – to call for a more serious consideration of these “actual” political exercises in international relations. This concept of geopolitical anomalies is utilised as a signifier of the physical and spatial manifestations of a wide array of political communities that demonstrate the essential irregularity of the international legal and political system.

By specifically focusing on the differences between conceptualisations of juridical (*de jure*) and material (*de facto*) of sovereignty, this thesis aims to demonstrate how geopolitical anomalies help us gain a clearer understanding of the differences between legal and normative power, material power relationships, and specific manifestations of *de facto* sovereign power. Utilising classical realist perspectives on the nature of *de facto* sovereignty, based in the ideas of Thomas Hobbes, Carl Schmitt, and Hans Morgenthau, this thesis argues that geopolitical anomalies are best understood as manifestations of exceptions and crises in international law and international politics. In order to shed light on these theoretical contentions, and draw out different aspects of the existence of geopolitical anomalies in international politics, two examples – Somaliland and Kosovo – are thoroughly examined in three chapters. This thesis concludes, subsequently, that in spite of persistent assumptions about the (trans)formative and regulatory capacity of international norms and legalities, precisely these assumptions are rebuked by geopolitical anomalies. As a consequence, any possible future vision for the dissolution of geopolitical anomalies from international politics will have to come to terms with its own exceptions.

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Introduction

International Politics and Geopolitical Anomalies

The twenty-first century is increasingly becoming an age politically characterised by entities other than states institutionalised in international law. This is certainly not to say that “conventional” juridical statehood is completely disappearing or losing its importance, but it appears nonetheless that more frequently than ever anomalous polities are popping up to try and be part of international political society. In recent years, for instance, violent conflicts in the world now seem far less likely to occur *between* legal (formal) states than *within* them. Formally legal states are far more often militarily challenged not by another state, but by people who have politically organised themselves without the statuses, institutions, or territorial arrangements that accompany formal statehood (see, for instance, HIIK, 2015). Also, political units are perhaps increasingly allowed more autonomy or independence within the territorial confines of conventional states. In any case, it appears that states that are legally recognised in international law (have to) take into account a far more diverse array of international political actors than merely each other.

These assertions notwithstanding, it apparently remains very difficult for “conventional” global political actors to deal with these “unconventional” polities, to engage with them, to interpret their actions and wishes, let alone to take them seriously as actual political players in the international arena. This is signified in three recent major international political occurrences, all of which happened in a one-year timespan.

First of all, when the Islamic extremist group(s) in Syria and Iraq – variably referred to as ISIS, ISIL, Daesh, or simply IS – proclaimed themselves as an independent state on June 29th 2014, US President Barack Obama assured very firmly that ‘ISIL... is certainly not a state’ and that ‘[i]t is recognised by no government, nor by the people it subjugates’ (Obama, 2014). From one perspective, he might be correct in making such statements, and the Islamic State’s radical ideologies and manifestations of extreme violence certainly do not immediately seem to warrant a granting of a more significant international political/legal status or consideration.

Yet, undeniably, the existence of this political entity, its claim to statehood, and its literal “breaking” of boundaries to create both an ideological and spatial political community, does provoke a (re)consideration of what we mean by state authority, state institutions, and territorial control. While Stern and Berger (2015) ‘discuss ISIS as a non-state actor’, they consider it ‘at the very edge of the [state] definition, possessing extraordinary infrastructure and expertise... and a will to govern’ (p. 11). As Cockburn (2014) has asserted, ‘[p]oliticians and diplomats tend to treat ISIS as if it is a Bedouin raiding party that appears dramatically from the desert, wins spectacular victories and then retreats to its strongholds... Such a scenario is conceivable but is getting less and less likely’ (p. 3). Even as the Islamic State in Iraq and Syria remains an entity under siege, little seems to suggest that it is likely to disappear as a political organisation or movement any time soon.

Similarly, the ongoing political crisis in Ukraine, in which secessionist forces in Crimea and particularly the eastern regions of the country are attempting to form political entities independent from the Ukraine, presents difficulties for many formal states to come up with a strategy for such situations of secessionist conflict. Although (or perhaps because) the Russian Federation openly supports the separatist endeavour militarily and politically, other major global players remain

uncomfortable or divided about whether and how to engage with such new political movements. This trepidation and reluctance was and remains understandable, and can be interpreted as a rejection of the secessionists' claims or a simple refusal to get involved in an "internal" political conflict, but that does not dissolve any of the issues that these polities pose to – for want of a better word – the "international community".

The tragic incident involving passenger flight MH17, which, as it now seems, was accidentally shot down by the secessionists' armed troops (Dutch Safety Board, 2015), painfully exposed some of these problems. When Dutch Prime-Minister Mark Rutte turned to Russian President Vladimir Putin to demand permission to access the crash site (because, in his own words, he 'did not know who else to call' (Rutte, 2014; translated from Dutch)) he again confirmed how hard it is to establish reliable communication lines in such situations of violent separatist conflict.

Finally, the 2014 referendum on Scottish independence from the United Kingdom, which narrowly resulted in the retention of the British union, presented some entirely different issues. It demonstrated, for instance, how even a completely peaceful and constitutional attempt to break away from a formal state may spark fears of a "domino-effect" of secessions. From the Spanish Minister of Foreign Affairs arguing that Scottish independence 'would start a process of Balkanisation that nobody in Europe wants' (Kassam & Traynor, 2014), to the Australian Prime-Minister finding that 'people who would like to see the break-up of the United Kingdom are not the friends of justice, not the friends of freedom' (Press Association, 2014), many comments on Scotland's possible independence reiterated how any extra-state polity is seen as a threat not just to a particular formal state, but to legal statehood and its apparently universal "good" values in general.

Furthermore, although the call for Scottish independence failed, the overwhelming electoral victory of the Scottish National Party (SNP) a little over half-a-year later seems to indicate that those sentiments of rejection of the UK's political establishment have not waned. Moreover, it now appears that in spite of the vote against independence in 2014, significant powers will nonetheless be transferred from Westminster to Edinburgh (Clifford & Morphet, 2015, 57). The tentative prospect of such devolutions raises the question why full independent statehood was on the table in the first place, and why, presumably, only full legal statehood is perceived as independence (Sharp, Cumbers, Painter & Wood, 2014, 37-39). In other words, at what point is a political entity effectively autonomous, even if it does not possess the legal statuses and institutions of a state?

These three examples are indicative of how the traditional actors, structures, and networks of international politics still take themselves, their foundations, and their normative values, somewhat for granted. Not only does international politics remain to be portrayed as a set of legal institutions, formal interactions, and intangible flows, our perceptions on international politics remain those of a political life that is formalised, institutionalised, and legalised in a specific manner. International law, juridically recognised states, established diplomatic relations, and institutionalised supra-national organisations are generally regarded as the international political actors and processes that matter.

However, in spite of the difficulties mentioned above, it is becoming increasingly clear that we have to strive not just to better understand polities that reside outside of these traditional elements of international relations, but also to better conceptualise these traditional elements themselves. As it appears that these alternative political entities are permanent phenomena of international relations, we are forced to come to terms with their existence, and/or to accept and

comprehend that in some instances and for some people it might be preferable to live in political arrangements other than a conventional state (e.g. see Nolan, 2015).

In this thesis, as such, I want to uncover – or at least make more discernable – the distinction between these traditional institutional and juridical political practices on the one hand, and those polities residing outside of those practices on the other. I want to separate the *political* from these particular conceptualisations of legality, normativity, and formality, investigating how international politics might be able to understand these less “conventional” political entities. To that end, I utilise the concept of *geopolitical anomalies* – a term first proposed by Fiona McConnell (2009a, 2009b, 2010) – and put them in contrast to the international legal state structure. The main research aim of this thesis, as such, is to counter purely legal or normative notions of international political life, and analyse what political communities existing externally to these (international) legal-normative arrangements could teach us about the nature of international politics. In working towards this research aim, I hope to satisfactorily answer the question: How do geopolitical anomalies manifest themselves in the interstate framework, and what do their manifestations tell us about the practice, discourse, and nature of international relations?

On Geopolitical Anomalies

The concept of geopolitical anomalies is first presented and seriously discussed in an article by Fiona McConnell (2009a), in which she explains the term as ‘non-state entities, which in diverse ways challenge, disrupt or reconfigure the relationship between sovereignty and territory’ (p. 1904). A year later, she seeks to define geopolitical anomalies more elaborately, revealing them as ‘political entities which, though decidedly not sovereign nation-states with bounded territories, appear to be acting in state-like ways and are striving to exist within the state system’ (McConnell, 2010, 763). As such, geopolitical anomalies can be understood as manifestations of politics expressing themselves both inside and outside the terms of statehood; they are defined as “state-like”, but are definitely not states nonetheless. Immediately, thus, the question arises about what is implied by the use of this “state-like” term: does this assumed similarity stand for “sameness”, signifying that geopolitical anomalies *are* states, or does it mean that they are still different from states? In other words, at what point are geopolitical anomalies so “state-like”, that we are just talking about states instead?

McConnell herself differentiates these entities into three separate (albeit interrelated) categories. Firstly, she identifies entities that are only partially decolonised and independent, and are known nowadays as dependencies, UN Trust Territories and Non-Self Governing Territories. Although most of these polities are intended to be either completely independent or assimilated into a legally sovereign state, they are often in fact “stuck in limbo”; examples are Gibraltar (Great Britain), Guam (United States), and New-Caledonia (France). Secondly, McConnell specifies enclaves (e.g., India-Bangladesh border, see Jones, 2009; Van Schendel, 2002), condominiums (e.g., the Brčko District in Bosnia and Herzegovina, see Dahlman & O’Tuathail, 2006; Geoghegan, 2014), governments-in-exile (e.g., Tibet, see McConnell, 2009b), and leased territories (e.g., Guantánamo Bay, see Colangelo, 2009; Strauss, 2007) as polities where the connection of juridical sovereignty with legal state territory is not straightforward. These entities exemplify the ongoing struggle of the international political community to set straight its ‘awkward spaces and historical irregularities’ (McConnell, 2009a, 1904-1905).

Finally, a wide range of political units has emerged out of the transformation of international norms about the legitimacy of legal states, and out of the discrepancy between international (legal) conceptions of self-determination and territorial integrity. This category includes insurgencies and national liberation movements (Berti, 2013; 2015) such as the PKK and the Eritrean People's Liberation Front (Clapham, 1995; Radu, 2001), stateless nations like the Basques and the Quebecois (Guibernau, 1999), and *de facto* states (Caspersen, 2009; Pegg, 1998a) like the Turkish Republic of Northern Cyprus (Navaro-Yashin, 2003), and Somaliland (Renders, 2012).

In this thesis, I will deploy the concept of geopolitical anomalies primarily to refer to this third category. Again, these latter polities are most fundamentally characterised, influenced, and shaped by their existence outside of the established international legal framework, and it is their non-legal manifestations of statehood that makes them most helpful in fulfilling the aim of this thesis to distinguish between international law and international politics.

Many terms other than "geopolitical anomalies" have been used to describe these kinds of entities. Some thinkers have referred to them as '*de facto* states' (Pegg, 1998a), 'separatist states' (Lynch, 2004), 'contested states' (Geldenhuys, 2009), or 'states-within-states' (Kingston & Spears, 2004). Caspersen and Stansfield (2011) even utilised the label 'unrecognised states' to distinguish them 'from other anomalies in the international system', emphasising how these type of polities 'have managed to build at least some state institutions' and thus 'achieved a level of "stateness"', and 'demonstrate a clear aspiration for full independence' (p. 3; see also Caspersen, 2012).

In these "unrecognised states", however, simultaneously 'we find a high level of variation, and despite being known for their intransigence, these entities are frequently characterised by a sense of flux and... perceived as transitional' (Caspersen & Stansfield, 2011, 5). Some authors, therefore, prefer to speak of geopolitical anomalies as 'incipient political entities' (Kingston, 2004, 1). While such terminologies may risk overlooking geopolitical anomalies' achievements as relatively developed entities (teleologically implying that they are all destined for some "higher" status), the political existence of these polities can, a lot more than juridical states, be based on ad hoc agreements, on improvisational interactions of power, and on more organic and grass-roots structured socio-political forms of organisation. In geopolitical anomalies, formal and informal socio-political arrangements may seemingly become infused, as these polities are sometimes forced to build more flexible and looser communal structures than the conventional formal and legal foundations of (international) politics.

That does not imply, however, that geopolitical anomalies are simply synonymous with terms such as "non-state actors" or "non-state entities". Such concepts have been widely discussed in international relations literature (Fogarty, 2013; Haufler, 1993; Higgott, Underhill & Bieler, 2000; Katsikas, 2010; Milner & Moravcsik, 2009; Peters, Koechlin, Förster & Zinkernagel, 2009; Taylor, 1984), but have thereby become somewhat diluted terms lacking any unified and specific denotation. Clapham (2009), for instance, defines the term "non-state actor" 'to include every entity apart from [legal] states' (p. 202), yet he himself admits that this 'open-ended nature of the term... gives rise to misunderstandings and tensions' (p. 209). Indeed, the term "non-state actor" problematically seems to imply that there exists a distinctly defined idea among international political actors about what a state does (and does not) behave and look like, whereas, in fact, international political scholarship still does not appear to have fundamental agreement about what a state actually is. Josselin and Wallace (2001), therefore, problematise the "non-state actor" concept,

because it represents a 'theoretical purity of... opposing ideal types' that 'is muddled by the complexities of practice' (p. 2).

This thesis, accordingly, will actually largely refrain from providing clear-cut definitions of statehood, aside from identifying official statehood simply as statehood as recognised in international law. Given the attempt being made in this thesis to acknowledge varieties of political community and avoid ideals and absolute norms of statehood, a very narrowly-defined assessment of the practical and political manifestations of "the state" would in fact seem unnecessarily counterproductive.

Some geopolitical anomalies' leaders and representatives would themselves object to being labeled as "non-state", since they would contend that they already resemble and behave like legal states, and are sometimes even recognised as such by some other countries (Clapham, 2006, 494). Geopolitical anomalies' degree of recognised independence from juridical state authority may be hugely variable, ranging from some having the full approval and support from one or more formal states, to others that are even seen as threats to the established legal state order. Clapham (1998) already observed that in international politics one could speak of 'degrees of statehood', and that 'rather than distinguish sharply between entities that are and are not states, we should regard different entities as meeting the criteria for international statehood to a greater or lesser degree' (p. 143).

Thus, geopolitical anomalies are specifically not official legal states, yet they do throw into question any (constitutive) assumptions about legal state existence (see also Chapter Two). These entities, in fact, are in many respects *indistinguishable* from legal states. They may even hold elections, may have a judiciary, may be able to organise a form of law enforcement, and may possess other state-like characteristics. In that sense, geopolitical anomalies possess a quality of clearly bringing out the discrepancies between what exists in formal state and international law, and what are international *political* actualities. It is this quality of geopolitical anomalies to make the legal and formal become specifically (*geo*)*political* that so aptly demonstrates the necessity of a reconceptualisation of what international relations entail.

It is for this reason, furthermore, that geopolitical anomalies should not be confused with non-state actors such as non-governmental organisations (NGOs) serving more operational and advocacy purposes for broader social, economic, or environmental issues, nor with intergovernmental organisations (IGOs) that function as platforms for formal state interactions. In the same way, the concept neither refers to other economic, social, or cultural movements that can be found in the international system. Many of such actors remain very reliant on legal frameworks and normative elements of international politics. For McConnell, moreover, even though such actors do in fact challenge conventional ideas about legal state sovereignty and territoriality, they 'have logics and motives that significantly diverge from those of the interstate system' (McConnell, 2009a, 1904).

Geopolitical anomalies, instead, are specifically *geopolitical*, as they do manage to be part of the territorial interstate system in some form. They are not completely beyond the territorialised legal state framework, like NGOs, multinational corporations, or global socio-economic and socio-cultural groups would be. Such latter types of organisations certainly exercise a degree of power and influence in international affairs, but their status, prestige, and proceedings do not appear to rely on the exercise of that power over a (legally) defined territory. They challenge or transform not merely the spatial rules, discourses, and practices of legal statehood, but almost function more as

challenges to political territoriality in itself. Certainly, as they try to manifest themselves independently from legal state territory, this may even be their essential *raison d'être*. In a sense, then, they are actually not part of the international territorial political system, nor do they act in concordance with it.

It is, therefore, also through their “geographicalness” and territoriality that we may distinguish geopolitical anomalies from these “non-state actors”, from legal states, as well as from each other. From Gray’s (1999) point of view, ‘all politics is geopolitics’ (p. 162), insofar as ‘all political matters occur within a particular geographical context’ (p. 164). It is in the realm of these “anomalous spaces”, therefore, that the limitations of pure state legality most clearly come to the fore – where the essential insubstantiality of legality has no material effects *in situ*.

Additionally, a geopolitical understanding of these entities helps us to bring into focus the extent to which they engage in the erection of boundaries and create social structures and norms that are separate and independent. As we will discover, geopolitical anomalies do vary in their willingness or capacity to govern a defined space. McConnell (2009b), actually, provides a helpful elucidation of this, explaining that ‘[geopolitical anomalies] construction of territory and power [may be] somewhere between... traditional territorial arrangements and the hyper-real cyberspace’ (p. 348). In other words, the degree to which geopolitical anomalies are spatial as opposed to “lost in space” forms a signifier for the differentiation between the political and physical “materiality” and “immateriality” of geopolitical anomalies themselves.

On Sovereignty

Geopolitical anomalies, thus, can be identified as political entities that do not fully possess the recognised rights and privileges of formally legal states, but nonetheless manifest themselves as legal states in myriad ways. They therefore instantaneously make apparent the gap between, on the one hand, states as fully recognised in international law (which geopolitical anomalies are certainly not) and on the other hand, the practical ways in which groups perform functions and activities that are very similar to those of legal states. In international relations thinking, this gap is usually referred to as the discrepancy between *de jure* and *de facto* sovereignty. Indeed, to the extent that geopolitical anomalies may behave like formal states while they are not juridically recognised as such, that behaviour relies on the degree to which they exercise *de facto* sovereignty without the possession of *de jure* sovereignty. As geopolitical anomalies have been referred to above as distinctly (*geo*)political entities, they have been tentatively referred to as entities with *de facto* sovereign practices and structures.

In this thesis, therefore, this concept of *de facto* sovereignty (“factual” effective sovereign power possessed by political actors) will be explicitly contrasted to *de jure* sovereignty (sovereign rights and statuses as recognised and attributed to states according to international law). As this thesis revolves around exposing the differences and contradictions between legal state structures and practices, and those of geopolitical anomalies, it is almost inevitable that these two concepts of sovereignty have to be discussed and unravelled.

However, the principle of sovereignty is simultaneously one of the most paramount and one of the most confusing in international politics. It is a crucial element of nearly every study undertaken within the field, but it has thereby become an almost complacent term to describe any form of independence, authority, and/or legitimacy. Although the concept of sovereignty has been commonly regarded as the central organising principle of international relations, it has remained

surprisingly unexplained and vague in modern political science. As Bartelson (1995) remarks, 'What is sovereignty? If there are questions political science ought to be able to answer, this is certainly one. Yet modern political science often testifies to its own inability when it tries to come to terms with the concept and reality of sovereignty' (p. 1).

Thus, although sovereignty is embraced as the 'primary constitutive rule of international organisation', its 'essence' is rarely defined; it is generally taken as an unquestionable concept underlying international politics (Barkin & Cronin, 1994, 107). As a scholarly discipline, international relations thinking has failed to uniformly define the principle of sovereignty precisely because it has become the focal point of our taken-for-granted understanding of political life, and vice versa (Walker, 1990, 8-9).

Very broadly taken, I argue, the sovereignty principle has been discussed from three different, although not mutually exclusive, angles. It has been referred to as effective supreme power in a political entity (*de facto* sovereignty), as a juridical principle and status (*de jure* sovereignty), and in terms of a relationship between rulers and subjects (popular sovereignty). This triangle of perspectives on sovereignty goes back to some of the earliest thinkers on the concept.

Concerning the latter, for example, Locke already argued in the 17th century that citizens possessed the right to make claims upon the sovereign as part of a conditional social contract (Stacy, 2003, 2032). For Locke, any human who denies another human's freedom 'becomes liable to be destroyed by... the rest of humankind, as any other... noxious brute' (Locke, 1988, 383). Lockean sovereignty, thus, denoted 'a conditional acceptance of authority' (Shaw, 2008, 26). As the sovereign, in Locke's view, derived its legitimacy from the subjects' delegation of sovereignty, he was equally obliged to not deny the freedom of the subjects. Locke, thus, was among the first political thinkers to actually replace the subject with the concept of the citizen, who even within the social contract with the sovereign retained inalienable rights to 'life, liberty, and estate' (Locke, 1988, 323; Shaw, 2008, 266; Stacy, 2003, 2034). According to Locke, the authority of a monarch or any other form of governing body was (is) legitimised and authorised by the population, meaning that sovereignty ultimately resides in the people.

For the purposes of this thesis, however, I am more interested in the other two mentioned categories of sovereignty. Firstly, as popular sovereignty can be conceptualised as something that is "shared" or "divided" equally among ruler and ruled (Locke, 1988, 368-369), sovereignty becomes more perceivable as a legalistic or constitutional arrangement. The Dutch Jurist Hugo de Groot, Latinised into Hugo Grotius, was among the first to define sovereignty as such. In his most prominent work, *De Jure Belli ac Pacis* (1625), Grotius presented sovereignty in terms of '[t]hat power... whose actions are not subject to the legal control of another, so that they cannot be rendered void by the operation of another human will' (Grotius, 1925, 102). While Grotius, thus, conceptually saw sovereignty as a 'unity, in itself indivisible' (Grotius, 1925, 123), he was also quick to mention a whole series of exceptions indicating that in practice sovereignty was repeatedly divided (Keene, 2002, 44).

To be sure, while Grotius did not believe that 'everywhere and without exception sovereignty resides in the people' (Grotius, 1925, 103), he did find that the populace possessed the *juridical right* to grant sovereignty. In other words, Grotius did not think sovereign and subject could *de facto* ever be equals, but he did argue that the people had the legal right to grant sovereignty less than absolute (Grotius, 1925, 156; Keene, 2002, 45). Grotius (1925) found that sovereignty could be 'held in part by the king, in part by the people or senate', and that thus force could lawfully be used

against the king 'if he attempts to usurp that part of the sovereign power which does not belong to him' (p. 158). Grotius argued, in other words, that 'it may be possible for some marks [of sovereignty] to reside... with persons or assemblies, while others do not' (Grotius, 1994, 227). Each of those persons or assemblies is supreme within the scope of its own authority; each is sovereign over their own prerogative (Grotius, 1925, 158).

These remarks demonstrate how Grotius saw sovereignty as a legal right that could be awarded, partitioned, and exchanged (Haggenmacher, 1983, 583). Both Locke and Grotius, then, seemingly viewed sovereignty as a legal principle above considerations of actual political power, and Grotius, indeed, 'has been celebrated, if a little exaggeratedly, as the father of international law' (Shaw, 2008, 23). Looking at Grotius' convictions, *de jure* sovereignty, accordingly, is interpreted in this thesis as that collection of rights, obligations, and statuses that make a political entity a member of the international legal system; I will use this concept of *de jure* sovereignty/statehood interchangeably with terms such as "formal", "juridical", or "legal" statehood and sovereignty. Notably this legal sovereignty may carry some form of normative power, but cannot on its own possess material power in the same way that *de facto* sovereignty does. For geopolitical anomalies, therefore, as entities without legal status but with material power, theories of *de facto* sovereignty are much more relevant.

One of the first thinkers seriously dealing with this type of sovereignty, Jean Bodin, regarded sovereignty in his *Six Books on the Republic* (1576) as 'that absolute and perpetual power vested in a commonwealth' (Bodin, 1955, 25). By "absolute", Bodin did not necessarily mean that the sovereign was always in control of everything happening within the state, but rather that he was more powerful than any other force within the state; Bodin's sovereignty, thus, may be considered not as all-powerful, but as super-powerful. As such, in Bodin's understanding of sovereignty there was a very clear distinction between sovereign and subjects. It was impossible to be both sovereign and subject simultaneously, and sovereignty could thus neither be transferred from the people onto the sovereign nor be shared between them. In Bodin's own words:

[I]t is the distinguishing mark of the sovereign that he cannot in any way be subject to the commands of another, for it is he who makes law for the subject, abrogates law already made, and amends obsolete law... It follows of necessity that the king cannot be subject to his own laws (Bodin, 1955, 28).

In Bodin's view, thus, the sovereign could create law without being subject to it. The only authentic requisite of a sovereign was the ability to create law independently, which meant that sovereignty was by its very nature vested in a single person or institution within a political entity (Keene, 2002, 43). Moreover, as the sovereign existed independently from the law, sovereignty resided first and foremost in a *de facto* manifestation of power. For Bodin, it was obvious to consider "actual" capacity as the primary source of any legal or moral authority. In such considerations, furthermore, the perpetuity of the sovereign was inherently assumed, because there existed no higher authority that could put a time-limit on the sovereign. Bodin's *de facto* sovereignty was in some sense eternal, because an individual sovereign could only be eliminated by a person or entity that had *de facto* sovereignty over it.

It should be noted that all three of the abovementioned angles have been tied in some way to perhaps the most prominent classical thinker on the nature of sovereignty – Thomas Hobbes. However, as will transpire in this thesis, Hobbes’s theory can most usefully and appropriately be applied to this last notion of *de facto* sovereignty. Indeed, the Hobbesian emphasis on the *de facto* sovereign as the resolver of crises and conflicts within a socio-political order will be given a prominent position later on in this thesis.

For now, I would merely like to point out a few initial observations. First of all, although sovereignty has been presented here as a concept with perhaps clearly distinguishable meanings, in international political scholarship and practice the term remains altogether convoluted. While the sovereignty principle is mainly ascribed solely to formal states, solely denoting *legal* independence, *legal* authority, and/or *legal* legitimacy, it simultaneously remains repeatedly unspecified whether the concept is used to refer to such legal statuses or to “actual” employments of power. Max Weber’s incessantly recited definition of statehood – ‘the state is the form of human community that (successfully) lays claim to the monopoly of the legitimate physical violence within a particular territory’ (Weber, 2004, 33) – is a case in point insofar as it actually portrays a rather confusing picture of sovereignty. Does a state, or any political entity, *claim* or *successfully possess* such a monopoly? And does it require a certain form of *legitimacy*, an issue that is important mainly in reference to a claim to *de jure* sovereignty rather than a possession of *de facto* sovereignty?

In this thesis, then, I want to argue that international political thinking should get in the habit of making a much clearer distinction between these “actual” expressions of sovereignty and legally constructed sovereignties, and moreover, that we should reconsider which of these conceptualisations of sovereignty we prioritise. Admittedly, *de facto* sovereignty is not the only thing that matters in international relations. For one, the fact that geopolitical anomalies are limited and constrained by their lack of *de jure* statehood implies that juridical sovereignty certainly possesses some power in international politics, and *de facto* and *de jure* manifestations of sovereignty are not mutually exclusive; on many occasions, in fact, they coincide. However, although a formal state may possess both *de facto* and *de jure* sovereignty simultaneously, they do remain two very dissimilar conceptualisations of sovereignty. As exemplified by some geopolitical anomalies, sometimes *de facto* sovereignty has no legal status, and conversely, *de jure* sovereignty does not always have actual material effectuality or authority – these two situations may even go hand in hand (e.g. see Kingston & Spears, 2004).

Secondly, it is not my claim that power relations other than *de facto* sovereignty are unimportant in international (or domestic) politics, as a variety of power dynamics between individuals, groups, and entities around the world continuously give rise to international political developments and occurrences. The diverse nature of geopolitical anomalies in itself denotes that non-sovereign power in international politics deserves our attention, and this thesis actually does not exclude polities without *de facto* sovereignty from its consideration of geopolitical anomalies. Yet, again, while international politics can be characterised by a large diversity of different power relations, not all of those can be qualified as *de facto* manifestations of sovereignty. Crucially, in fact, geopolitical anomalies not only bring out the discrepancies between considerations of *de jure* and *de facto* sovereignty, but also those between divergent notions of *de facto* sovereignty itself. In short, they help us gain a clearer understanding of the differences between legal and normative power, material power relationships, and specific manifestations of *de facto* sovereign power.

As such, I understand *de facto* sovereignty – sometimes referred to in this thesis as effective or material sovereignty – as a very specific kind of power; it is any type of power that is more powerful than any other power in a political community. *De facto* sovereignty, thus, is both supreme and singular, and while perhaps other modes of power could be conceived as divisible and subjective, such modes should not be considered in terms of *de facto* sovereignty. Rather, in this thesis the *de facto* sovereign is defined from a classical realist perspective, as that political actor who is powerful enough to bring multiple competing or conflicting powers together within a political unit. On the face of it, such a particular notion of *de facto* sovereignty may perhaps diminish its significance and prominence for international relations, but in my contention, a more concise understanding of this concept actually forms a more valuable contribution to the study and practice of international politics than a more general, but thereby also more convoluted, explanation (see also Moses, 2013; 2014).

Geopolitical Anomalies and Classical Realism

In light of the assertions made above about the nature of geopolitical anomalies and their relationship to concepts and practices of sovereignty, this thesis will proceed with its investigation of these entities mainly from a classical realist viewpoint. Such a viewpoint, I argue, which emphasises the particularistic rather than relational nature of international politics, and the consequential rather than foundational meaning of norms and legalities for factual materiality, is largely missing from studies on geopolitical anomalies as they exist today. A relatively small but expanding body of literature exists on these polities outside of the conventional international legal-political framework. Certainly, any of these works makes important and insightful contributions to our understanding of these entities and their significance for international relations scholarship and practice. However, a few gaps and limitations remain unaddressed. As I maintain, any of these gaps and limitations have to do with a certain disregard for the value of classical realist perspectives for studying geopolitical anomalies.

To begin, quite a few works concerning themselves with geopolitical anomalies are dedicated to the political-strategic and legal-normative considerations of state recognition under international law. For instance, Ryan Griffiths's works on secession particularly address the question of when and how formal states *permit* a particular secession to (formally) come into effect, describing the strategic, normative, and economic factors that influence formal states' willingness to "let a region or people go" (2014), and contending that existing domestic juridical and administrative patterns to a large extent influence a secessionist group's chances of gaining legal independence (2015). James Ker-Lindsay (2012), on the other hand, discusses ways in which formal states could *prevent* the international legal recognition of break-away entities.

Others, like Milena Sterio (2013), argue that the success or failure of secessionist movements – or 'Selfistans' (p. 1) – in becoming legal states depends heavily on political-strategic considerations of the global "Great Powers". This argument is also advanced by Jonathan Paquin (2010), who writes about such considerations feeding into the recognitional attitudes and practices of the United States' foreign policy. Bridget Coggins (2011) similarly finds that geopolitical anomalies 'need friends in high places' (p. 435) in order to become formal states, and that, in turn, existing formal states (should) utilise international legal recognition as a strategic tool to advance their own interests (Coggins, 2016, 8-10). For Coggins (2011), thus, 'statehood is inherently social' (p. 435), as it

does not 'inhere in governmental control on the ground alone. Without external legitimacy, an actor is not a state' (Coggins, 2016, 8).

In perhaps the most important recent contribution to the study of international legal recognition, Mikulas Fabry (2010) similarly critiques representations of formal states as 'self-constituted and self-contained bodies' (p. 2) existing 'ontologically prior to international society' (p. 3). Rather, building on the English School tradition of international relations scholarship, Fabry offers a 'normative account of the practice of recognising new states' (p. 4). Drawing a (historical) distinction between the practice of recognition as an acknowledgement of "factual" statehood, and the act of recognition as the affirmation of an international legal entitlement to independence, Fabry concludes that only the former constitutes a 'viable international standard' of recognition (p. 219). Yet, while in doing so he appears to prioritise norms of "factual" independence over international legal norms, Fabry's overall topic of recognition itself precludes a deeper inquiry into the questions of political power inherently tied to the "factual" existence of geopolitical anomalies.

Whereas both Coggins and Fabry thus see an English School or constructivist approach as the most appropriate way to study non-legally recognised political entities, this research will adopt classical realist viewpoints to challenge such contentions. Any of the arguments, theories, and studies above certainly require a place in debates about geopolitical anomalies, but they fundamentally do not account for the fact that the essential characteristic of any geopolitical anomaly is their undermining, to some higher or lesser degree, of the normative regulations and regularities on which such "social" and "relational" accounts and practices of international and domestic politics are based. Fabry (2010) maintains that 'international relations take place within embedded normative structures' (p. 4), but thereby seems to overlook the notion that such normative structures are precisely disrupted by geopolitical anomalies. They exist mostly in spite of norms and laws of recognition, not because of them.

Here, then, we have arrived at the nature of studies on geopolitical anomalies itself. The discrepancy between political existence and (the lack of) legal recognition forms the basic premise of any of such studies, but the acknowledgement of that discrepancy generally does not feed into a genuine (or realist) critique of the normative and/or legalistic elements of international politics. While each work engaging with political entities outside of the international legal framework (i.e. geopolitical anomalies) logically pays heed to the limitations of international legal and normative structures in the face of political power, many of the analyses and conclusions drawn in those works still appear to be grounded not in realist but in constructivist, liberal, and social assumptions of international relations.

For example, one of the main themes that runs throughout this body of literature is the way in which these polities are represented in international political discourse. Kolstø and Blakkisrud (2011) discuss the 'securitisation discourse' (p. 126) portraying geopolitical anomalies as threats to international stability. In turn, Harvey and Stansfield (2011) mention the 'nationalist rhetoric focused upon independence' (p. 19) expressed by unrecognised states themselves. For Meadwell (1999), '[r]hetorical moves are an integral part of the political game set in motion by a claim to independence, and the languages of justification... can have causal force' (p. 386). Alternatively, much concern is directed at how norms of sovereignty and statehood affect geopolitical anomalies' chances of recognition (see, for instance, Mulaj, 2011). Caspersen (2012), for instance, emphasises the relationship between these entities' abidance by international standards of democratisation and

internal legitimacy, and international perceptions and approaches towards these entities (pp. 76-101).

Often, in fact, such inquiries into the connection between ideals of statehood and practices of (non-)recognition feed into a wider criticism on dominant patterns and paradigms of sovereignty and international relations in general. Kingston (2004) suggests that stabilising geopolitical anomalies' relationships with formal states 'may... require rethinking the strict adherence to Cold War notions of sovereignty', and deems it to be clear that 'the emergence of greater pluralism in world affairs will require shifts in the practice and theory of international relations' (p. 9). Likewise, Caspersen (2012) wonders whether geopolitical anomalies 'should be seen as a new form of statehood, and indeed a new form of sovereignty' (p. 102). While she rightly emphasises that geopolitical anomalies in many ways reinforce prevalent tropes of sovereignty and statehood, rather than reform them, she simultaneously claims that they challenge 'dominant simplistic conceptions of sovereignty' (p. 103).

Here, regularly, notions such as "cosmopolitan governance" and "shared sovereignty" come into play as potential reframings of (international) political structures. Barry Bartmann (2004) laments how 'a firm commitment to keep [geopolitical anomalies] beyond the gate is hardly consistent with patterns of greater universality and inclusiveness' (p. 14), while Liam Anderson (2011) suggests that reintegrating geopolitical anomalies into formal state structures will have to be accompanied by federal autonomy and power-sharing arrangements (see also Chapter Two). According to the latter, such domestic arrangements could be 'guaranteed' by embedding them in international legal documents (p. 202).

However, as I will argue in this thesis, such "guaranteeing" terminology in fact reveals the limitations of shared or cosmopolitan forms of (international) politics. Aside from Anderson, Herrberg (2011) and Caspersen (2012) similarly call for 'security guarantees' that can assure and protect geopolitical anomalies' security if *de jure* state recognition remains elusive, yet in these proposals the inescapable uncertainties of international politics are once again overlooked. Ideas of cosmopolitan and/or "shared" solutions to geopolitical anomalies once again pay too little attention to (classical) realist perspectives that show how security *cannot* be guaranteed in purely legal-normative arrangements.

In accordance with this, a final issue with the literature on geopolitical anomalies lies in its general emphasis on finding solutions and alternatives to the "problem(s)" associated with these polities. This might seem a rather odd criticism to make, and I certainly would not imply that striving towards better circumstances for individual geopolitical anomalies is a pointless exercise without merit. Such attempts at resolution, however, should once again beware not to ignore their own inescapable limitations.

Herrberg's (2011) and Anderson's (2011) discussions of (respectively) conflict mediation and juridical (re)integration have already been mentioned above, and in the same volume Stephen Wolff (2011) analyses the resolving potential of international engagement with geopolitical anomalies. Scott Pegg (1998b) also describes several international legal models for future international interactions with geopolitical anomalies (pp. 8-11). In this regard, Dov Lynch (2004) provides quite specific policy advice about the Caucasian *de facto* states (pp. 103-143), broadly arguing that 'some form of acceptance' of these entities, combined with a package of economic, societal, and security measures, is the only possible solution to problems in that region (p. 9). Kingston and Spears (2004a)

similarly conclude their volume with a collection of recommendations for policy-makers engaging with geopolitical anomalies (pp. 189-192).

Yet, any proposals for resolution – well-intended as they may be – suffer from two fundamental complications. First of all, these alternatives for geopolitical anomalies are still primarily normative or legal, rather than political, in nature. Caspersen (2012), for example, does acknowledge the limitations of ‘solutions that “pool” sovereignty and disperse territoriality... through various forms of federal and confederal arrangements’, but ascribes those limitations to ‘unhelpful’ understandings, imaginations, and views of sovereignty and territoriality. In a similar way, her own suggestions, based on the ‘fudging of sovereignty’, do not actually address the factual political realities of the relationship between *de facto* sovereignty and territory (p. 136; see also Chapter Three on “tacit sovereignty”).

Secondly, particular caution should be exercised when it comes to attempts at resolving the issue of geopolitical anomalies *per se*. Geldenhuys (2009) devotes a specific chapter to this question (pp. 45-66), asserting that ‘there is a wide spectrum of conceivable alternative destinations for contested states, opening up possibilities for peacefully resolving the problems of existing contested states and preventing the emergence of more such entities in future’ (p. 66). Others equally come up with general policy proposals for ‘a more fluid system of norms that allows different types of units to exist simultaneously’ (Kingston & Spears, 2004a, 191).

However, the establishment or emergence of such an “anti-anomalous” system remains highly unlikely, if not impossible, in light of the inherent limitations of global political life. While claims continue to be made about promising road maps to settlement for individual geopolitical anomalies, even those claimants must admit that geopolitical anomalies will continue to come into being in the international political system (Bartmann 2004, 29-30). For, as Fabry (2010) admits, ‘violence is unlikely to be extirpated from conflicts over statehood – there will probably always be those who will see no other means left to respond to what they regard as intolerable injustice’ (p. 225).

A notable exception to any of these studies concerned with norms and solutions for geopolitical anomalies might seem Daria Isachenko’s *The Making of Informal States* (2012). Criticising the preoccupation of existing research on geopolitical anomalies with state criteria and ideals, Isachenko attempts to unravel the actual political processes that make these entities’ existence a reality. That being said, this empirical analysis is informed by French and German thinkers’ conceptualisations of politics as a relational and plural process, as ‘a network of interdependencies’ in which ‘the balance of power fluctuates’ (pp. 3-4). Again, this shows very little regard for the singular and instantaneous acts cementing balances of power that lay at the foundation of (classical realist) *de facto* sovereignty.

To sum up, the collection of works on political entities outside conventional international legal structures provides helpful insights into the characteristics of these entities, but they leave unaddressed certain issues emphasised by classical realist thinking. Perhaps given their research topic, which inherently implies a critique on dominant patterns and discourses of power in international politics, most literature on geopolitical anomalies dismisses classical realist perspectives almost out of hand. I maintain, however, that that leaves some very important aspects underexposed. These works primarily deal with legal-normative questions of international politics – such as legitimacy, recognition, international political discourse, and cosmopolitanism – but not so much with what happens at moments of disruption of the social regularities and relational rules in

which these legal-normative arrangements are embedded. Therefore, while this thesis does not completely reject normative perspectives and questions, it will prioritise classical realist views that emphasise the importance of material power, *de facto* sovereignty, and the crisis or exception in (international) politics.

Thus, the concept of geopolitical anomalies is used in this thesis for a number of reasons. First of all, it is able to function as an umbrella-term incorporating a range of different polities. The term indicates how international relations is rife with a wide array of political modes, and that it thus should not be regarded as an absolute and universal structure of legal state-featured international politics. Simultaneously, this thesis does not employ this concept simply as a common denominator for any activity outside the international territorial and legal state system. As I consider geopolitical anomalies particularly as political entities which, through their specifically *geopolitical* manifestations, become “anomalies” or exceptions to the international legal order, I utilise the term also to denote a specific kind of political body with specific connotations and related issues. As these anomalies are *geopolitical*, these concepts shed light on the ways in which these political arrangements dishevel not merely the legal but also the spatial/territorial nature of formal state existence (Dahlman, 2009, 31; see also Lewis, 2011; Lewis, 2015a; Lewis, 2015b; Lewis, 2015c; Lewis, 2015d).

Most importantly, McConnell’s term is so compelling because it points us to the exceptionality both of these entities and of international affairs in general. This thesis will not only maintain that the exception, the crisis, and the disruption of order, is crucial for the coming into being of geopolitical anomalies and the way they manifest themselves. Also, geopolitical anomalies raise questions about how we might think of exceptions and regularities of international politics, and whether we should truly consider these polities as “anomalies”, “irregularities”, or “exceptions”.

Research Objectives and Research Questions

Accordingly, a first subquestion engaged with in this thesis considers how we might qualify the current position of geopolitical anomalies in international relations discourse and conduct. In order to address this question, my first research objective is to assess the ubiquity of political entities we may consider as geopolitical anomalies, and outline predominant ways of thinking about them.

In one sense, formal states seem to have the most prominent position in global politics; the fact that many geopolitical anomalies desire international legal recognition underlines this. This prominence is reflected not just in the fact that *de jure* states (may) still factually form the individuals of international law and the main propellers, contributors, conductors, and enablers of international agreements, military actions, and policies, but perhaps even more so in the central position that legal statehood has attained in our discursive conceptualisations about the nature of international relations. For geopolitical anomalies, the ideal of *de jure* sovereignty is still the “holy grail” or “gold standard” to be pursued, the benchmark against which they are defined as anomalous, and the presumed jump-off point from which they come into being (McConnell, 2010, 766). Thus, orthodox (legal) viewpoints on sovereignty and statehood still hold significant purchase, and the exercise and possession of *de jure* sovereignty still forms the dominant ‘political-territorial ideal’ (Murphy, 1996, 87) in international politics.

As such, the existence and functional patterns of geopolitical anomalies remain explained in reference to the international structure of *de jure* sovereign states: their origins from, and aspirations to exist within, the legal state system is what ostensibly motivates their outlook, shape, and behaviour. In other words, the international *de jure* state framework remains taken as the benchmark to which these political entities abide, and in that sense geopolitical anomalies remain seen as exceptions to an (international) legal state regularity. They are:

comprehended as realities not eclipsing the powers of the state, but made possible precisely because of the organisational centrality of the state in life... Such are exceptions that define the rule whose primary “author”, “creator”, and “guarantor” remains the state (Soguk & Whitehall, 1999, 679).

However, it is rather questionable whether such representations are completely justified or useful. While geopolitical anomalies are embedded in a framework of thought constructed around legal states exercising *de facto* sovereignty over a fixed state territory, they should not be understood purely as the exceptions confirming the rule of *de jure* sovereignty. Instead, they pose significant challenges to this international legal state framework, offering food for reconsideration of this way of thinking, and motivating us to come up with new paradigms for understanding and describing international politics. The *de jure* sovereign state is not necessarily the only relevant entity of our international political environment, as geopolitical anomalies help us to consider the irregularities that characterise our current international (legal) state structure. International relations are not undeniably and uniformly driven and regulated by legal states, and perhaps the existence and manifestation of geopolitical anomalies should thus be fully included in our perceptions on global politics.

In light of the first research objective, therefore, I argue that we should take geopolitical anomalies more seriously as entities characteristic of international politics. This multitude of polities presents major challenges to a perception of international society being solely characterised by legal state interactions, and of *de facto* sovereignty being irrelevant if not officialised by some juridical status. Thus, while states carrying legal sovereignty over territory might be seen as the primary benchmark actors of the international political framework, the viability and plethora of geopolitical anomalies seems to call for *de facto* sovereignty and effective power relationships to be more fully incorporated into our global political imagination. By paying heed to the challenges and counterevidence geopolitical anomalies bring upon our current international political conception, we may be able to transform international politics into a system in which geopolitical anomalies and *de facto* sovereignty are the modes of politics that define it.

The second (sub)question of this research about geopolitical anomalies, then, is to what extent they possess *de facto* sovereignty in international politics. As I just argued, from a more general perspective we might wonder whether geopolitical anomalies are more important to international political developments than *de jure* states, but also individually, some geopolitical anomalies might actually demonstrate the ultimate *de facto* sovereign capacity to resolve a conflict or crisis situation. Moreover, the way we tend to think about the manifestations of geopolitical anomalies is very much related to different understandings of sovereignty.

Therefore, the research objective accompanying this second question is to untangle different conceptions of sovereignty in international political practice, scholarship, and discourse. Again, sovereignty is both one of the most used, and one of the most confusing concepts in international politics – not only in the sense that there is not a fundamental agreement within international relations scholarship about the exact nature and meaning of sovereignty, individual scholars writing about sovereignty also often do not very well specify the concept. As I will maintain, furthermore, even when differences between *de jure* and *de facto* sovereignty are explicitly acknowledged, disagreement remains over what those differences are, and over the nature of *de facto* sovereignty itself.

A third question that will be investigated in this thesis is how to conceptualise possibilities for integrating geopolitical anomalies into the current international legal and/or political framework – not necessarily individually, but on a more collective level. Accordingly, this thesis will attempt to fulfil the research objective of mapping out the strengths and weaknesses of ‘routes to resolution’ (McConnell, 2009a, 1905) for geopolitical anomalies.

It seems that, as I intend to critique the prevalence of *de jure* sovereignty in international political practice and discourse, such possibilities should not be found in international juridical principles and solutions. In addition, given the repeated new emergence of geopolitical anomalies, and the persistence of many of them “against the odds”, it might also be considered that geopolitical anomalies to some extent benefit from their lack of status and position excluded from conventional international law and politics. Therefore, we can perhaps hypothesise that a transformed understanding and discourse about the qualities of geopolitical anomalies and *de facto* sovereignty could be helpful not just to geopolitical anomalies themselves, but also to an international community that has no choice but to deal with them. In that respect, an alternative view on our present-day international legal-political structure is imperative to finding such emancipatory perspectives on *de facto* sovereignty and geopolitical anomalies.

However, as I have explained above in my discussion of existing studies on geopolitical anomalies, there are some essential limitations to finding conclusive “solutions” – discursive, normative, or legal – for the challenges raised by these political entities. In that regard, this thesis will touch upon a fourth (sub)question of how to theorise about “anomalies” or “exceptions” in international relations. Are exceptions an inevitable and eternal part of international political life, and how do they relate to an assumed “rule” in international politics? Can we even truly think of “regularities” in international relations, and if so, what are they?

These questions run deeper than merely conceptualising certain inherent elements of international politics and thus exceptionalising other phenomena. Rather, they ask us how to identify and regard the nature of exceptions in social life in general. Geopolitical anomalies are not only excluded from the perceived regularity of international law and *de jure* sovereignty, their manifestations of (supposed) *de facto* sovereignty also rely very much on their ability to create internal orderliness in their exceptional circumstances. These political entities force us to reconsider what constitutes the exception in global political life, not merely by identifying those exceptions but also assessing what those exceptions uncover about the nature of international relations. More fundamentally, they demonstrate how any social circumstance and arrangement, such as international law or *de jure* sovereignty, cannot possibly ever rule out the exception, which is always intrinsically unforeseeable, unaccounted for, and unregulated.

Therefore, this research's fourth (and final) objective is to contribute to existing ways of thinking about regularities and exceptions of international relations, and to emphasise that geopolitical anomalies are in fact testament to the inherent impossibility of "normalising" the exception – of conclusively integrating or regulating these entities.

Methodology and Outline

Geopolitical anomalies, to sum up, expose issues that lie at the very heart of international relations scholarship. In focusing on and analysing these polities, this thesis eventually has to come to certain very basic international political questions. What exactly is a state? What do we mean when we talk about sovereignty? How might it be different from other manifestations of power? And what is the significance of these concepts for our conceptualisations of international politics? In light of the profoundness and inescapable ambiguity of such questions in international political scholarship, this research will employ a meta-theoretical approach to the study of geopolitical anomalies, or what is sometimes referred to as a classical approach to international political scholarship.

The earlier discussed studies of geopolitical anomalies (or any other terminologies used to refer to such polities) have a few things in common in terms of research methods. Many of them carry, to a stronger or weaker degree, some fieldwork element to them (e.g. Isachenko, 2012; Kolstø & Blakkisrud, 2012; Lynch, 2004). Fiona McConnell's research itself (2009a; 2009b; 2010) is similarly informed by extensive participant observation "on the ground". Alternatively, or in addition, key stakeholders within geopolitical anomalies often constitute primary resources for these studies (e.g. Pegg, 1998a, Renders, 2012). Also, particularly the edited volumes discussing these entities usually take the form of a systematic overview, either of different individual cases (Bahcheli, Bartmann, & Srebrnik, 2004) or of different aspects related to their existence (Caspersen & Stansfield, 2011; Kingston & Spears, 2004). Nina Caspersen's individual contribution to the body of knowledge on geopolitical anomalies (2012), as well as work by Berg and Kuusk (2010) and Geldenhuys (2009), can also be categorised as comparative analyses of different case studies (see also Berg, 2007; Berg, 2009; Berg, 2012).

To restate, it is by no means my intention to discredit any of these types of research on geopolitical anomalies. In some sense, the very nature of geopolitical anomalies endows any of the above methodologies with some merit. Given the fact that geopolitical anomalies by definition cannot rely on some common denominator like *de jure* sovereignty, they are inherently varied entities characterised by a plethora of elements. Therefore, research practices like participant observation or community immersion can be useful to uncover and analyse specific social complexities within individual geopolitical anomalies. This is why, for example, the *critical geopolitics* school of thought calls for a 're-peopling' of international political scholarship (Megoran, 2006, 625) and 'a critical analysis of the everyday functioning of [geopolitical anomalies]' (McConnell, 2010, 763). Such ethnographic approaches, fostering a kind of humility and sensibility in particular contexts of human life, can be apt tools to investigate geopolitical anomalies' real life on the ground (see also Schatz, 2009).

At the same time, in order to bring out the varied nature of geopolitical anomalies, comparative analyses are similarly helpful as a mode of research. Through such systematic comparisons, we can gain a wider insight in the significance of geopolitical anomalies for international political practice, and make sense of their specific manifestations in a global context (see Caspersen & Stansfield, 2011; Geldenhuys, 2009; Kingston & Spears, 2004). Both the

“ethnographic” and comparative approaches, furthermore, can make use of key stakeholders in finding local and international attitudes towards such polities (e.g. Kolstø & Blakkisrud, 2011; Renders, 2012).

In my view, however, this collection of methodologies, and the types of research they engender, should be supplemented not only with a classical realist perspective, but also with a broader conceptual framework for analysing their existence within international politics. Fieldwork-based studies of geopolitical anomalies, for instance, tend not to be elaborately concerned with questions of *de facto* sovereignty at the international level. As Schatz (2009a) admits, ‘many of the interesting topics about the exercise of power [may be] simply beyond the reach of the participant observer’ (p. 307). In other words, perhaps for international relations ‘the level of analysis encumbers attempts at ethnographic enquiry’ (p. 306). A similar argument could be raised about the interviewing or surveying of key stakeholders within or connected to geopolitical anomalies. They might help us understand geopolitical anomalies’ particular strategies or behaviours, but do not by themselves really add any deeper conceptual insights into the nature of power, *de facto* sovereignty, or international law.

With regard to those studies systematically describing and contrasting a selection of geopolitically anomalous cases, I will deliberately refrain from framing this thesis in such a way. As this thesis adheres to a theoretical model for geopolitical anomalies that stresses their exceptionality and irregularity in relation to international laws and norms, a systematic comparison would not actually add any meaningful conceptual understandings to that model. Instead, it would likely not progress beyond the rather bland conclusion that every geopolitical anomaly is unique. Therefore, while I will discuss two particular examples of geopolitical anomalies in detail, these discussions should not be read as factual descriptions that, through their comparison, provide conclusive evidence about the nature of all of these entities.

Instead, this research about geopolitical anomalies adopts a traditional or classical approach to the study of international politics. These labels – “classical” and “traditional” – are not only derived from the fact that this approach draws heavily from historically seminal (or “classic”) pieces of political writing and theory, this approach has also historically formed the prevalent mode of (international) political inquiry (for instance, see Jahn, 2006). That being said, the utility and application of classical methods certainly has not wavered in the present day. For example, Mikulas Fabry’s research (2010), which has already been discussed, employs this approach. Jackson (2004) has also relatively recently attempted ‘to renovate and refurbish the classical... approach in the area of international studies’ (p. 55).

For international relations, classical approaches of research methodology were ushered in and informed by thinkers such as Martin Wight (1960), John Vincent (1974), and especially Hedley Bull (1966), who grounded it in the idea that research into political processes or actions – especially those at the international level – is bound to run into limitations as an enterprise of “truth-seeking”. In that sense, the traditional method in the international relations academe can broadly be juxtaposed with what is called the “scientific” or “positivist” approach (see Kaplan, 1966). The classical approach, indeed, rejects any “scientific” propositions of international political research ‘based either upon logical or mathematical proof, or upon strict, empirical procedures of verification’ (Bull, 1966, 362). For classical proponents, ‘social science positivism... limits unduly the questions we can ask about international relations and thus the answers we come up with and the theories we construct’ (Jackson, 2004, 67).

The classical research methodology, therefore, is defined by the ‘exercise of judgment’ and a ‘scientifically imperfect process of perception or intuition’ (Bull, 1966, 361). It involves discerning and diagnosing international political activity, construing and clarifying its meaning and purpose, translating it into well-suited language, and constantly reflecting on research biases and outcomes – methods derived from academic realms such as philosophy, history, and law (Jackson, 2004, 57). In other words, the classical approach is ‘an artistic enterprise rather than a scientific one’ (Hoffman, 1986, 182).

This is not to suggest that there is no value in “scientific” research methods in international relations, as is indeed acknowledged by Bull himself and others (George, 1976; Ogley, 1981). However, the nature of the phenomenon of geopolitical anomalies itself, and its implications for international politics, endorses a research approach that remains open to tentative and inconclusive variables, propositions, and findings. Here, we have arrived at the crux of the classical approach’s antipathy towards positivist methodologies in international relations scholarship: the very character of international politics does not lend itself easily to “scientific” or “positivist” research. As Bull (1966) puts it, ‘if we confine ourselves to strict standards of verification and proof, there is very little of significance that can be said about international relations’ (p. 361).

As will be expounded in this thesis, geopolitical anomalies in fact expose the character of international politics as inherently *incomprehensible*. Thus, any desire to “scientifically” eradicate international unclarity or uncertainty, and to devise an infallible representation of global political reality, is challenged by geopolitical anomalies that demonstrate that the study of international affairs is compelled to grapple with ambiguity and irresolvability. Returning to Bull (1966):

The difficulties that the scientific theory has encountered... appear to arise... from characteristics inherent in the subject matter...: the unmanageable number of variables...; the resistance of the material to controlled experiment; the quality it has of changing before our eyes and slipping between our fingers even as we try to categorise it. (p. 369)

Accordingly, the methodology opted for in this research on geopolitical anomalies will steer clear of “measurements” or “models” (pp. 370-372), nor will it give in to the “scientific” urge to conclusively predict or resolve issues or tensions in international politics (Hoffman, 1986, 181). Rather, I will investigate and analyse geopolitical anomalies by recognising, assimilating, and allowing for the uncertainties, contradictions, complexities, limitations, and ambiguities embodying the nature of international politics (Jackson, 2004, 83). From an international political perspective, believing that “scientific” research methods could engender a full and complete measure of geopolitical anomalies would be ‘academic vanity and self-delusion’ (p. 96).

This research, therefore, is not designed to provide conclusive answers or solutions, but to expose issues related to the existence of geopolitical anomalies in different ways, or present new angles on existing ideas about them. Its purpose is not to prove anything, but to shed a different light on the manifestations and significance of these political entities. As any research method should be an appropriate tool for addressing the questions informing the research, I maintain that the classical approach is the best available instrument for coming to grips with the questions asked in this thesis. Each of these four questions, indeed, seems to be essentially moral or normative, or so elusive that definitive answers are in fact highly difficult to provide (Bull, 1966, 366-367). As a research method that perceives and imagines international political scholarship as a ‘constant

debate about fundamentals' (p. 370), the classical approach therefore appears the most useful methodology for this research.

Obviously, there are things that this kind of research cannot do. It is, by definition, not a value-neutral type of political science, although it is questionable whether such an "objective" study of international relations is at all possible (Jackson, 2004, 50). Also, any "non-scientific" approach still requires rigor, precision, and coherence, and should be wary of dogmatism or untidy reasoning (Bull, 1966, 375). Most notably, the classical approach is not capable of extracting small-scale or community-based "facts" about affairs within geopolitical anomalies.

Again, therefore, whereas I will delve deeper into two specific examples of geopolitical anomalies, these analyses should not be understood as factual accounts of processes "on the ground", but as (historical) examples that are illustrative of the theoretical arguments made in this study. These examples will be analysed in order to shed light on all of the questions mentioned above, and draw out different aspects of the existence of geopolitical anomalies in international politics. I will, thus, focus on two examples of geopolitical "anomalousness" to extract and investigate some of the most significant issues related to the manifestation(s) of geopolitical anomalies in international political affairs.

A problem or limitation of such an approach, admittedly, might be that the findings emerging from each of these examples can actually not be extrapolated to make any general assumptions about geopolitical anomalies. Precisely because geopolitical anomalies are so intrinsically diverse, making general claims in regard to them becomes difficult or even impossible. I would counter such limitations or criticisms, however, by emphasising that I do not utilise this research design to generate any cross-case conclusions or predictions about the manifestations of geopolitical anomalies themselves. Rather than generalising for the entire population of geopolitical anomalies or extrapolating probabilities of their behaviour, my aim is to make certain theoretical propositions and expand on existing ways of thinking in international relations. In this thesis, indeed, I utilise these examples of certain geopolitical anomalies to develop or refine theories and hypotheses that can help us to think about these entities – to make 'analytical' instead of 'empirical' generalisations (Yin, 2014, 40-44).

As the examples in this thesis are thus selected in order to build new or expand on existing theory, I argue that the examples selected for such theory-building have to be specifically relevant to that goal, and that certain examples may be regarded as more informative for a particular focus of interest than other ones. The reasons for selecting the specific examples of this thesis will be briefly outlined in the chapter overview below, but for now I want to maintain that the examples in this thesis are 'strong only to the extent that [they are] especially instructive for theory' (Eckstein, 2000, 139). In other words, these examples are utilised deliberately to discern important issues surrounding geopolitical anomalies and enable theoretical expansion on these issues (p. 137).

This dissertation, as such, will start with a theoretical component consisting of three chapters. In the first of these, I argue that the study of international relations has become a slightly one-dimensional field of knowledge through the pervasiveness of a *Westphalian myth* that centralises legal sovereignty as the inescapable building-block of global political life. As a result, geopolitical anomalies do not fit in with these dominant assumptions about the nature of international relations. In order to make a tentative contention for a reconsideration of this presumed exceptionality of geopolitical anomalies, and provide a better idea of the issues and processes that characterise them, I will discuss some preliminary examples of these kind of polities.

Finally, I will proceed to discuss the rather confusing and inconsistent application of the principle of sovereignty in the four main “theoretical camps” of international relations scholarship.

To remedy these confusions and inconsistencies, the next two chapters will respectively attempt to make clear the distinctions between *de jure* and *de facto* sovereignty. In the second chapter, the nature of international law and *de jure* sovereignty forms the centre of attention. Furthermore, as geopolitical anomalies are particularly thwarted by their international legal exclusion, it seems important to investigate whether (and how) they might in fact be integrated into this global juridical framework. As will become apparent, however, perhaps the most helpful “resolution” to the problems of/for geopolitical anomalies lies in a better international political scholarly understanding of *de facto* sovereignty.

Chapter Three, then, aims to demonstrate the usefulness of *de facto* sovereignty for international politics and geopolitical anomalies as a more precise and clearly identifiable notion of sovereignty. It argues that a classical realist way of thinking of *de facto* sovereignty provides the most utilisable insights into this phenomenon, and that other conceptualisations of *de facto* power should be perceived as very different from expressions of *de facto* sovereignty. In line with this contention, it maintains that geopolitical anomalies can either be seen as political entities excluding themselves from their *de jure* state through a manifestation of *de facto* sovereignty, or as a suspension of the *de facto* sovereign decision to re-establish order in an exceptional situation.

Following on from this theoretical exposition, this thesis shifts its focus towards its two example studies. The first of these chapters involves the so-called “collapsed state” of Somalia and the apparently functioning *de facto* state of Somaliland. In this chapter, these two polities will be analysed to expose certain inconsistencies in the functionalities of the legal recognition of statehood. Furthermore, Somaliland is discussed as a potential example of a geopolitical anomaly creating order in a chaotic environment through a manifestation of *de facto* sovereignty.

The second example, which will be discussed in two separate chapters, revolves around the comparatively matured geopolitical anomaly of Kosovo. While the variedness that characterises geopolitical anomalies perhaps warrants less of an emphasis on this one entity, Kosovo provides such a wealth of elements that are of concern for this thesis that it gives licence to special observation. Not only is it arguably one of the most prominently studied geopolitical anomalies in international relations scholarship, thereby supplying this thesis a lot of material to work with, it more importantly brings up a collection of issues which have great relevance for the way in which we may think about and understand geopolitical anomalies.

The first half of the Kosovo example, discussed in Chapter Five, focuses on the Democratic League of Kosovo (LDK) and its “parallel state” in the early 1990s. This case presents us a geopolitical anomaly exercising a variety of political responsibilities and “authorities”, and supposedly engaging in a non-violent resistance against overwhelming *de jure* state (Serbian) power. I will, however, investigate the extent to which this movement did in fact manage to peacefully create an independent geopolitical anomaly from the formal governing institutions of Serbia, or whether Kosovo in that time period actually merely submitted to Serbian *de facto* sovereignty and thus still suffered from instability and violence.

The following chapter, also focusing on Kosovo, studies an example of possible ways in which the international community has tried to find legal approaches to geopolitical anomalies, both domestically and internationally. Again, however, this chapter raises certain questions concerning the effect of such legal approaches on the nature of *de facto* sovereignty in such situations. As will be explained, while Kosovo seems to be on its way to entering the international legal framework as a formal state, its existence as a geopolitical anomaly principally rests on the exercise of *de facto* sovereign practices beyond the reaches of international law.

Chapter One

Places That Do Not Exist? Geopolitical Anomalies and Westphalian Sovereignty

Welcome to places that don't exist.

(Opening line of BBC Four's same-titled documentary series; Reeve, 2005)

Even in the increasingly globalised world we live in today, legally sovereign states are still regarded as the primary building blocks of our international political structure. Admittedly, cross-border movements of people, goods, and knowledge have increased; the strength and influence of multinational supercompanies has grown; and environmental, economic, and social issues have delocalised. As a consequence, it is widely agreed that formal state governance and its role in the world have transformed drastically. Simultaneously, however, many still believe that international politics remains primarily constructed around, and executed by, formal states. As such, political entities that do not correspond with this image and framework, such as geopolitical anomalies, are seen as abnormalities to a "legal state standard". Such polities are not acknowledged as a regular or natural part of the international political system, but instead fall in between the spheres of legal state politics as idealised in international relations, and that of people's everyday lives. In short, in a figurative sense, they are seen as "places that do not exist".

As this thesis has already suggested, this distinction between legal statehood and political entities residing outside of those (international) legal arrangements can be best understood in terms of a distinction between *de jure* and *de facto* sovereignty. Paradoxically, then, it may seem that in international political thought these "actual" manifestations of sovereignty are in fact subordinated to international juridical conventions and norms. I would maintain, however, that in mainstream international relations scholarship material political capabilities and "power politics" are generally considered as more important to international developments than agreements and treaties of international law.

Crucially, rather, the secondary position of geopolitical anomalies in international politics stems from another issue. The problem is not necessarily that international relations thinking deems *de facto* sovereignty to be less important than *de jure* sovereignty, but that the *de jure* sovereignty of formal states is perceived to automatically imply *de facto* sovereignty. As I will try to argue in this chapter, the general "disregard" for geopolitical anomalies in the traditional international political mindset can be explained by the fact that *de jure* sovereignty and *de facto* sovereignty have been conflated to mean the same thing, as they are amalgamated into a "Westphalian myth" of sovereignty.

To reiterate certain claims made in the introduction, sovereignty is simultaneously one of the most seminal and one of the most confusing concepts in international political thinking. In fact, as it has been used so commonly in a variety of theoretical and practical contexts, sovereignty has become a multi-faceted principle on which there is very little definitional consensus in international politics. Its central position and its ambiguous meaning in international relations discourse thus go hand in hand. One particular consequence of this plethora of different meanings of sovereignty in international political discourse is that it has become rather tempting to remedy confusion by simply

conjoining both its legal and material aspects. The sovereignty concept is often used without truly separating its factual (*de facto*) from its legal (*de jure*) elements, reinforcing its rather diffuse and convoluted meaning in present-day international political discourse.

Again, thus, the problem is not that sovereignty has necessarily been thought of only as a legal principle, but that when *de jure* state sovereignty is discussed, it is automatically assumed that it also means *de facto* sovereignty. It apparently remains very difficult for many theorists of international politics to differentiate juridical statuses and agreements from “factual” and effective expressions of power. The “myth” of Westphalian sovereignty – *de jure* sovereignty as equivalent to *de facto* sovereignty expressed universally over a strictly defined territory – has permeated international political discourse to such an extent that it has become very difficult to think of *de jure* states in other ways than as the *de facto* sovereign entities of international law and politics. Geopolitical anomalies, then, become minor aberrations in an altogether “Westphalian” international system, even though these entities precisely highlight the fact that legally recognised state sovereignty is not inherently the same as that *de jure* state’s material *de facto* sovereignty.

In this chapter, therefore, I will first briefly explain the connotations and elements of the concept of Westphalian sovereignty, which tends toward an affiliation of *de jure* statehood with *de facto* sovereignty. Thereafter, I present geopolitical anomalies as places that *do* exist without the rights and privileges of *de jure* sovereignty. As I hope to demonstrate, the (tentative) *de facto* sovereign and territorial manifestations of geopolitical anomalies throw into question Westphalian conflations of *de jure* and *de facto* sovereignty. Indeed, the abundance and sustained existence of geopolitical anomalies would at least attenuate the central role and position that Westphalian state sovereignty possesses in present-day international political discourse and conduct. Putting it alternatively, the persistent emergence and manifestation of geopolitical anomalies outside the (international) legal state framework suggests that such political entities should be taken more seriously as significant parts of our global political environment.

Finally, then, I will discuss how the ideals and assumptions (or “myths”) of Westphalian sovereignty form an impediment to such a reevaluation of geopolitical anomalies. Denoting the synergy of *de jure* state sovereignty with *de facto* sovereignty over territory in a single concept, notions of Westphalian sovereignty have become indispensable to current imaginations of international politics, but thereby also risk to ignore those effective power and *de facto* sovereignty manifestations that exist without *de jure* state sovereignty. This chapter, therefore, aims to show how current international political scholarship is affected by this Westphalian myth. As will be explained, present-day international relations theories, varying from neorealism to liberal internationalism and constructivism, are still very much centred on these Westphalian idea(l)s of *de jure* state sovereignty, or at least remain rather careless in distinguishing between these juridical expressions of sovereignty and *de facto* sovereignty. The purpose of this chapter, in this context, is to begin to make the case for clearer definitions of sovereignty in international relations thinking, as a starting point for creative reconsideration of the importance of geopolitical anomalies for international politics.

The “Myth” of Westphalian Sovereignty

The conception of Westphalian sovereignty is derived from the Treaties of Westphalia, signed in 1648, which ended the Thirty Years War between different sources of political authority in the Holy Roman Empire. As it supposedly formed the first (international) legal expression of *de facto*

sovereignty over a clearly defined territory, these Westphalian Treaties are in present day international relations scholarship still often mentioned as the 'birth of the modern state system' (Zacher, 2001, 216). Tilly (1990) and Spruyt (1994) offer differing explanations for the subsequent sustainability of this international system, the former suggesting that only the modern formal state had the material capacity to create political security and survive in a hostile anarchical system, and the latter placing the rise of the modern formal state system more in institutional and legal evolutions.

Regardless, in the conventional narrative of international relations, the Westphalian treaties are assumed to be the first and foremost juridical expression of territorial statehood, and are therefore supposedly a distinctive point of origin for the modern global system of legal states with universal *de facto* sovereignty over their territories. As the modern state system was allegedly "born" in the Westphalian Treaties, the idea of Westphalian sovereignty has nowadays become seen as the defining characteristic of the international political framework. Notions of Westphalian sovereignty speak to a legal ideal of *de facto* sovereignty over *de jure* state territory, which is assumed nowadays to be the central component of international politics.

In traditional international relations thinking, such ideals have become rather primordial requisites of formal state politics. *De jure* sovereignty is generally seen as an 'electromagnetic-like charge of [*de jure*] state control and authority across an operational zone' (Agnew, 2009, vii), and therefore '[w]ithout [*de jure*] sovereignty bonded to territory... meaningful politics... seems to melt in the air' (pp. 1-2). As Taylor (1994) puts it, '[a]cross the whole of our modern world, territory is directly linked to [*de jure*] sovereignty to mould politics into a fundamentally [legal] state-centric social process' (p. 151). Territory concretises the legal state entity – 'the [*de jure*] state is reified by placing it in space' (Sack, 1980, 178), and for Knight (1992), therefore, it is 'the critical quality for [legal] statehood' (pp. 312-313). This means, in short, that legal statehood is assumed to inherently accompany full and absolute control over that *de jure* state's entire territory. Thus, *de jure* sovereignty becomes infused with a perception of *de facto* sovereignty over a defined territory into a single concept of the *de jure* – or Westphalian – state.

This Westphalian ideal has been scrutinised by many scholars of international relations history and contemporaneity (Farr, 2005; Gross, 1948; Lesaffer, 1997; Philpott, 2001), some of whom have (dis)qualified this ideal as the "myth" of Westphalian sovereignty (Osiander, 2001; Teschke, 2006). Aside from critiques of this myth that focus on the actual contents of the Westphalian treaties, or on their historical meaning for international politics, for the purpose of this chapter criticisms of Westphalian sovereignty as the foundational principle of modern international politics are more interesting (Piirimäe, 2010, 64-65). Such challenges to the Westphalian myth attempt to find out why this ideal of *de jure* states possessing untrammelled *de facto* sovereignty within rigidly circumscribed territories has become the cornerstone of our perspectives on international relations. Scholars like Beaulac (2000; 2004a; 2004b) and Joyce (2011) point to the complex connections between these (Westphalian) mythologies and international political language and discourse, the intricacies of which I will leave aside (see Barthes, 1972; Derrida, 2005; Eagleton 1991; Flood, 1996; Laclau & Mouffe, 2001; Torfing, 1999).

More relevant here, is the argument that the particular connotations of Westphalian sovereignty have 'managed [their] way into the very fabric of our international legal order' as the models and the ideals for *de jure* state sovereignty in international law (Beaulac, 2004a, 212). Carley (2009) even goes so far as to contend that 'the myth of Westphalia... has changed the rhetoric and

decision-making process when discussing critical human rights issues', leading to 'the present suffering of real people' (p. 1783).

In a landmark piece on state legality being inextricably tied to territorial *de facto* sovereignty, John Agnew (1994) refers to this Westphalian myth as a 'territorial trap' (p. 54), in which the legal state system is decontextualised and dehistoricised, political processes "above" or "below" state levels are obscured, and society is viewed as contained and defined within *de jure* state territory.

Agnew helpfully outlines four connotations of this territorial trap, or Westphalian myth, for international political theory. First of all, as the juridical state is regarded as a singular unit with universal *de facto* sovereignty over its territory, political identity is only defined in *de jure* state terms. Alternative political identities – ethnic, regional, gendered – within legal state territory are then overlooked or viewed a potential threat to the *de jure* state. Secondly, therefore, the Westphalian myth exacerbates perceptions about people inside *de jure* state territory being superior to those outside of it (see Chapter Three about *de facto* sovereignty's friend/enemy distinction). Thirdly, the *de jure* state is viewed 'not in its historical particularity, but abstractly, as an idealised decision-making subject' (Ashley, 1988, 238). This means that the manifestations of *de facto* sovereignty of geopolitical anomalies are ignored in favor of an ideal legal territorial (Westphalian) state. Finally, the Westphalian myth 'denies alternative possibilities because it fixes our understanding of... future opportunities' (Walker, 1990, 14), thus making it more difficult to imagine a possible restructuring of international politics (Agnew, 1994, 62-65).

In spite of these connotations of the Westphalian myth, however, geopolitical anomalies in particular render invalid any such interpretations of *de jure* sovereignty as universal *de facto* sovereignty over bounded territory. Recalling the first of McConnell's (2009a) definitions of geopolitical anomalies (p. 1904), it exposes a connection between *de jure* sovereignty and territory that is challenged and disrupted by the existence and activities of geopolitical anomalies. Through their effective territorial control and physicality, geopolitical anomalies unsettle any territorial (Westphalian) assumptions about *de jure* sovereignty.

Therefore, while geopolitical anomalies challenge and alter our legal-territorial conceptions of statehood, my argument is not that geopolitical anomalies demonstrate "the end of borders" or a "de-territorialisation" of socio-cultural, political, and economic affairs (see, for instance, Murphy, 2001; Ohmae, 1990; Ohmae, 1996; Rosenau, 1988; Sassen, 1996; Strange, 1996; Taylor, 1994). On the contrary, I dismiss the idea that we can ever seriously imagine a political framework devoid of space or territoriality. *De jure* state territoriality may be *re-territorialised* and in transformation (Brenner, 1999), but *de facto* sovereignty is inherently not "lost in space" (see Elden, 2005a). In fact, it is precisely the "geographicalness" of geopolitical anomalies – their physical existence occupying space – that defines them. They form challenges to our current global legal-territorial framework, but definitely not to political territoriality in itself. As playwright Samuel Beckett (1986) put it: 'You are on earth, there's no cure for that!' (p. 129).

Thus, as all geopolitical anomalies carry out material territorial power strategies in one way or another, these polities appeal to the need to reshape our Westphalian understanding of a presupposed amalgamation of *de jure* statehood with *de facto* sovereignty over territory (Dahlman, 2009, 31-32). The existence of geopolitical anomalies employing *de facto* sovereignty within *de jure* state borders means that these Westphalian qualities do not carry universal or absolute value, and thus expose the relative weakness of the Westphalian myth. Discourses like the Westphalian myth

only result in materiality through some kind of “real” agent, and as certain agents (like geopolitical anomalies) do not embody Westphalian realities, they debunk the Westphalian myth. Geopolitical anomalies help us to deconstruct the “discursive hegemony” of the Westphalian myth in present-day international relations through material power manifestations. The Westphalian myth, thus, in many cases may be just an ideal of *de jure* sovereignty (Biersteker, 2002, 162), instead of existing arrangements of material power and *de facto* sovereignty.

Places that Do Exist

As it is conventionally believed that international politics predominantly occurs among legal states with full *de facto* sovereignty over their territory (Biersteker, 2002, 167; Knight, 1992, 311; Lake, 2008, 41; Taylor, 1984, 4; Taylor, 1991, 397), polities without legally recognised sovereignty (such as geopolitical anomalies) are often seen to exist outside the logics of global politics. In an international political system in which *de jure* sovereignty is predominantly discussed in reference to *de facto* sovereignty principles, political entities without such Westphalian sovereignty may appear to actually have no sovereignty whatsoever. To put it differently, Westphalian views of *de jure* sovereignty tend to invoke ideas about the legal state representing civilisation, stability and order. Polities other than *de jure* states, conversely, are characterised by unlawfulness, disorder, and primitivism. In this conception, “non-state” societies are considered to be ‘incomplete’, as ‘their existence continues to suffer the painful experience of a lack – the lack of a [legal] state’ (Clastres, 1977, 159).

Geopolitical anomalies, then, might be referred to in many alternative ways (McConnell, 2009a, 1908). Aside from those terminologies mentioned in the introduction, they may be presented in terms of being a ‘fourth world’ (Griggs & Hocknell, 1995; 1996), as ‘non-institutionalised’ or ‘pseudo-states’ (Kolossoff & O’Loughlin, 1999, 152), or as ‘para-states’ or ‘almost-states’ (Stanislowski, 2008, 368). More normative labels may include an ‘underground geopolitical world’ (Kolossoff & O’Loughlin, 1999, 152) or ‘black spots’ of which ‘we know they exist, but [which] are difficult or impossible [for us] to see’ (Stanislowski, 2008, 366). As Clastres (1977), again, puts it, ‘[h]ow, then, can one conceive of the very existence of [non-state] societies if not as the rejects of universal history, anachronistic relics of a remote state that everywhere else has been transcended?’ (p. 160).

The symbolic notions of non-existence of geopolitical anomalies can be found, aside from the BBC television series mentioned in the epigraph, in many other examples of representation of these entities. Middleton (2015), for instance, refers to them in a similar manner in his *Atlas of Countries that do not Exist*, which on its back cover rather contradictorily claims to ‘[bring] to life a parallel world of nations that... exist only in the minds of the people who live there’ (see also Robson, 2015).

McCanne (2014) uses the term “no man’s land” to discuss spaces that “fall in the cracks” between different zones of governance, while political geographers Noam Leshem and Alisdair Pinkerton set up a blog about an expedition *Into No Man’s Land* (2015a). According to them, such spaces ‘often do exist in a state of “in-betweenness”, as ribbons of land between... different regimes of power’ (as cited in Caffrey, 2015), and they explain the appeal of the “no man’s land” terminology offering ‘an easily appropriated trope... that account[s] for spaces from which organised political power has been either intentionally withdrawn or significantly curtailed by adverse social-political or ecological-environmental circumstances’ (Leshem & Pinkerton, 2015b, 3). However, they find that

such territories should be associated not only with desolation or destruction, but also with ‘a lively process’. As they put it, ‘it is really important for us to rethink these spaces... not just as “dead zones”, but also as living spaces’ (as cited in Caffrey, 2015).

In this regard, understandings of these entities in reference to human life and death are particularly interesting. For Leshem and Pinkerton (2015b), the fact that the toponym of “no man’s land” is historically associated with killing fields in war zones, and with burial grounds in times of plague, ‘alludes to the spatial conjuncture of liminality and death’ that has become a hallmark of these perceivably ungovernable spaces, which have thereby become seen ‘as the ultimate locus of physical and corporeal destruction’ (pp. 2-3). Wood (2009), in an article in *Foreign Policy Magazine*, not only writes rather negatively about ‘wannabe states’ with ‘an emphatic lack of officialdom’ that inhabit only a ‘limbo world’ and a ‘legal wilderness’ (they allegedly represent ‘a dangerous new international phenomenon’ and ‘a mess waiting to happen’); he also does so in a specific manner. Such political communities apparently reside ‘in the international community’s prenatal ward’, and often require ‘midwifing’ by *de jure* states lest ‘such embryonic countries will end stillborn’; alternatively, they are staying in ‘political purgatory’. Such conceptualisations seem to imply that these polities only “come to life” when they enter the formal and legal realms of international relations or that for them redemption only lies in the ascension into formal international political heaven.

As will be explored further on in this thesis, such notions of non-life or sub-life can be interesting allegories for political entities outside of conventional international relations, but they do remain complete inversions of the actual “lived spaces” that such entities represent. Therefore, this chapter will now proceed to bring some of the *de facto* sovereignty and “living” power manifestations of geopolitical anomalies into focus. In doing so, I hope to provide insights into how the *de facto* sovereign and territorial instances and expressions of geopolitical “anomalousness” disrupt Westphalian assumptions about statehood and sovereignty.

De Facto Sovereignty and Westphalian Sovereignty

The category of geopolitical anomalies that most aptly exposes the problems of the assumed Westphalian correlation between *de facto* sovereignty and *de jure* statehood is that of *de facto* states. The first encompassing examination of these polities has been made by Scott Pegg (1998a), who defines the *de facto* state as a territory with ‘an organised political leadership’ that is legitimised ‘through some degree of indigenous capacity’ and ‘popular support’, and that is able ‘to provide governmental services to a given population... for a significant period of time’. Most importantly, a *de facto* state ‘views itself as capable of entering into relations with other states’ (p. 26). However, it seems that *de facto* states come short on this last aspect: their ‘empirically defined claim to statehood’ is not legally recognised by other states (Lynch, 2004, 15-16).

As such, their claims to independent statehood are seen as illegal and not-to-be-considered in the eyes of the “international community”. Since all *de facto* states exist within the recognised territorial boundaries of some “real” juridical sovereign state, they are generally perceived as internal conflicts to be dealt with within the parameters of that metropolitan state, rather than as new manifestations of statehood. Indeed, *de facto* states have enormous difficulty breaking through the ‘rigidities of diplomatic orthodoxy’ which privilege the continued existence of recognised borders of *de jure* states (see Chapter Two). They are forced to tangle with the ‘formidable common front of the organised international system’ where no state ‘breaks ranks’ (Bartmann, 2004, 27). This

seemingly impermeable order endows legal states with an array of possibilities and juridical arrangements for self-defence, and establishes them firmly in international society. Coincidentally, *de facto* states have very few rights protecting them in international law, and are restricted in terms of juridical powers, economic decision-making, and legal defence mechanisms (McConnell, 2009a, 1903).

As a result, while the impenetrability of the international system limits potentialities for *de facto* states, at the same time it reinforces a deep-seated desire of attaining legal statehood recognition. In other words, because there appears to be no room for ambiguity when it comes to their legal position, *de facto* states lack the vitality that legally recognised sovereignty provides and simultaneously adamantly pursue towards that full legal state sovereignty. The absolute nature of *de jure* state sovereignty in our international society has formed an incentive for *de facto* states to strive for statehood rather than any other form of status or existence – such as autonomy within their metropolitan state (Lynch, 2004, 18-19; see also Chapter Two). To be sure, '[t]he international game is now closer to zero-sum; there are states and there is little else. [This] has meant that most self-determination movements will be content with nothing less than [legal] state sovereignty to achieve what they perceive as justice' (pp. 18).

Dov Lynch (2004) has written an extensive analysis of the collection of *de facto* states that came into being after the collapse of the Soviet Union – Abkhazia, Transnistria, South-Ossetia, and Nagorno-Karabakh. While these unrecognised entities form but one specific set within a wider range of such polities, and Lynch himself states that his 'argument... does not have wider theoretical ambitions' (p. 11), his analysis offers some helpful insights into the functionalities, motivations, and challenges of *de facto* states in general.

First of all, the abovementioned insistence of *de facto* states on full state sovereignty is one of the internal driving factors behind their continued existence. Despite the fact that *de facto* states vary in their degree of governmental service provision and control over territory, and politics is often highly personalised, lacking transparency, and far from pluralistic, *de facto* governments maintain that their empirical sovereignty structures are strong enough to justify a declaration of juridical state sovereignty. From their perspective, legal recognition does not *create* a state but rather *reflects* an already existing reality of empirical sovereignty (see Chapter Two for more clarification on such declarative understandings of recognition). Added to these assertions, *de facto* states claim their independence through their right of self-determination, founded in popular referenda reflecting the will of their people, and in a sense of moral entitlement derived from the alleged oppression or illegitimate rule by the former central state (pp. 42-50).

The singular wish for fully independent *de jure* statehood by *de facto* states means that they are rarely interested in a "power-sharing" agreement with the metropolitan state. There are, however, a few other reasons for the rejection of non-state centred settlements. Most *de facto* states feel a potent sense of fear and insecurity, which is regarded as "existential" and "total" – even if the metropolitan state's armed forces are perhaps too weak to seriously pose a threat. This sense of insecurity makes compromise based on reconciliation and autonomous association with their former central state a difficult issue. Calculations of force and power, instead of the rule of law, have become seen as the only way of guaranteeing security. As such, some, but not all, *de facto* states have become devoted to extensive military structures. These systems, which are often founded on separatist armies that "were the state" during struggles for self-determination, are transformed into state-building and nation-building mechanisms themselves. They "realise" *de facto* states in the

minds of their populations, while representations of the “Other” metropolitan state as a threat are utilised to build popular support (Lynch, 2004, 51-61).

The dominance of military elements and emphasis on external danger of war has frequently combined with extensive criminalisation and economic mismanagement by weak governments, producing *de facto* states that suffer from what Lynch calls ‘subsistence syndromes’. This relentless determination of authorities to survive at all costs, in spite of hyperinflation, collapse of social services, and economic isolation, has become a key component of the internal logics sustaining *de facto* states. Their citizens reiterate this attitude, as they prevail political and security imperatives over economic ones. They therefore put up with desperate conditions and failure of governance – although it should also be noted that many are forced to do so because they are practically incapable of leaving. Added to this, finally, many *de facto* state inhabitants tolerate their socio-economic predicament because they feel that it is just as bad, if not worse, in their metropolitan states (Lynch, 2004, 63-64).

The descriptions above certainly do not apply to all *de facto* state situations; circumstances in the Turkish Republic of Northern Cyprus (TRNC) and Somaliland, for instance, may be quite different. Nonetheless, additional comments made by other scholars reconfirm a ‘modal tendency’ (Kolstø, 2006, 723) of these *de facto* states for deficient state-building – due to lack of will, but also because of insufficient capabilities or unfortunate circumstances. Their dismal economic situation, for instance, has also been ascribed to war damage from secessionist struggles and a dearth of economic resources. Furthermore, foreign enterprises are reluctant to invest in *de facto* states outside international contractual binds, or may be wary of offending the parent state. This ‘economic cost of non-recognition’ (Pegg, 1998a, 43), without international conventions or monitoring by international regulatory organisations, encourages illegal business, and large shadow economies have emerged whose profits do not benefit the particular *de facto* state as a whole. This lack of external involvement is also reflected in the fact that the “international community” (or its more powerful members) have mainly shown indecisiveness, inconsistency, and disinterest when it comes to *de facto* states (Kolstø, 2006, 728-734).

At the same time, however, all *de facto* states are strongly connected to the outside world, as they are beneficiaries of significant external financial support. Firstly, large diasporic communities in North-America, Europe and Australasia, which have ‘retained and indeed reinvented their identity’, support *de facto* states both in spirit and in practice (Bahcheli, Bartmann & Srebrnik, 2004a, 6; Kaldor, 1999, 208). In addition, international humanitarian organisations assist in sustaining *de facto* states (Lynch, 2004, 81-85). Most importantly, *de facto* states have often built tight and intricate relations with a patron state supportive of their cause.

This reliance on external help has been clearly elucidated by Nina Caspersen (2009), who simultaneously reflects on this aid’s contradictory position in the *de facto* states’ legitimising narratives for claims to legal statehood. *De facto* states believe they “deserve” legal recognition of their sovereignty by demonstrating their “stateness”, and thus promote an image of independence, viability, and democracy, yet these arguments significantly lose traction when these polities are dependent on the external power of a *de jure* state for economic development and security. Some critics contend, therefore, that these entities’ *de facto* independence is an illusion, as it paradoxically requires external dependence; they are states ‘on the dole’ (Kolstø & Blakkisrud, 2008, 494). Some observers have even argued that *de facto* states merely function as political instruments for patron

states that significantly influence the internal politics of these 'puppet states' beyond democratic control (Caspersen, 2009, 48-52).

On the other hand, many *de jure* states also are dependent on international economic linkages, and even some patron state governments themselves could lose domestic public support should they neglect their relations with co-ethnics in *de facto* states. Furthermore, *de facto* states often maintain that they have no alternative to external dependence on a patron state, as they are generally denied access to international trade, loans, and other politico-economic relations. Also, earlier mentioned diaspora movements and 'shadow' transnational trade networks can sometimes rival patron state assistance, leading to a lesser reliance on these formal states' financial resources. Some *de facto* states, thus, can hold a high degree of autonomy that coexists with some form of external dependence, and as such, regarding *de facto* states as mere puppets of larger patron states is simplistic and exaggerated. These unrecognised entities are 'not pliant clients doing their master's bidding' (Kolstø, 2006, 733), and their policy agendas can be quite contrary to those of financially assisting legal states. Having external connections with *de jure* patron states does not necessarily mean that power is not exercised domestically in *de facto* states (Caspersen, 2009, 50-58).

While external support from *de jure* states perhaps throws into question how substantive the domestic power of some geopolitical anomalies actually is, this does not seem to be the case for perhaps the most prominent of geopolitical anomalies: Taiwan (officially named the Republic of China, ROC). This barely legally recognised *de facto* state (by 22 marginal states) has in the past decades become known as an "economic and political miracle", as it has successfully developed democratic institutions and economic policies (Clark & Tan, 2012; Tan, 2009). It is, therefore, commonly regarded as the "champion" of *de facto* states. It manages to uphold economic, technological, and cultural ties even with juridical states that do not legally recognise it, through the privatisation of its foreign relations. It conducts 'what looks like diplomacy masquerading as business' (Reno, 2006, 172). The American institute in Taiwan and the Council for North American Affairs, for instance, manage relations with the United States; the Straight Exchange Foundation and the Taiwan Affairs Office conduct linkages even with China.

In addition, Taiwan has entered into several international institutions, such as the World Trade Organisation and the Asia-Pacific Economic Forum, based on being an "economy" and possessing "functional competence" rather than international legal recognition (Lynch, 2004, 20; Pegg, 1998b, 8-11; Pegg, 2000, 94-96). Some argue that, despite this situation, Taiwan still is an 'outcast' residing in a 'shadowy world short of normal diplomatic intercourse' (Bartmann, 2004, 27), and that the US effectively functions as a patron state for Taiwan (Kolstø, 2006, 733). These qualifications, however, do not really take away from the fact that Taiwan has a quite recognisable legal presence in international politics, and that it undeniably has obligations under international law (Pegg, 1998b, 12-15). Indeed, a few interesting aspects of the contradiction between *de facto* and *de jure* sovereignty come to the fore in this case.

The ROC was the sole legitimate representative of China to the United Nations, backed by the US, until 1971. Under increasing pressure from the People's Republic of (mainland) China (PRC) to set straight this 'mismatch between the ROC's *de jure* jurisdiction (China) and the *de facto* one (Taiwan)', UN Resolution 2758 stripped that status from the ROC and granted it upon the PRC (Chu & Lin, 2001, 117). Remarkably, that resolution left unmentioned what Taiwan's status was henceforth going to be, as the PRC's "one China-policy" (including Taiwan) made it difficult for other *de jure* states to award any juridical form of recognition to Taiwan.

In spite of this omission, however, until this day, private non-profit corporations function as embassies and consulates to maintain relations with other states in the absence of diplomatic recognition. The representatives of these organisations are even provided with diplomatic privileges and immunities. The US government's policies to continue commercial, cultural, and governmental ties with Taiwan have particularly had a serious impact on the sustained presence of Taiwan in international politics. As long as these linkages do not carry the label of 'formal diplomacy or recognition', as long as Taiwan is 'actually but not officially' regarded as an independent sovereign state, this situation is acceptable to China, Taiwan, and the states that deal with these two countries (Lee, 1995, 323-325).

As such, Taiwan exemplifies how *de jure* recognition is a matter of (great power) politics, rather than an outcome of set guidelines of international law. The question is not *whether de facto* sovereignty should be juridically recognised, but *whose de facto* sovereignty – and by *whom*. In addition, it seems that in Taiwan's example the nomenclature of sovereignty is important. The question is not whether Taiwan possesses *de jure* or *de facto* sovereignty, but how its political authority and relations are referred to. Also, the case of Taiwan signifies how some political entities may possess a degree of "*de facto* recognition" in absence of legal recognition. International law, and thus specifically *de jure* sovereignty, then, is above all else a construct deliberately susceptible to restructuring or reinterpretation. In any case, the above paragraphs have hopefully helped to expose how the performance of sovereignty is not intrinsically related to the legal – or Westphalian – nature of it.

Furthermore, it should be noted that the distinction between *de jure* statehood and *de facto* sovereignty also runs the other way. This is most obviously manifested in so-called "weak", "failed", or "quasi-states" that do not exercise *de facto* sovereignty over their entire territory, but formally maintain their recognition as *de jure* states (see also Chapter Two). Although it is not this thesis's aim to extensively discuss these kinds of polities, they very clearly (re-)exemplify the differences between *de jure* sovereignty and *de facto* sovereignty.

More importantly, if in these cases *de facto* sovereignty is not fully tied to the *de jure* state, it almost automatically means that it resides elsewhere. It appears that geopolitical anomalies and "failed states" are mutually reinforcing entities, as the presence of geopolitical anomalies exemplifies the lack of *de facto* sovereignty by the juridical state, and the lack of a state's *de facto* sovereignty simultaneously enables the emergence of (new) manifestations of *de facto* sovereignty in that country. Somalia and Somaliland – respectively an 'archetypical failed or collapsed state' and a relatively well-functioning *de facto* state within Somalia's nominal borders – are prime examples of this assertion (Elden, 2009, 99-101). They are, indeed, one of the analysed examples of this thesis (Chapter Four).

Territoriality and Westphalian Sovereignty

Thus, as the Westphalian relationship between *de jure* and *de facto* sovereignty is problematised by geopolitical anomalies exercising the latter without the former, the relationship between *de jure* statehood and its legally ascribed territory also becomes more complicated. A *de jure* state may not exercise *de facto* sovereignty universally over its territory, as that territorial *de facto* sovereignty might instead be exercised by other political entities. Again, while Westphalian considerations of sovereignty imply a very fixed and clearly discernable connection between the *de jure* state and the space over which it is supposed to possess *de facto* sovereignty, geopolitical anomalies exemplify

how such territorial practices are dependent much more on actual manifestations of *de facto* sovereignty than on purely legal arrangements of *de jure* state sovereignty.

The complexity of the relationship between legal statehood and its territoriality is exposed by a few interesting examples. For instance, up until very recently the India-Bangladesh border region was characterised by a complicated patchwork of 106 Indian enclaves surrounded by Bangladeshi territory, and 92 Bangladeshi territories within the “metropolitan” Indian boundaries. On both sides of the frontier, the situation in these enclaves/exclaves could be described as one of lack of contact with the “home country” and absence of governance from the “host country”; they were generally left to fend for themselves (Jones, 2009, 373). The respective countries allowed the “use” of their territories by the communities living in these exclaves, but such arrangements did not qualify as the awarding of legal sovereignty. Those external territories thus in a juridical sense remained firmly Bangladeshi or Indian (Van Schendel, 2002, 138).

While these territories, thus, were largely dependent on the infrastructure of one state, they officially existed under the legal sovereignty of the other. As such, the inhabitants of these enclaves were not considered to be citizens of the surrounding state, and were therefore unprotected by the laws of that state. Particularly in crisis situations, when normal order was disrupted, this exclusion from rights became painfully clear (Jones, 2009, 377; see Chapter Three for a deeper analysis of the relationship between sovereignty and emergencies).

These enclaves, therefore, could in some sense perhaps be considered as territories over which no legal state possessed *de facto* sovereignty. Alternatively, as the enclaves were not territories without *de jure* sovereignty, like certain parts of Antarctica and the Bir Tawil area along the Egyptian-Sudanese border, they could perhaps more accurately be described as ‘displaced sovereignties’ (Jones, 2009, 377) or ‘non-state spaces’ (Van Schendel, 2002, 139-140). Although on July 31st 2015 India and Bangladesh came to a historical agreement to “exchange” the majority of these enclaves, thus untangling this patchwork of borders and awarding official citizenship to the inhabitants of these communities, many of the territorial and legal issues of this boundary region remain. With an increasing number of Bangladeshis attempting to cross the Indian border, proposals have been made to cover it with barbed wire fencing and “sterile zones” (Kashyap, 2015), suggesting that this transition from “statelessness” to statehood is still characterised by various forms of “abandonment” by competing modalities of *de jure* state power (Shewly, 2015).

A variation of such “spaces of exception” (see Agamben, 1998; Chapter Three), furthermore, can be found in the *de facto* states of Abkhazia and South-Ossetia, where Russia has distributed its passports to the residents of these areas. This “passportisation” not only created Russian citizens, it also actively testified to the fact that the bearers of these passports had severed ties to the Georgian formal state (Artman, 2013, 693). In some way, then, many inhabitants of these regions became Russian “citizens”, yet these *de facto* states are simultaneously recognised by Russia as independent state territory. To make things more complicated, from the perspective of international law they reside still within Georgia’s borders. These entities, as well as their “passportised Russian citizens”, thus in many ways appear to undermine the logic of Georgian *de jure* sovereignty and its nominal territory (p. 698).

As we can find such instances of possibly “stateless” space, perhaps we could also raise the question whether we can find cases of “spaceless” statehood. While this issue may become increasingly prominent in international law and politics as sea-level rises threaten to submerge certain low-lying island states like Kiribati and Tuvalu (see, for example, McAdam, 2010), the most

prominent contemporary example of seemingly “de-territorialised *de jure* statehood” is the Sovereign Military Order of Malta (SMOM), whose territory consists of ‘two buildings in Rome in which it enjoys extraterritorial legal privileges’ (Lewis, 2010). SMOM is, nevertheless, widely acknowledged as a sovereign entity in international law. It is fully juridically recognised by a significant amount of *de jure* states, issues its own passports and has embassies abroad, and enjoys rights of treaty-making and membership in international organisations.

In some sense, therefore, SMOM again shows the disconnect between *de jure* sovereignty and territorial *de facto* sovereignty; *de jure* sovereignty in itself is not necessarily attached to factual territorial practices or possessions (Constantinou, 2004). From a more “physical” *de facto* sovereignty perspective, however, even those two Rome offices might be considered as territories, suggesting that political entities – *de jure* states and geopolitical anomalies – do in fact need some material and grounded existence. Territory seems ‘inescapable’ for the exercise of political power (Gray, 1999).

The example that perhaps illustrates this most clearly is the Tibetan Government-in-Exile (TGiE). McConnell (2009b) herself uses this case study to present and discuss her analyses of geopolitical anomalies. TGiE was established in India in 1960, and has subsequently developed into an institutionalised exilic political structure with a constitution, a legislative parliament, and a judiciary. It organises democratic elections, provides health and education services, collects taxes (*chatrel*), and issues Tibetan passports (*Green Books*) (p. 343). According to McConnell, therefore, TGiE ‘has a degree of *de facto* sovereignty based on its claims to and production of legitimacy’ (p. 344), but this assertion might be questionable. Whereas McConnell simply equates *de facto* sovereignty with ‘the ability and capacity to exercise power’ (p. 345), in this thesis the concept of *de facto* sovereignty will be explicitly separated from just any general form of effective power (see Chapter Three).

Aside from such differentiations, McConnell demonstrates how TGiE exercises its authority certainly not in a conventional territorial manner, as this authority is employed over a Tibetan community-in-exile scattered over India, Nepal, Bhutan, and other parts of the world. As such, TGiE seems to have all the trappings of a *de facto* state, were it not for an apparent lack of a territorially defined political framework, since TGiE’s settlements in India are established on land granted by the Indian government. On the one hand, therefore, McConnell argues that TGiE ‘has at most a highly tenuous relationship to territory’ (pp. 347-348). For one, TGiE is awarded a “share” of governing responsibilities over its settlements, and the relationship between Indian *de jure* sovereignty and Tibetan authority is thus constantly (re)negotiated, yet this does not equate to an Indian legal recognition of Tibetan territorial sovereignty. TGiE’s structures of government are only acknowledged on a local scale in order to make such negotiations pragmatically possible.

Moreover, these political institutions are never declared or recognised openly. Political authority is constantly ‘held in suspension’ between legal and lived realities, and these semantic subtleties enable the coexistence of TGiE’s political structures with India’s legal sovereignty in *de jure* Indian territory. McConnell labels this coexistence of political frameworks as ‘tacit sovereignty’ (pp. 349-351), a concept that again raises problems in relationship to notions of *de facto* sovereignty, which are again further explored in the third chapter of this thesis.

Seemingly departing from understandings of sovereignty, in a later study McConnell analyses the “governmentality practices” of this geopolitical anomaly – the potentially extra-territorial techniques of governance aiming to manage and utilise a population of human bodies rather than defined space (Foucault, 1991; see Chapter Three). For instance, TGiE has “come to know” its population through census and survey-taking, which has served to create state-citizen relationships between Tibetans dispersed over non-contiguous and dispersed places, and an ostensibly central government-in-exile (McConnell, 2012, 81-86).

For McConnell (2012), therefore, ‘TGiE foregrounds the important distinction between governing strategies and the realms over which governance is enacted’, as the Tibetan population seems to be defined in national more than territorial terms (p. 92). TGiE has nourished a degree of domestic legitimacy founded on the Dalai Lama’s authority, on the institutionalisation of government structures, and on a historical precedence of governance over Tibet before exile (p. 91). These legitimising factors are also utilised externally, with narratives of democracy and national self-determination employed to build international recognition for official Tibetan statehood. TGiE engages in what can be described as ‘paradiplomacy’ (Aldecoa & Keating, 1999): the Dalai Lama’s meetings with state leaders, the institutionalisation of ‘quasi-embassies’ in several countries, and linkages with several NGO’s serve to ‘mimic’ state diplomacy behaviour, so to find credibility and *de jure* status in international politics (McConnell, 2009b, 346-347; McConnell, Moreau, & Dittmer, 2012, 806-808). Apparently, TGiE engages in all these state-like activities with neither legal sovereignty nor clearly delineated territory.

On the other hand, McConnell emphasises that TGiE ‘is not a non-territorial entity’ (McConnell, 2009b, 347). Besides its ‘diasporic geographies’, TGiE forms a rather ‘conventionally territorialised set of political spatialities’, and, like any geopolitical anomaly, thus occupies some space in some sort of way. These spatialities are direct expressions of the TGiE’s ‘territorialising strategies’ through which it attempts to ‘control space and institutionalise the Tibetan-nation-in-exile at a range of scales’. TGiE, as such, even claims to possess “jurisdiction” over these localities, which, according to TGiE, can therefore even be regarded as “sovereign spaces”. This Tibetan control over these spaces stays far away from legal jurisdiction or *de jure* sovereignty, and appears ultimately subject to Indian *de facto* sovereignty, but TGiE does possess a degree of autonomy over its own affairs within these settlements (p. 348).

Additionally, these territories have in some ways become a “second homeland” to many Tibetans, as the TGiE has ‘re-territorialised itself... in displacement’. Its being-in-exile has now become a large component of Tibetan cultural-national identity (McConnell, 2009b, 348). The discourses through which TGiE has fostered a national Tibetan identity are also ostensibly grounded in quite territorial terms. This national identity discourse is based around notions of a population functioning as a ‘repository’ preserving Tibetan culture, but also around narratives of preparing for territorial governance once resettlement has taken place, and of a population-in-exile waiting to return to the Tibetan *heimat* (McConnell, 2012, 86-87).

Most importantly, while some of the governmental strategies employed by TGiE, such as health and education services, can be maintained and managed seemingly in a non-territorial way, the TGiE’s mechanisms for actually regulating its citizens’ behaviour rest primarily on the constitution of “national spaces-in-exile” in which the population can be kept together, observed, and managed (McConnell, 2012, 88-89). TGiE, therefore, even regards and portrays those cohorts of the Tibetan population that reside or move outside of these spaces as problematic for its governing

capabilities. Given the exilic circumstances of its population, it is very difficult for TGiE to utilise territory as a tool for social control. Exposing the fundamental spatiality of *de facto* sovereignty, McConnell maintains that ultimately TGiE cannot force its citizens to either move or remain, as it lacks the coercive powers to control Tibetans' residency and mobility (pp. 90-91). McConnell, therefore, even wonders 'whether the settlement spaces in exile enable TGiE to operate as a "government". Or, conversely, if the Tibetan diaspora in India was more conventionally dispersed, would the governmental functions of TGiE be diminished?' (p. 91).

In any case, TGiE's governance appears to be more effective when it is territorialised, so that in spite of India's *de jure* and *de facto* sovereignty, TGiE, exercises a particular kind of authority over the territories in which the Tibetan communities reside. As such, regardless of what kind of power practices TGiE employs – *de facto* sovereign or non-sovereign – there is a distinct territoriality to them. This is a territoriality that is 'partial' and 'differentiated', yet where political practices cannot escape or move "beyond" the bounded spaces of the Tibetan settlements (McConnell, 2012, 92). TGiE attempts to create uniform government structures and practices over all of the non-contiguous Tibetan settlements and communities abroad, and describes the relationship between the central Tibetan authority and its dispersed localities as comparable to that between central and local governments – as integrated authorities on different levels. In this way, TGiE acts as a single governing authority for Tibetans all over the world, but remains far more institutionally organised than any global or "de-territorialised" socio-political network. Therefore, it may not possess sovereignty over territory in a *de jure* or even a *de facto* sense, but it does possess a degree of local authority and international legitimacy (McConnell, 2009b, 348).

In sum, geopolitical anomalies and employments of *de facto* sovereignty deconstruct the Westphalian amalgamation of sovereignty in a variety of ways. Geopolitical anomalies may exercise *de facto* sovereignty without legal state recognition, and so, in turn, *de jure* states do not exercise their *de facto* sovereignty universally over territory. As such, geopolitical anomalies should not be marginalised into non-existence. In fact, the examples described above seem to point out that they are "more real" and "exist more" than the conventional *de jure* states that are assumed to be the core units of international politics. In a sense, geopolitical anomalies tell us more about the "lived realities" of international politics than *de jure* statehood does. If any praxis of international relations appears to be actually constructed and imagined in a very particular Westphalian "myth", it would be the pairing of *de jure* statehood with *de facto* sovereignty.

Sovereignty in Contemporary International Political Discourse

The remainder of this chapter, then, will direct its attention towards this "construct" of Westphalian sovereignty in present-day international relations discourse, outlining the ways in which it has conceptualised *de jure* sovereignty as the primary component of international politics. As I hope to demonstrate, the Westphalian myth still seems to possess much normative strength in international political discourse, conflating international politics with international law. As it has become increasingly tempting to simply tie *de facto* sovereignty to the most central elements of international political discourse (*de jure* states), the meaning of sovereignty has increasingly been convoluted – in spite, or perhaps because, of its commonplace usage within the field. Not only has the meaning of sovereignty been complicated in the academic field of international politics as a whole, many scholars and theoretical "camps" have assumed an internally inconsistent interpretation of sovereignty in their writing.

The possibly most important theories about the nature of international politics – neorealism, liberal internationalism, and constructivism – deal with issues of sovereignty frequently and diversely, but simultaneously in a haphazard or inconsistent manner. Therefore, in attempting to alleviate the sway of the Westphalian myth over international relations discourse, in which *de jure* states are assumed to have complete territorial *de facto* sovereignty, a good starting point seems to be to expose these inconsistencies as an alleyway into a transformed view on the nature of international politics and, thus, geopolitical anomalies.

Neorealism and Liberal Internationalism

Traditionally, the intellectual arena of studies of international politics has been characterised by a ‘great debate’ (Delaney, 2005, 53) between realist (Carr, 1964; Morgenthau, 1948) – later neorealist (Gilpin, 1981; Waltz, 1979) – and liberal internationalist (Keohane & Nye, 1977) views on international relations. It should be clarified here that the terms *realist* and *neorealist* are often used interchangeably, as the latter (logically) shares a number of theoretical grounds with the former. Grieco (1988), for instance, does not distinguish between the two because ‘on critical issues... modern realists like Waltz and Gilpin are very much in accord with classical realists like Carr and Morgenthau’ (p. 485). However, when we isolate the concept of sovereignty as our object of study, some classical realist starting points open up opportunities for viewing this concept in a way that is quite different from neorealism’s perceptions; a point that is further developed in the third chapter of this thesis.

Neorealists, or *structural realists*, uphold that world politics takes place in an anarchic global structure, and that survival and power accretion are the primary aims of any entity that lives within such a structure. With the term “anarchic” they do not refer to a situation of utter chaos and disorder, but to one in which there is no overarching body of authority above the independent political units comprising the international system – legally sovereign states (Mearsheimer, 1994, 10). As such, in an environment of anarchy with no overarching governing authority, legal states are only concerned with their own survival and have to ‘perform all survival-enhancing tasks themselves’ (Fischer, 1992, 429).

All of these neorealist ideas are offshoots of those set out by Kenneth Waltz and his seminal *Theory of International Politics* (1979), yet nonetheless, in this work the concept of sovereignty is in fact only scantily discussed in explicit terms (Lake, 2003, 306). Moreover, Waltz’s more structure-focused writings on international relations leave some inconsistencies as to where he believes sovereignty actually resides. Waltz (1979) looks at international politics in a systemic way, and argues that this system should be defined through ‘the principle by which the parts are arranged’ (p. 81), that principle being systemic anarchy. What this principle means, according to Waltz, is that ‘the units of international political systems are not formally differentiated by the functions they perform’ (p. 93), but rather ‘by their greater or lesser capabilities for performing similar tasks’ (p. 97). Legal states, therefore, are ‘like units’, and ‘[t]o call states *like units* is to say that each state is like all other states in being an autonomous political unit. It is another way of saying that states are sovereign’ (p. 95).

However, if the units of international politics are differentiated by capabilities instead of functions, that appears to imply that we can define the structure of international politics on the basis of *de facto* sovereignty instead of *de jure* sovereignty. Waltz’s assertions, indeed, raise the issue of how to interpret *de jure* (state) sovereignty. Does it denote *de facto* sovereignty held by a *de*

jure state, or does the term refer to the legal rights and duties placed upon a *de jure* state that make it a member of the international legal community? Waltz appears to lean more to the former, but in my view the latter explanation results in more clarity about the distinction between international law and international politics. States may be legally recognised without the possession of *de facto* sovereignty, and geopolitical anomalies may exercise *de facto* sovereignty without *de jure* sovereignty.

While Waltz argues that his views on sovereignty mean that the most powerful legal states are the units that define the system, in the context of this thesis about geopolitical anomalies perhaps different conclusions can be made. Waltz (1979) acknowledges 'people, corporations... or whatever' as important units in international politics (p. 111), but '[t]he conclusion that the state-centric conception of international politics is made obsolete by them does not follow' (p. 94). For him, 'structures are defined not by all of the actors that flourish within them but by the major ones' (p. 93), and 'so long as the major states are the major actors, the structure of international politics is defined in terms of them' (p. 94).

Waltz may have been accurate in making such claims, but does not extend his views on the central role of *de facto* sovereignty and material power in international politics to entities other than *de jure* states. Waltz has a *de facto* and more classical realist interpretation of sovereignty in mind, finding that '[w]hen the crunch comes [legal] states remake the rules by which other actors operate', but thus seems to attribute this *de facto* sovereignty only to *de jure* states (Waltz, 1979, 94). Waltz's neorealism, thus, is heavily influenced by the myth of Westphalia. While he qualifies *de facto* sovereignty as the defining principle of international politics, he subsequently does not deduce that the international political system might not be primarily characterised by *de jure* states. In Waltz's words, 'only if nonstate actors develop to the point of rivalling or surpassing the great powers' can we 'call the state-centric view of the world into question' (p. 95). In a more recent publication, Waltz (2000) revisited this stance, reiterating that '[t]ransformation... awaits the day when the international system is no longer populated by [*de jure*] states' (p. 39).

For neorealists, thus, sovereignty denotes the *de facto* sovereignty of *de jure* states, which means that a state 'decides for itself how it will cope with its internal and external problems' (Waltz, 1979, 96), because its legal sovereignty ensures that it can 'exercise a monopoly of the legitimate use of forces' and embodies the idea that the legal state's rule is universal (Gilpin, 1981, 17). *De jure* states, according to neorealists, possess *de facto* sovereignty, as they are completely independent and not thwarted by any higher governing authority; they construct the anarchic environment in which they reside. Notably, this stream of thought is circular as it necessitates the assumption that *de jure* state sovereignty is supreme, absolute, and universal in order to explain the anarchy within global affairs, and vice versa. Because juridical states are *de facto* sovereign, the international arena is anarchic, hence juridical states are *de facto* sovereign. Here, again, we are reminded of that Westphalian myth that latches itself almost inseparably onto international political discourse. The *de facto* sovereignty of *de jure* states, indeed, remains the 'bedrock assumption of [structural] realism' (Litfin, 1997, 172).

The main opponent of (neo)realism in the academic debate about international relations has been the intellectual camp of liberal internationalism. In contrast to neorealism, liberal internationalists (such as Keohane and Nye) find that legal states regard each other less as potential enemies, and more as companions who are crucial in ensuring well-being and survival. They argue that *de jure* state cooperation is more likely than neorealists would make believe, and institutions

are able to change legal states' aims and preferences and alter their behaviour by discouraging acting out of self-interest. As Keohane and Nye (1977) contend, 'in a world of multiple issues imperfectly linked, in which coalitions are formed transnationally, the potential role of international institutions in political bargaining is greatly increased' (p. 35).

However, while these views seem to diverge from neorealist understandings quite clearly, they are actually not all that dissimilar. Keohane (1984) himself, for instance, admits that 'we need to go beyond realism, not discard it' (p. 16), and seeks to show how '[neo]realist assumptions about world politics are consistent with the formation of institutionalised arrangements... which promote cooperation' (p. 67). Grieco (1988) finds that liberal internationalists merely reject neorealism's conclusions by employing its basic assumptions (p. 493). The similarities of liberal internationalism with these basic neorealist ideas, then, are reflected in liberal internationalist perspectives on the relationship between legal statehood and sovereignty.

While neorealist sovereignty allegedly refers to unlimited power within *de jure* state boundaries, according to liberal internationalists a legal state's behaviour can be affected by international institutions and other states. For liberal internationalists, however, this does not mean that the sovereignty of that state is "waned"; 'interdependence... does not reflect an erosion of sovereignty' (Thomson, 1995, 215). On the contrary, they argue, the decision of juridical states to abide to international institutional rules that 'tie their hands' does not demonstrate a constraint or infringement on their sovereignty, but rather an expression of it (Lake, 2003, 307). Keohane and Hoffman (1991), for example, conclude that state sovereignty is reinforced by interdependence and global institutions, as *de jure* states are validated as the only legitimate members of such institutions and cooperation increases a juridical state's governing capabilities.

It seems, however, that liberal internationalist thinkers overlook or mix up the differences between *de facto* and *de jure* sovereignty. Liberal internationalism speaks of *de facto* sovereignty almost inadvertently, without truly making explicit when it distinguishes it from legal sovereignty. Even though liberal internationalism prescribes that international institutions and other external entities do not curtail *de jure* state sovereignty, it does acknowledge that those political phenomena do reconfigure a legal state's effective autonomy and control (Litfin, 1997, 174).

As such, a greater role of cooperation and international institutions in global affairs may not affect the sovereignty of a state in legal terms, but these processes do imply an erosion of a juridical state's material powers. Likewise, when liberal internationalists contend that interdependence and international organisations actually strengthen a legal state's sovereignty, they are referring to the legal privileges and agreements that stem from such processes and manifestations. *De jure* sovereignty might be strengthened or supplemented, but not necessarily *de facto* sovereignty. In other words, liberal internationalism appears to confuse the fact that growing interdependence may not drive an erosion of *de jure* state sovereignty, but does signify a greater competition for who possesses its *de facto* sovereignty.

Contrary to neorealist beliefs, thus, it seems that liberal internationalist sovereignty can and often will be "shared" between juridical states and/or institutions, yet, inconsistently, liberal internationalists consider this "divisibility" of sovereignty in *de jure* terms while missing the fact that neorealism's perceptions of sovereignty as a unitary principle pertain to *de facto* sovereignty. Liberal internationalist views, as such, are again affected by a Westphalian myth that conjoins the legal statuses and rights of *de jure* sovereignty with the manifestations of power and political authority of *de facto* sovereignty. Even if liberal internationalist findings on interdependence ostensibly imply

that the Westphalian myth of universal *de facto* sovereignty over *de jure* state territory is challenged, they paradoxically still abide by that myth as they fail to differentiate between that challenged *de facto* sovereignty and an allegedly reinforced sovereignty of the *de jure* state. As a consequence, the *de facto* sovereignty of other global actors, such as geopolitical anomalies, remains underexposed.

Both liberal internationalism and neorealism, thus, basically agree upon the idea that in international relations no other political bodies except *de jure* states are *de facto* sovereign (Keohane, 1984, 9-10), and adhere to the Westphalian myth in maintaining a juridical state-centred view on sovereignty and international politics. As Agnew (2003) concludes, 'despite their difference... these theorists share the commitment to a [*de jure*] state-centred world... This is a conception inherited from a long line of political thinkers and practitioners. It is a vital ingredient of modern geopolitical imagination' (p. 54).

Constructivism and Critical Theory

As a response to these two main theories of international politics, two other strands of thought about sovereignty have emerged, both of which attempt to criticise the overemphasis and essentialisation of the role of *de jure* state sovereignty in international politics. These are the academic factions of constructivism and critical theory, which tend to carry a more ambiguous view of sovereignty. Constructivists, as the name would suggest, contend that concepts of statehood and sovereignty are socially constructed, meaning that they are 'defined and redefined by the rules, actions and practices of different agents' (Biersteker, 2002, 157). Critical theorists takes this notion a step further by understanding the international political system as 'a community structured by a historically contingent discourse of shared understandings, values, and norms about the principles of political authority and economic production' (Fischer, 1992, 430).

To begin with the former, in constructivist thought the predominant conceptions of sovereignty are perceived as coming about from within the international system, rather than externally or prior to it. In a classic constructivist work, for instance, Wendt (1992) argues that 'anarchy is what states make of it' (p. 395). As a result, Wendt conceptualises sovereignty not as a preceding condition of the international political structure, but as a multidimensional concept emerging out of the process of formal state practice. While (neo)realists may find that sovereignty is not grounded in a set of principles but in a legal state's ability to establish authority over a territory, constructivism tries to tell us that the very basis of the international legal state system rests on mutual understandings about belonging to a society of *de jure* states each with exclusive territorial jurisdiction.

The type of jurisdiction that is characteristic of such a society, then, is not a natural but a moral, normative, or legal outcome (Barkin & Cronin, 1994, 110). Constructivist sovereignty, thus, is a product of interactions by legal states, and therefore neither fixed nor universal. It very much embodies ideas about *de jure* sovereignty existing through mutual recognition and international conventions, and constructivism – like neorealism and liberal internationalism – therefore suffers from a lot of the same limitations when it comes to thinking about *de facto* sovereignty.

First of all, constructivism seems to overlook the fact that sovereignty might be a relational and constructed principle in a legal sense, but that such an interpretation does not exclude a conception of sovereignty as *de facto* power. A state's *de jure* sovereignty may be a multidimensional concept and born out of particular developments, but that does not rule out that

its *de facto* sovereignty is absolute or precedential over those developments. Secondly, while many constructivists appear to imply that the *de jure* sovereignty of states varies through time and space, they in fact consider it still as the primary structuring principle of international society. In line with the Westphalian myth, they attach *de facto* sovereignty attributes to *de jure* sovereignty. They may justly demonstrate that meanings of *de jure* sovereignty have been historically diverse, but simultaneously incorrectly assume it, and not *de facto* sovereignty, as the indispensable condition of international relations (Lake, 2003, 308-309). In other words, they do not explore questions of how the international political society is constructed, but how sovereignty is constructed within the existing international political society.

Constructivists, thus, still mainly “find” sovereignty through juridical states, leading to sovereignty again entering the essential nature of *de jure* states themselves (Paul, 1999, 227). Formal states are again taken as the ‘ontologically primitive units’ of international political theory (p. 224); they are the units with *de facto* sovereignty. According to Wendt (1994), for example, ‘[a] theory of the states system need no more explain the existence of states than one of society need explain that of people’ (p. 385). This one-dimensional focus on systemic interactions between legal states has been described by Reus-Smit (1999) as *systemic constructivism*, which solely takes into account how conceptualisations of sovereignty, such as the Westphalian myth, shape and reproduce the identity of the actors (the juridical sovereignty of states) in international society, but not how those conceptualisations are constructed and transformed (pp. 165-166).

One of the foremost examples of this somewhat narrower approach to constructivist sovereignty can be found in Stephen Krasner’s thesis on sovereignty as “organised hypocrisy” (Krasner, 1996; 1999; 2001). According to Krasner, *de jure* states have time and time again breached juridical sovereignty ideals, as the frequent violation of long-standing norms forms an enduring attribute of international relations. As a result, Krasner discerns four interrelated conceptions and manifestations of sovereignty, some of which official states do not actually possess. Domestic sovereignty refers to formal governing authority and effective governing capacity within a *de jure* state, while interdependence sovereignty refers to the control of cross-border issues. International legal sovereignty implies *de jure* state sovereignty as recognised in international law. Westphalian sovereignty, finally, should not be automatically conflated with the way that term is used in this thesis, as Krasner simply uses this fourth type of sovereignty to denote a *de jure* state’s right to non-interference in its internal affairs.

Yet, in Krasner’s conceptualisation, it is still the behaviour of legally sovereign states that is hypocritical. He does not seem to account for geopolitical anomalies that expose the myth of Westphalian sovereignty. Krasner goes down a ‘Westphalian blind alley’, essentially concluding that the central role of legal (Westphalian) sovereignty as an organising principle remains undiminished (Biersteker, 2002, 167).

Admittedly, Krasner (1999) does argue that ‘the principles associated with...international legal sovereignty have always been violated’ (p. 24), and proceeds to try and demonstrate how legal states can lose one type of sovereignty but still be sovereign in another sense. However, while Krasner aptly exposes the inconsistencies within the constructed international state system, his notions of sovereignty again remain essentially *de jure* state-centered. Krasner stipulates a number of deviations from the ideal of legal states possessing full *de facto* sovereignty over their territories, but subsequently does not allow for the idea that such an idealistic, or mythical, view on sovereignty is therefore flawed (Lake, 2003, 310); the exceptions still confirm the rule.

Because of the limitations of such an approach, an array of critical theorists have attempted to find those constitutive dynamics “outside” the realm of international politics, emphasising the significance of meta-systemic processes – events, practices, and discourses – contingently centralising legal sovereignty within the international political structure and discourse (Biersteker, 2002, 163; Eudaily & Smith, 2008, 323). Whereas constructivism, thus, would explain sovereignty as a principle that is dependent on criteria, practices, and circumstances within the international legal state system, critical theorists would argue that the entire international legal state system is dependent on social practices and circumstances.

Returning to Reus-Smit (1999), we find he employs what he calls a *holistic constructivist* viewpoint. This stance aims to demonstrate how cultural norms and ideas define the terms of rightful governance in hegemonic states, which subsequently transmit them into the international arena as the prevailing standard for formal state conduct and legitimate sovereignty (p. 167). This means that those cultural norms and ideas are the processes that define the characteristics of international relations (p. 164). Sovereignty, for critical theorists, is not a self-referential principle lending its legitimacy from itself (p. 159). *De jure* states who want to claim their sovereignty ‘must reach beyond mere assertions of sovereignty to more primary and substantive values that warrant their status as centralised autonomous political organisations’ (Reus-Smit, 1999, 30).

These latter assertions appear to denote, as such, that critical theorists tend to reject notions of *de jure* sovereignty inherently providing states with rights, privileges, and *de facto* sovereignty, but simultaneously also rejects the idea that those *de jure* states can simply rely on their *de facto* sovereignty to manifest themselves as international political entities. Instead of both *de jure* and/or *de facto* sovereignty, then, Reus-Smit comes forth with the idea of the *moral purpose of the state* providing justification and guidance for states’ status and practice in global affairs (Reus-Smit, 1999, 31). A greater group of critical theorists, furthermore, proposes similar arguments. Already in the late 1960s, Walzer (1967) found that ‘the state is invisible’, and that it must be ‘imagined before it can be conceived’ (p. 194), but particularly in the 1980s critical theory established itself in political science as a proponent of discursive views on international relations. Cox (1992) writes, ‘the state has no physical existence, like a building or a lamp-post; but it is nevertheless a real entity. It is a real entity because everyone acts as though it were’ (p. 133).

As such, critical theoretical sovereignty is proposed as a discursive and intersubjective principle. For critical theorists, the concept of sovereignty is a product of norms and values that emerge out of infinitely complicated cultural, linguistic and social processes, and is consequently instituted and reinforced into the world of both politics (*de facto*) and law (*de jure*) in a very subjective and arbitrary manner. Because of this, a set and undeniable collection of characteristics or activities that makes a political entity sovereign does not exist. Rather, the circumstances and discourses under which an entity can be called sovereign vary from one historical and geographical context to another.

Such an assertion means that sovereignty is historically, politically and culturally *contingent*. Rather than a legal notion of sovereignty being dependent on certain criteria (see Chapter Two), sovereignty is the effect of discursive practices – patterned, structured modes of thinking, saying, writing, and acting – establishing and reifying sovereignty and its associated images and attributes in international relations (Delaney, 2005, 53-55). It is the ultimate aim of critical theorists, then, to open up opportunities for other visions and practices of sovereignty, and thereby, global politics. Thus, Bartelson (1995) summarises:

To say that sovereignty is contingent is to say that it is not necessary or essential, but that its central and ambiguous place in modern political discourse is the outcome of prior accidents. To say the sovereignty is neither necessary nor essential is to say that we have to account for its place in modern political discourse in order to explain how and why the concept took on a necessary and essential character within it (p. 239).

Critical theorists, then, find that the concept of sovereignty can be objectified neither in a legal context nor in a *de facto* manifestation of power. They reject (neo)realism's ahistorical and scientific perception on sovereignty that implies a separation between an objective and knowable world, and individuals observing and describing that world (Mearsheimer, 1994, 41). According to critical theorists:

[t]here are no constants, no fixed meanings, no secure grounds, no profound secrets, no final structures or limits of history... There is only interpretation... History itself is grasped as a series of interpretations imposed upon interpretation – none primary, all arbitrary (Ashley, 1987, 408-409).

Indeed, critical theorists contend that international juridical and political society is intrinsically incapable of detaching itself from its inherent cultural, normative, and discursive dynamics. In other words, the actors within international politics cannot be independent or separate from the society they are constructing. As such, critical theorists find that both *de facto* and *de jure* sovereignty can only be interpreted as intersubjective constructions that are eternally asking for (re)interpretation. To come back to Bartelson (1995), he contends that sovereignty cannot have a positive referent, and thus cannot be empirically researchable as a unitary concept (p. 52). It cannot easily be disentangled and analysed from international political theory, because it has become such a basic and intrinsic concept of that theory.

We may wonder, therefore, what exactly is the “point” of critical theory. If everything about sovereignty can be true, and therefore nothing is true, what intellectual insights about sovereignty can we gain from a critical theoretical enterprise? Perhaps, however, while a critical theory of international relations does not envision or aim for a particular practice, mode, or quality of global politics, it derives its purpose from the emancipatory power it inherently carries. As long as there are prevalent notions, practices, and myths, in international relations, there will always be a strand of thinking (a theory) that critically examines those notions. As such, critical theorists' contribution can be to aid in taking a stand against predominant ways of thinking about statehood and sovereignty within the global political arena. As this research aims to conceive of a world in which states and sovereignty are no longer visualised as absolutely juridical concepts, a critical theoretical approach could become a useful starting point for such research. If we want to change international politics by providing new perspectives on international political discourse and the Westphalian myth, critical theory becomes a helpful transformational tool.

The value of critical theory, thus, lies in its observation that sovereignty is not founded on some objective legal criteria designed and maintained by the actors of international society. Critical theories about sovereignty, indeed, lead to very different conclusions about which entities allegedly possess sovereignty and which do not – an interpretation that certainly seems to feed into arguments about geopolitical anomalies and *de facto* sovereignty. However, as critical theorists

reject any factual or objective assumptions about any manifestation of sovereignty, I argue these rejections also carry certain shortcomings as a viewpoint on *de facto* sovereignty. A critical theory on sovereignty can be helpful as a challenge to conflation of *de jure* sovereignty with real power, and it may thus be helpful in exposing the significance of *de facto* sovereignty for international politics. As will be maintained in this thesis, however, it should be supplemented with a *classical* realist interpretation of sovereignty as supreme and indivisible power in a political entity, in order to provide better insights into the nature of geopolitical anomalies.

The next two chapters will serve to clarify some of these differences between *de jure* and *de facto* sovereignty on the one hand, and between classical realist understandings of sovereignty and critical theoretical conceptions of sovereignty on the other. As I have attempted to demonstrate in this chapter, sovereignty has been conceptualised and utilised in countless ways, but that abundance has not contributed to more clarity about the concept in international political scholarship and discourse. There has been a link between a mythical status of Westphalian sovereignty in international relations, and an inconsistency in how we employ the term of sovereignty to denote juridical matters and/or effective manifestations of power. In an attempt to remedy these inconsistencies, Chapter Three will thoroughly explore the merits of classical realist *de facto* sovereignty compared to the limitations of critical theorists' explanation of sovereignty as an intersubjective or intangible exercise of power.

In the upcoming chapter, however, I will first investigate the nature of *de jure* sovereignty and identify its position in international law. While geopolitical anomalies seemingly expose a necessity for a "reconstructed" conception of sovereignty in international politics, they simultaneously contrast the idea that sovereignty can be "created" or "devised" in international legal arrangements. In Chapter Two, then, I will firstly elucidate what such legal sovereignty constructs look like. Subsequently, I will proceed to find out whether perhaps geopolitical anomalies could actually tap into those juridical-territorial frameworks. I will, indeed, explore different manners in which geopolitical anomalies may find some kind of "resolution" to their problems within the international legal structure.

Chapter Two

Sovereignty and International Law: A Route to Resolution?

I believe in political solutions to political problems. But man's primary problems aren't political; they're philosophical. Until humans can solve their philosophical problems, they're condemned to solve their political problems over and over and over again.

(From Tom Robbins's *Even Cowgirls Get The Blues*; 1976, 378)

International law, in this thesis, has hitherto been presented almost as the antagonist of geopolitical anomalies. Apparently, one cannot exist where the other exists, and geopolitical anomalies are portrayed somewhat as “victims” of international legal practices and theories. However, is this really a correct interpretation of the relationship between geopolitical anomalies and international law? It has also already been suggested that international law may actually find its way in geopolitical anomalies' organisational structures and processes, and some geopolitical anomalies may not be completely excluded from international legal statuses and agreements. In any case, it seems that, regardless of the question whether the two concepts are really mutually exclusive or antagonistic, international law and geopolitical anomalies are compelled to deal with one another.

Indeed, I have repeatedly emphasised that there is a marked difference between *de jure* and *de facto* sovereignty, which is highlighted by geopolitical anomalies that possess the latter but not the former. At the same time, however, I have mostly focused on this difference – a difference generally overlooked in international relations thinking – while spending less time explaining *what* it is that these *de facto* sovereign geopolitical anomalies do not have. As I would argue, we can neither counterpose nor compare geopolitical anomalies to international law without any notion what we are counterposing or comparing them to. In other words, we cannot call for a more serious consideration of geopolitical anomalies in the *de jure* state system, without any identification of what *de jure* sovereignty and international law might embody. In addition, it has not been my intention to completely dismiss *de jure* sovereignty or international law as irrelevant concepts or arrangements for international politics; we cannot simply brush off any influence international law may have on global realities. As international law has been allocated a central position in both international political discourse and conduct, it has become necessary to analyse that centrality.

This chapter revolves around these questions about the nature of international law and *de jure* sovereignty, and whether certain international legal principles and considerations might actually be useful for geopolitical anomalies to become part of that international legal structure. I will start off by discussing certain crucial components of this international legal system, consisting of a description and an analysis of the role and character international law itself, followed by an explanation of the foundational and originary components of the concept of *de jure* sovereignty. Afterwards, I will consider several potential approaches of the “international community” towards geopolitical anomalies by delving into issues of territorial integrity, self-determination, and recognition of legitimacy, as well as autonomy and power-sharing arrangements. These legal principles not only provide possible strategies on how to deal with issues of geopolitical “abnormality” or “exclusion” for both geopolitical anomalies and international law and politics, but

more importantly, also illustrate different aspects of geopolitical anomalies' status and manifestations in relation to international law.

However, as the preceding chapter has hopefully conveyed, the problem of the subordinate position and status of geopolitical anomalies may not solely rest with the nature of international law itself, but at least as much with the way in which the study and discourse of international politics has taken on a far too legalistic perspective on international political developments and manifestations. In other words, as we may not be able to discover a magic solution or a silver bullet for geopolitical anomalies within international law, perhaps we have to look outside of it instead – in a transformation of our discourse, our philosophy, or our conceptualisation of international politics.

Sovereignty and the International Legal System

At its initiation, the idea of international law emerged from concepts of natural law. Such concepts regarded laws as universally applicable across all natural and social life, and across all civilisations and cultures. These natural law considerations formed, rather than a formal body of law for states specifically, an ethical framework pertaining to all aspects of the lives and relationships of any human individual. As time progressed, however, these ideas of natural law transformed, as many of its theological foundations were increasingly discarded in favour of more secular views by, for instance, Francisco de Vitoria (Vitoria, 1991) and Alberico Gentili (see Van Der Molen, 1968). In the writings of Hugo Grotius (1925), furthermore, state practice itself became perceived as a source of law rather than merely as an expression of natural legal ideas (Neff, 2010, 8-9). Gradually, a distinctive rift began to form between a “traditional” natural (international) law school and a “positivist” school of (international) law. While scholars like Samuel Pufendorf (2005) retained a conviction that international law could be equated to natural law, others, like Emmerich de Vattel, started to assume a more “practical” orientation towards both of these legal convictions (Cohan, 2006, 924; Shaw, 2008, 25-26).

The nineteenth century, subsequently, became the era in which positivist international law truly found its form. From the 1800s onwards, positivism increasingly turned into something in terms of an “objective”, “scientific”, and “empirical” legal doctrine. Positivist thought, as such, prescribed that international law should be de-politicised, as it was no longer supposed to concern itself with contentious political issues (Neff, 2010, 16). While this way of thinking seems quite contradictory to any legal system's apparent purpose, perhaps positive legal thinkers became increasingly reluctant to engage with issues of political controversy because they fully realised that ultimately international law *could not* meaningfully say anything about such controversies; I return to this argument later on in this thesis.

Simultaneously, positive international law was given an instrumentalist outlook, replacing the idea of law having an innate universal, divine, or natural purpose. International law no longer functioned as a master but as a servant, becoming ‘a tool for practical workmen rather than a roadmap to eternal salvation’ (Neff, 2010, 15). Crucially, this positivist approach to international law transformed it into an outgrowth of the will of states. Positive legal thought emphasised that humans rather than (divine) morals should define the rules under which they live, and on the global level this entailed that *de jure* states specified what international law should look like. International law, so to speak, became seen as a law *between* instead of *above* states.

As such, states attained legal personalities under international law, and gradually gained the status as the central subject of the law with exclusive rights and duties on the global level (Shaw, 2008, 27-29). It is in this era, thus, that statehood, as a *political* exercise or phenomenon, became infused with legality, whereby one could not exist without the other. International law was designed by states for states, and it became impossible to imagine international politics separately from international law.

Contemporary International Law

Present-day international law is of course in many ways quite different from those nineteenth century characteristics, as it has evolved in a more substantial, significant, and extensive body of law. Two world wars, one of which included genocide of an unprecedented scale and nature, made stronger the desire for a set of clearly defined rules concerning global security, and for a solidification of certain fundamental rights pertaining universally to all human beings. Increased globalising processes, also, have created a stronger global sense that formal laws cannot be solely concerned with sub-state or state-level developments, even if many global actors might object to an excess of regulation on the global scale.

These developments have surely furthered the maturation of international law in the twentieth century. This section, however, refrains from describing this maturation in detail, as the more imminent question seems to be *what* international law has become. The aim here is not to present a comprehensive overview of international law as it technically functions today, but rather to provide a tentative interpretation of what international law fundamentally *is*.

It is perhaps, firstly, important to note that international law remains to this day very dissimilar to domestic law; international law does not consist of a legislature, a judiciary, and an executive in same way that national legal systems (might) do (Shaw, 2008, 2-3). It is, thus, a less institutionally coherent body of law that less easily lends itself to succinct description. Article 38 of the Statute of the International Court of Justice outlines the (main) sources of international law as:

- (a) international conventions... establishing rules expressly recognised by the contesting states; (b) international custom, as evidence of a general practice accepted as law; (c) the general principles of law recognised by civilised nations; (d)... subsidiary means for the determination of rules of law (ICJ, 1945).

Yet, the usage of the term “sources” should be perceived here in a purely legal manner, not referring to any materiality or morality (Shaw, 2008, 70). Practitioners and scholars of international law refer to these as the sources of international law because international law has recognised them as its sources, and from this perspective international law originates from international law. In other words, international law is what international law says it is. More helpful than this self-referential definition, though, would be to define and explain international law in a broader context, asking the more fundamental question as to what the position of international law is within global politics.

First of all, although the international legal order nowadays nobly intends to form a single global community in which (juridical) discrimination against certain (non-European) peoples is deemed no longer acceptable, it tries to combine this tolerance with a notion of international law representing and promoting civilisation (Keene, 2002, 146-148). The resulting tension between these two international legal endeavours is, as has been discussed earlier in this thesis, reflected in

tensions surrounding the position of geopolitical anomalies in international law and global politics. This international legal discrepancy between, on the one hand, promoting different ways of life while, on the other hand, promoting one specific way of life, can also be found in the two general purposes of international law. International law is designed to engender the objectives of (particular) international actors, but simultaneously as a singular code of conduct to which all international actors should abide.

Indeed, one positivist remnant from the nineteenth century in current international law remains its instrumentalist nature. International law has no intrinsic value, but exists to enable us to fulfil certain human purposes. The practical foundations or reasons for a certain law, for instance, are considered more important than that law purely in and of itself (Koskenniemi, 2011, 251). Many international lawyers and judges, therefore, are now expected to assume a sense of “pragmatism”, “wisdom”, or “prudence” in interpreting laws, and to manage tensions between these practicalities and laws under the rubric of “fairness” (Franck, 1995, 7). International law, thus, does not simply entail an application of pre-existing formal rules, and as it is man-made, it thereby specifically *cannot* be “objective” or “scientific”.

As such, while this pragmatic interpretation of (international) law seems to be very useful and logical, it also has its downsides. Many lawyers would accept that international law might be designed to be of practical value for humanity, but that that practical value remains mainly accessible for the most powerful actors within humanity. Instrumentalism in international law ‘creates a consistent bias in favour of dominant actors with... sufficient resources to carry out their objectives’ (Koskenniemi, 2010, 41), and from this perspective international law functions to ‘advance the values, interests, and preferences that those in dominant positions seek to realise in the world’ (p. 52).

However, this is not the only characteristic of international law in its present form. International law is also instrumental in the sense that ‘it has a general function to fulfil, namely to safeguard international peace, security, and justice in relations between states, and human rights as well as the rule of law domestically inside states for the benefit of human beings’ (Tomuschat, 1999, 23). International law also exists to create formal and substantive standards for sustainable international political life. Although concepts such as “peace”, “security” and “justice” may be seen as somewhat insubstantial, and it might be argued that this function is bound to be rendered void by international law’s other more power-sensitive characteristics, this purpose is not politically insignificant.

According to some, for example, it means that international law can be a normative platform capable of socialising otherwise egocentric political actors into a more international communitarian spirit through ‘compliance strategies’ and ‘various manifestations of disapproval’ (Chayes & Chayes, 1995, 109-110). The role of international law, then, is to enable both conflict and cooperation at the same time, taking the form of a ‘shared surface... of political community among social agents – states, other communities, individuals – who disagree about their preferences but do this within a structure that invites them to argue in terms of an assumed universality’ (Koskenniemi, 2011, 266).

More importantly, as international law allegedly forms an ethical framework for international relations, it becomes a mechanism for actually critiquing power. Again, while legal terminologies of “human rights”, “justice”, or “peace” carry very little directly enforceable meaning, these concepts do provide a language for groups struggling against oppression to make claims beyond merely their political interests. Such claims can then be considered as universal rights or

entitlements, granting upon those groups an identity that they can affirm against the dominant elements of international society. International law, as such, makes those groups capable of imagining international relations as a set of institutions through which actors can be held accountable for their actions in an international community of equality (Knop, 2002, 210; Koskenniemi, 2010, 48). International law, as some would argue, has a 'utopian, aspirational face' (Cotterrell, 1995, 17). It represents a 'Messianic' promise of justice that cannot ever be solidified or enumerated in any substantive way and remains 'eternally postponed', but that nonetheless has authority and significance by placing upon international relations a semblance of equality, accountability, and community (Koskenniemi, 2011, 267).

The problem is, however, that such a conceptualisation may present international law as a tool for those excluded from powerful positions, but does not account for those that have been excluded from international law itself. Geopolitical anomalies may at face value be capable of tapping into these legal narratives of legitimacy and global community, but in practice face tremendous resistance from the international legal-political framework against their integration within these narratives. *De jure* states, by definition, define their identity through their inclusion in international law, but the identity of geopolitical anomalies with *de facto* sovereignty thereby becomes formed as the contra-image of this international legal body. As such, perceptions on the role of international law in international politics need, as Koskenniemi (2010) argued, 'to be rescued from the context of legal routines and reinstated in the political arenas where it can be used to articulate claims by those who are sidelined from formal diplomacy and informal networks' (p. 39).

The Nature of De Jure Sovereignty

A crucial aspect of international law, then, is its inextricable connection to *de jure* statehood. International law exists through the legality of states, and vice versa. This is a rather tautological assertion, but it is an indication of how important the principle of *de jure* sovereignty is within the global political and legal framework. Given the argument that international law is designed to promote the interests of its constituent parts (states with *de jure* sovereignty) some even wonder whether the principle of legal sovereignty *is* international law, as in this "ship-of-Theseus" line of thinking the nature of international law can be (re)defined only through its *de jure* sovereign components (Suganami, 2007, 518-519).

One of the most important international legal thinkers of the twentieth century, Hans Kelsen, posited this issue as a question of whether *de jure* states were (legally) sovereign over the international legal system, or the other way around, and conceded that this question was in practice unanswerable (Kelsen, 1960, 638-640; Kelsen, 1978, 334-335). Kelsen believed that:

sovereignty is not a sensually perceptible or otherwise objectively cognisable quality of a real object, but a presupposition. It is the presupposition of a normative order as the highest order whose validity is not derivable from any other higher order (Kelsen, 1978, 334).

Thus, Kelsen's question had to be framed in terms of formal states or international law being the highest normative order – in terms of where to find the locus of the universal *grundnorm* from which all law derives its authority. For Kelsen, a conflict between these normative orders, or a

precedence of one over the other, could actually never occur (p. 342), but others found that the primacy of international law over *de jure* states could be logically deduced.

According to Kunz (1968), for instance, if national legal systems formed the primary normative order, international law's binding nature would not only dissolve after revolutionary changes in juridical state constitutions, it would also have to be explained through the idle assumption that legal states tacitly consented to its authority (p. 85). Legal state sovereignty did not embody the possession of fundamental, intrinsic, or transhistorical rights, as these *de jure* states had to derive their rights from the (international) law (Kelsen, 2007, 248-249). For instance, one of *de jure* sovereignty's fundamental principles (the equality of *de jure* sovereign states) 'is possible only under the supposition that international law is supraordinated to the single states', as 'all states are "equal" because they are all subordinated in the same way to international law' (Kunz, 1968, 86).

As such, Kelsen (and Kunz as well) argued that if we view international law as the highest normative order, *de jure* sovereignty means that *de jure* states are 'subordinated *only* to the international legal order' (Kelsen, 1978, 217). Kelsen finds, and I would agree, that *de jure* sovereignty necessarily means legal *state* sovereignty, since other political organisations, NGOs, or polities that reside within the international legal framework are not considered sovereign according to the law. Such organisations might in some instances possess a certain juridical status, and insurgents might be granted certain rights and duties, but they do not possess a 'fullness of competences' (Suganami, 2007, 519) like juridical states do; only *de jure* states have *de jure* sovereignty, whereby no legal state is superior to another (Kelsen, 1960, 637; Malanczuk, 1997, 91-108).

Obviously, however, if we would interpret sovereignty in a *de facto* way, we might come to very different conclusions. Not only might we consider the possibility that these other political entities, such as geopolitical anomalies, possess *de facto* sovereignty over the legal state territories in which they reside, the perception of international law being sovereign over these formal states also becomes problematic.

A Reconceptualisation of De Jure Sovereignty?

In more recent decades, attempts have been made to combine the privileges and statuses of *de jure* sovereignty with "real" circumstances on the ground, in order to circumvent the question which legal/normative order – formal statehood or international law – is supreme over the other. From the early 1990s onwards, *de jure* state sovereignty has become increasingly seen as *contingent*, meaning that 'in certain key circumstances... [legal] norms of sovereignty do not apply' (Elden, 2006, 14). Robert Jackson (1990), for instance, coined the term "quasi-states" to identify those countries that were unable or unwilling to domestically deliver protection of human rights and socio-economic goods, yet whose *de jure* sovereignty, and thus their right to non-intervention, remained legally recognised. Michael Reisman (1990) differentiated between "old" international legal sovereignty protecting the individual sovereigns of *de jure* states, and "new" international legal sovereignty construed to protect "the people". Such ideas have fed into a discourse on "state failure" (Fukuyama, 2004; Herbst, 1999; Kaplan, 1994; Milliken, 2003; Rotberg, 2003a; Rotberg, 2004; Zartman, 1995a), propagating a persistent conviction that there was not only a moral (global) obligation to protect the civilian populations of these countries, but also that, especially after the terrorist attacks of September 11th 2001, these "failed states" formed "breeding grounds" for international terrorism, illegal arms trafficking, drug cartels, and many other problems.

More recently, this new view on *de jure* state sovereignty has become more and more thought of in terms of “responsibility”. Formal states are urged and envisioned to be “responsible” both internally and externally. A *de jure* state should promote the welfare and individual rights of citizens domestically and internationally, and is thus accountable to the global community. This idea of “sovereignty as responsibility” was introduced in this way by Francis Deng and others in the mid-1990s (Deng, Kimaro, Lyons, Rothchild & Zartman, 1996), and developed further by the International Commission on Intervention and State Sovereignty (ICISS) in 2001. This commission emphasised how state sovereignty implies a “responsibility to protect” (RtoP), and more significantly perhaps, how ‘the [*de jure* sovereign] principle of non-intervention yields to the international responsibility to protect’ (ICISS, 2001, xi). This legalistic and normative interpretation of sovereignty, enthusiastically accepted at the 2005 UN World Summit (UNGA, 2005), has since been heralded as the most likely successful global effort to end mass atrocities once and for all (Bellamy, 2009; Evans, 2008a; Evans, 2008b), in spite of continued criticism (Moses, 2014; Orford, 2011) and repeated inconsistencies in terms of its implementation (Badescu & Weiss, 2010).

However, these reconceptualisations of *de jure* sovereignty evoke questions about on what authority (read: on *whose* authority) they (could) take place. Writers on contingent sovereignty and RtoP have openly advocated for a “supra-sovereign” authority; Deng himself discerns that ‘[l]iving up to the responsibilities of sovereignty implies the existence of a higher authority capable of holding the supposed sovereign accountable’ (Deng et al., 1996, 33). As such, proponents of contingent sovereignty move away from a notion of international politics in which *de jure* states form the highest international political order, shifting instead towards a global society governed by a legal/political body, institution, or set of values that prescribes and directs formal state behaviour.

Anne Orford (2011) even invokes classical realist understandings of the relationship between sovereignty and responsibility, arguing that more and more the United Nations Secretariat has taken upon itself the executive authority to resolve crises on the international level (pp. 109-138). Herein, thus, international law would appear, in a Kelsenian manner, to be situated above *de facto* sovereignty, rather than as an expression of it. Anne-Marie Slaughter (1998), indeed, argues that ‘states traditionally were... organised in any fashion their rulers wished’, but that the development of international law has brought us closer towards ‘the imposition of formal requirements concerning the way in which states are themselves constituted’ (p.144).

This interpretation of state sovereignty as “limited limitlessness” – as sovereignty constrained by another sovereign authority – might be imaginable from a purely juridical perspective, but with regard to *de facto* sovereignty such an interpretation makes very little sense (Moses, 2013, 119). Chapter Three of this thesis provides a more expansive explanation of this aspect of *de facto* sovereignty, but certain practices in international politics already allude to this problem. Orford criticises the dearth of consideration, among R2P proponents, for the legal limits to the actions the international community may take in the name of its supposed responsibility to protect (Orford, 2009, 1013-1014; Orford, 2011, 137), showing concern for the potential for “authoritarian tendencies” espoused ‘by those who assume the mantle of protectors on behalf of the international community’ (Moses, 2014, 62).

However, as is demonstrated in this thesis, this potential for “irresponsible action” is precisely illimitable through (international) legal arrangements. Orford (2011), therefore, rightfully contends that ‘the significance of the responsibility to protect concept lies... in its capacity to transform practice into promise, or deeds into words’ (p. 2), observing its functioning to rationalise

and render “responsible” the exercise of overwhelming force by internationally powerful actors (Moses, 2014, 71). Humanitarian interventions, for example, may have been employed behind a façade of ‘fundamental values of human dignity’ (Deng et al., 1996, 4), but actually appear to have more to do with ‘dashed expectations’ from the most powerful international actors ‘about... the functions that modern states should fulfil’ (Milliken & Krause, 2002, 753-754). The question, thus, is not whether legal sovereignty is contingent, but whose sovereignty is contingent on whose terms (Acharya, 2007, 276).

Fundamentally, the notion of contingent sovereignty again exposes a pervasive confusion around the differences between *de facto* and *de jure* sovereignty in international politics, as at its very essence it carries a rather overt contradiction. *De facto* sovereignty has now seemingly become regarded as the guiding principle of international politics, as legal states can supposedly “lose” their *de jure* sovereignty if they do not have *de facto* sovereignty, yet *de jure* sovereignty remains the guiding principle of international politics because only that kind of sovereignty makes a political entity a full member of international society. Legal sovereignty becomes dependent on *de facto* manifestations, but *de facto* manifestations do not automatically lead to legal sovereignty. It appears that certain legal states may be condemned because they are unable to uphold certain standards of “responsibility”, but geopolitical anomalies who do uphold these standards successfully may still not gain legal recognition as *de jure* sovereign states. Certain criteria are used to judge *de jure* states, but these criteria are disregarded when geopolitical anomalies are judged.

As such, this new conceptualisation of sovereignty actually rebukes its own principles: it concedes that “some *de jure* states are, *de facto*, not states”, yet remains unwilling or unable to discard the legal sovereignty “ideal” and look for alternative solutions beyond the Westphalian *de jure* state. For instance, the fact that a “failed” state loses control over its territory also means that in these “ungoverned” areas alternative forms of power and authority may evolve that are not *de jure* state-based. As Hameiri (2007) argues:

[t]he label “failed state” is itself problematic because of its propensity to stifle efforts to contextualise and better understand what are in essence very complex social phenomena – some of which are rooted in global or regional, rather than in state-based processes of collapse (p. 123).

It seems, as such, that the concept of failed states is actually an unviable empirical category of statehood (Newman, 2009, 437). Entire states do not fail, as even in those states there are ‘green zones’ (Foreign Policy Magazine, 2009) wherein local elites may possess some form of (informally) legitimised authority, political power, or even *de facto* sovereignty. Herbst (2004), therefore, even proposes to ‘let them fail’ (p. 302), suggesting that ‘a less dogmatic approach to sovereignty would allow the international community to adjust to reality and to begin helping substantial numbers of people’ (p. 316).

The Origins of De Jure Sovereignty

The main problem of contingent *de jure* sovereignty, then, is that it deals purely with the question of how formal states might “lose” their *de jure* sovereignty, not how geopolitical anomalies could “earn” it (Elden, 2006, 18; see Hooper & Williams, 2003; Scharf, 2003; Williams & Pecci, 2004; Williams, Scharf & Hooper, 2003). It therefore does not actually address the question where *de jure*

sovereignty is derived from. As such, Kelsen's question about which normative order is sovereign, international law or the *de jure* state, should perhaps be put in a different way. Sovereignty in international law is either created solely through its connection to that international legal framework, or it emerges independently from it. In other words, *de jure* states are either established as members of the international (legal) community 'by virtue of the will and consent of already existing states', or they become *de jure* states 'by virtue of [their] own efforts and circumstances' (Shaw, 2008, 446).

This dichotomy is generally framed in terms of constitutive or declaratory theories of recognition in international law, the former asserting that states have no standing in the absence of legal recognition, and the latter asserting that states exist independently from legal recognition. However, in the same way that Kelsen has contended that it is impossible to objectively determine whether either international law or *de jure* statehood comes "prior" to the other, neither of these theories can be considered as the more valid one.

In fact, both theories of recognition leave room for a lot of confusion. It is, to begin, quite unclear what in this regard is meant by the term "theories". Do they denote descriptions of how recognition can be either constitutive or, in another instance, declaratory? Or do they reflect divergent assumptions about the general nature of recognition? Moreover, the constitutive theory of recognition seems particularly counter-intuitive. Can a state ever be truly "created out of nothingness" by international law, without the consideration of any circumstantial factors? Even in the era of decolonisation, in which a large number of new *de jure* states were created, those creations were founded on some circumstances "on the ground". Admittedly, *de jure* recognition provides a legal clarification in cases where the status of a new state is ambiguous or unstable, and an unrecognised entity cannot claim the international legal rights that are available to *de jure* states, but that does not mean that before juridical recognition that entity was a blank space. In James Crawford's (2006) words, 'where a state does not exist, rules treating it as existing are pointless, a denial of reality' (p. 4).

As such, most international legal thinkers now adhere to a declaratory theory of recognition, arguing that 'a state exists as a subject of international law – i.e. as a subject of international rights and duties – as soon as it... fulfils the conditions of statehood' (Lauterpacht, 1947, 41). Others have summarised this by arguing that 'a state, if it exists in fact, must exist in law' (Chen, 1951, 38). Such assumptions have been reflected in many examples of legal documentation and practice. The Montevideo Convention, for instance, outlines the conditions for *de jure* statehood, and maintains that in principle a political entity does not require legal recognition from other states in order to possess full legal state sovereignty in international law. Article 1 articulates that in order for an entity to be a state, or 'a person in international law', it should (among others) possess the 'capacity to enter into relations with the other states', but according to the convention this does not equate to recognition of *de jure* sovereignty: 'The political existence of the state is independent of recognition by the other states... The exercise of [state] rights has no other limitation than the exercise of the rights of other states according to international law' (SICAS, 1933).

Yet, in this juridical statement a few issues immediately come to the fore. For one, an entity seeking a juridical recognition of statehood almost inherently does impede the rights of an already established *de jure* state, and (in theory at least) international law strongly abides by the idea that juridical rights cannot be derived from illegal actions or circumstances. In addition, the convention

speaks of a “political existence”, and in this way it actually exposes the main problem of a declaratory perspective of recognition.

The declaratory theory implies that a polity has to “declare” itself as a state in order to be a *de jure* state, but often geopolitical anomalies behave like legal states regardless of whether they have declared themselves as such. Crawford (2006) contends that law and political fact should not be confused, critiquing the tautological nature of the declaratory view that implies that factual (political) existence and legal existence mean the same thing (p. 5). Shaw (2008) assures us that an entity that exists without *de jure* recognition is rarely ‘devoid of powers and obligations before international law [or] exists in a legal vacuum’ (p. 447), but in practice this is exactly the situation for those entities. For Shaw, geopolitical anomalies are undoubtedly hampered in *exercising* their rights under international law, but that does not hamper the *existence* of such rights (p. 448); a seriously contestable argument, which maintains that a right can truly factually exist even before it is asserted.

Again, thus, both declaratory and constitutive theories of legal state recognition each offer an incomplete picture. On the one hand, Lauterpacht (1947) discerns that ‘the full international personality of rising communities... cannot be automatic’ (p. 55), and that ‘it seems unhelpful... to say that recognition is purely... declaratory... or that a state comes into being as soon as there exist the requirements of statehood’ (p. 45). On the other hand, constitutive theories of recognition do not really account for the fact that recognition does not necessarily take a juridical form. Instances of *de facto* and implied recognition, such as maintaining mutual informal and unofficial diplomatic relations or signing multilateral treaties with unrecognised entities, are commonplace in international law and politics. Such practices do imply that an entity has a political existence without any full legal recognition.

It would be more helpful, then, to not view these two theories as mutually exclusive. As Hall (1979) puts it, ‘although the right to be treated as a state is independent of recognition, recognition is the necessary evidence that the right has been acquired’ (p. 103). Lauterpacht (1947) has also attempted to reconcile constitutive and declarative conceptualisations of recognition by arguing that ‘whenever the necessary factual requirements exist, the granting of recognition is a matter of legal duty’ (p. 24). In other words, when *de jure* sovereignty can “declaratorily” be recognised, it should be recognised “constitutively”. Whether such factual requirements can objectively be devised in international law (see Crawford, 2006, 37-95), whether recognition is a duty of individual *de jure* states or the international legal community as a whole (see Chen, 1951, 221-223; Ker-Lindsay, 2012, 130-157; Shaw, 2008, 465-466), and whether such a duty could truly be called upon in the absence of a central international legal authority, are issues that I will not delve into thoroughly here. Nonetheless, Lauterpacht’s contentions do invoke the question as to why there are two theories of recognition in the first place.

As constitutive theories expose the fact that sovereignty does not exist for international law without the possession of the rights and obligations that constitute this global juridical framework, declaratory theories expose the fact that such a possession of international legal rights and obligations must be based on certain material manifestations of sovereignty. Recognition, then, is actually both an acceptance and cognition of “state qualities” in a certain entity, *and* a consequent conferring of international law’s rights and duties upon that entity. If either of these components is missing, it is not recognition. This conclusion can also be reversed: the constitutive theory is just in

assuming that polities have no legal standing in the absence of legal recognition, but the declaratory theory is equally just in assuming that these polities do exist regardless of that recognition.

As such, I would argue that this discussion about the nature of recognition is essentially a non-debate that is harmful for international political conduct and scholarship. Brownlie (1983) correctly asserts that '[i]n the case of "recognition", theory has not only failed to enhance the subject but has created a *tertium quid* which stands, like a bank of fog on a still day, between the observer and the contours of the ground which calls for investigation' (p. 197). Ker-Lindsay (2012) in fact asserts that 'even within legal circles the [constitutive/declaratory] debate has come to be seen as rather sterile, if not harmful, inasmuch as it has detracted attention from the practical aspects of recognition' (p. 16).

Both theories, thus, obscure these "grounded contours" or "practical aspects", one by assuming that a state can exist without any factual circumstances, the other by assuming that recognition can happen in isolation of international political considerations. On the contrary, while in these discussions recognition *either* means that states only exist as legal entities *or* that states legally exist independently from juridical recognition, such a consideration is valid only in a purely legal context wherein the concepts of statehood and sovereignty can only be defined in reference to international law.

These discussions are reflective of the central position of legality in international politics. Shaw (2008) tellingly concludes that '[i]n general, the *political* existence of a state is independent of recognition by other states, and thus an unrecognised state must be deemed subject to the rules of international law' (p. 471; my emphasis). This non-sequitur elucidates candidly the problems that geopolitical anomalies face. International law and international politics are not the same thing, and to think of international politics solely in legal state terms leaves many geopolitical anomalies "stuck in limbo". They are neither lawless nor explicitly illegal, but nonetheless lack any substantial standing in international law. Therefore, I now turn this chapter's focus onto the directions that geopolitical anomalies might take in order to integrate their existence with international law, and explore how a less strictly juridical perspective of international relations can shed new light on those directions.

Territory, Law, and Discourse: Routes to Resolution?

Importantly, the existence and practice of geopolitical anomalies is massively influenced by the centrality of legal statehood in international political discourse and conduct. Geopolitical anomalies are all incomplete or alternative versions of what otherwise are juridical state-proliferating processes. Geopolitical anomalies are the ad hoc products of failures or incompletions of geopolitical developments like secession and decolonisation, or of tensions between international legal norms such as self-determination and territorial integrity (McConnell, 2009a, 1904). Principles and developments such as these shape what geopolitical anomalies "look like" and how they are handled in international relations, and form the framework in which these polities try and find possible "ways out" of their geopolitical abnormality.

To be sure, this thesis has already outlined how geopolitical anomalies lead an inferior life within the current international society. In Bartmann's (2004) lyrical words, they live in a 'legal fog', they are 'quarantined as pariahs', they have been 'sent to Coventry' (p. 12). That being said, the question arises whether there is an escape for geopolitical anomalies from their predicament, and if so, in what directions can they find such an elusion? Kolstø (2006), for instance, outlines four particular 'ends' for *de facto* states: they may achieve international recognition as an independent

state, integrate into another state, come to a federal arrangement with their metropolitan state, or end up reabsorbed into that state without any form of accommodation for its claims to political autonomy (pp. 734-738). Alternatively, McConnell (2009a) categorises three potential 'routes to resolution' that may lift these entities out of their subordinate status in international relations (p. 1905). In the remainder of this chapter, each of these routes will be discussed individually.

A Territorial Approach?

First of all, the seemingly most straightforward route would entail, – as McConnell (2009a) calls it – 'a territorial approach granting independent statehood' (p. 1905). Yet, while such an approach might be the one that first comes to mind, it is accompanied by quite a few complexities. One of its most immediate complications, and one that has been studied extensively by legal and political thinkers, is the discrepancy between the principles of self-determination and territorial integrity. The notion of territoriality has already been discussed as the 'spatial expression of power' (Storey, 2001, 14), yet, at the same time, territoriality in itself is an insufficient condition for recognition of *de jure* sovereignty, as many geopolitical anomalies claiming self-determination have found (Berg, 2009, 224). Rather, territoriality is entrenched into international law through the principle of *territorial integrity*, which is the 'elaborated and sophisticated legal expression of territoriality' (El Ouali, 2006, 630), or 'the end result of the institutionalisation or legalisation of territoriality' (p. 631).

Article 10 of the Covenant of the League of Nations, embodying a first attempt to establish a comprehensive legal institution preventing and moderating future interstate conflict (Shaw, 2008, 1284), stated that '[t]he Members of the League undertake to respect and preserve...the territorial integrity and existing political independence of all Members of the League' (The High Contracting Parties, 1919). In 1933, the aforementioned Montevideo Convention (Article 1) solidified the state in international law as follows: 'The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with other states' (SICAS, 1933).

Legal statements such as these are just some initial examples of the numerous treaty articles, international agreements, and UN resolutions that have consolidated the ideal of legal sovereign territorial statehood in the twentieth century – not just for individual states, but particularly systemically through the principle of territorial integrity (Elden, 2005b, 2086-2087; Elden, 2006, 11-12; Elden, 2009, 139-142). That term, however, has been food for general confusion. Article 2(4) of the United Nations Charter asserts that '[a]ll Members shall refrain... from the threat or use of force against the territorial integrity or political independence of any state' (United Nations, 1945).

Here, thus, territorial integrity is taken to be one of two inviolable attributes of a state. Elden (2006), however, aptly comments that territorial integrity and political independence as presented in the UN Charter and interpreted in international law are actually interrelated, because 'the notion of territorial integrity means both territorial preservation and territorial sovereignty, and political independence requires both exclusive internal and equal external sovereignty' (p. 11).

As Akweenda (1997) finds that there is 'no general and exact definition' of territorial integrity, he instead assumes it to mean a triad of 'non-annexation, inviolability of boundaries, and respect for sovereignty' (p. 6). Territorial integrity is not merely a principle protecting the "wholeness/unity" of a state's territory, or the external aspect of a state, it also reflects the *de jure* sovereign territorial right of the state (El Ouali, 2006, 631).

The international legal term of territorial integrity, thus, entails both territorial inviolability *and* territorial *de jure* sovereignty (Elden, 2009, 66). This ‘norm of sovereignty-as-territorial-integrity’ (Barnett & Finnemore, 1999, 713) conversely means that ‘the power of a sovereign state is more than the authority of bureaucratic administration; it hinges on territorial integrity’ (Li, 2002, 141). Legally sovereign states are not only protected against external violations of their territory (Zacher, 2001, 223-234), but also from internal challenges to their territorial sovereignty. The principle of territorial integrity not only protects states from external interference in their domestic affairs, implying territorial inviolability, it moreover discourages claims to self-determination by groups within the state – it promotes legal state sovereignty (Elden, 2009, 142).

In this sense, it would therefore seem to be clear that territorial integrity stands in contrast to a concept such as self-determination, and some may conversely view self-determination as incompatible with territorial integrity. The concept of self-determination found its origins, in a normative sense, in the French and American revolutions of the 18th century, and in Locke’s and Rousseau’s writings about popular sovereignty, but it was over a century later that it emerged as a legal principle. United States President Woodrow Wilson introduced self-determination as an explicitly legal right after the First World War, and it was further developed and juridically entrenched in the United Nations charter (1945), the UN General Assembly Resolution on the Granting of Independence to Colonial Territories and Peoples (1960), and other subsequent covenants and treaties.

Importantly, the principle of self-determination can be interpreted in two ways. On the one hand, it can refer to an “internal” element related to popular sovereignty and the obligation of a state to allow its people to freely choose how they are governed. It entails the right of people to be free from authoritarian oppression (Cassese, 1995, 101), which is currently translated by some international lawyers as the right to live in a formally democratic state (Franck, 1992; Marks, 2011).

Notably, this understanding of self-determination is not absolutely opposed to a concept of territorial integrity. Self-determination in this sense combines the people and the state into a single phenomenon: the nation-state. In this line of thinking, the nation becomes the sovereign, and the state becomes the ‘apparatus’ that enables the people to determine their status and identity (Roth, 1999, 2). According to El Ouali (2006), therefore, the people are the real holder of sovereignty over territory, and a concept of territorial integrity is necessarily forced to incorporate the idea that its fundamental purpose is to protect the existence of the people – it has to incorporate a right to self-determination (p. 645). In his words, ‘[t]he principle of territorial integrity is the principle that recognises the sovereign existence of peoples, represented by their own states, within territories the legal basis and the limits of which have been established in accordance to international law’ (p. 646).

As such, self-determination is in fact one of the most important justifications for dividing nations/peoples into territorial states. However, while from this perspective self-determination provides a “solution” and amelioration to international territorial conflict, it is simultaneously a potential source of challenges to this territorial stability as it increases competition for sovereignty over territory within the state (Griffiths, 2003, 34-35).

On the other hand, then, self-determination has an “external” component which can be conceived as the right of people to be independent or to choose ‘with whom they wish to associate politically’ (Cassese, 1995, 71; Horowitz, 2003, 7). Notably, although the two explanations of self-determination are not immediately mutually exclusive, this latter one can be utilised as a challenge to formal state territory while the former is assumed to be protecting it. As Griffiths (2003) has

observed, 'self-determination struggles have appealed to opposing values of community and individuality that coexist uneasily' (p. 46). The principle of self-determination generally 'has been held to constitute an example of *jus cogens*' (Espie, 1979, 167) – a peremptory norm in international law – yet "external" self-determination might actually represent particularity instead of universality. While it may be appealing to proclaim the principle of self-determination as a universal right *erga omnes* (ICJ, 1995, 78), such proclamations have not managed to escape the fact that legitimisation of such a right for one group has implications for other groups. As such, the category of rightholders has to be limited, either through a principle such as territorial integrity or through a consensus on who the "self" is (Kingsbury, 1992, 498).

Yet, problematically, there are no set international legal processes through which it can be decided which groups of people are eligible for self-determination, and on what bases it is legitimate to breach the territorial integrity of a state (Berg, 2007, 206; Griffiths, 2003, 30). Groups seeking "external" self-determination (mostly in the form of independent legal statehood) try to construct legitimacy – a recognised right to rule – first of all internally, as they try and justify their governing authority towards their populations that often live in dire circumstances. More importantly, however, this internal legitimacy forms a component of its external counterpart.

Internationally, the credentials of a political entity are based on an assessment of its practical capabilities and the extent to which these are supported by 'primary community loyalties' – in sum, its sustainability and viability are assessed. Such an assessment of legitimacy, however, is not only a practical deliberation, but also a consideration of a people's moral right to self-determination and to what degree this right can be accommodated within the framework of other (people's) rights. External legitimacy, then, refers to the extent to which there is confidence in an entity's ability to survive, and to 'the extent to which there is positive commitment to [its] right to exist' (Bartmann, 2004, 15). Buchanan (2004) refers to this external legitimacy as 'recognition legitimacy' (p. 261).

The United Nations itself provides some clarity on the formal process through which a political community can become officially considered legally recognised. While *de jure* state recognition remains 'an act that only other [*de jure*] states and governments may grant or withhold', United Nations Membership constitutes the most eminent expression of recognition legitimacy. A geopolitical anomaly may submit an application to the UN Secretary-General, which is subsequently considered by the UN Security Council (UNSC). If the UNSC's five permanent members, along with four non-permanent members, accept the application, it recommends it to the UN General Assembly (UNGA) for consideration. Once, then, two-thirds of the UNGA has voted in favour of admission, the geopolitical anomaly becomes a new UN Member and may be considered fully legally recognised as a legitimate *de jure* state (United Nations, 2015; see also UN Charter Article 4(2), United Nations, 1945).

Effectively, however, the relationship between international legitimacy and recognition is far from straightforward (e.g. see Berg, 2012). While, as mentioned earlier, a polity seeking self-determination (or independent statehood) may practically fulfil all of the criteria attributed to such a claim, that in itself does not constitute sufficient legitimacy in order to achieve recognition of that right. As has been argued earlier in this chapter, in practice, a political entity or self-determination movement becomes a legitimate state if, and only if, it is legally recognised as such. The decision to recognise or not, thus, is more of a political rather than a legal matter, because 'international law does not have a logically consistent legal doctrine that would treat sovereignty claims in a universal manner' (Berg, 2007, 203).

The politics of recognition, signifying the strategic considerations of *de jure* states in their decisions to juridically recognise a new state, constitute a fairly perceptible component of international affairs. Jonathan Paquin (2010) has observed that while, for instance, the United States actually appears to be less and less reluctant to recognise break-away polities, that enhanced willingness for recognition stems from perceived political interests more than from a real concern with universal ideals of self-determination. More generally, '[t]he international states system is... characterized as an international community wherein influential members determine which aspiring states will succeed and which will be left outside to flounder' (Coggins, 2016, 8). The international legal recognition of states 'has been a practice led and shaped by major powers, especially the great powers', as they have the 'special preserve' on questions of international order that arise in claims and struggles for *de jure* statehood (Fabry, 2010, 8). The 'political jockeying' of the "Great Powers" decides the fate of geopolitical anomalies (Coggins, 2011, 463).

For less powerful *de jure* states faced with a separatist movement, parochial considerations of national interest similarly nearly always seem to prevail over beliefs about self-determination. While since 1945 norms and claims of self-determination have more frequently prevailed over those of territorial integrity, Griffiths (2014) argues that the proliferation of *de jure* states after World War II was particularly driven by the diminishing importance of the strategic possession of territory in the international system. As he puts it, 'a combination of security, ideological, and economic factors began to change the milieu in which [formal] states evaluate the costs and benefits of holding territory' (p. 560).

While, thus, there may be normative reasons for recognition and non-recognition, grounded in certain ideals of statehood and in assumptions about the desirable outlook of international politics, more important are the very real political deliberations of particularly powerful states on the pros and cons of recognising a certain geopolitical anomaly striving towards international legal recognition. As a consequence, when geopolitical anomalies ask what they have to do in order to be granted *de jure* state sovereignty, 'the lawyers and scholars have nothing to say but to refer them to the brutal contingencies of international relations or the unpredictable caprices of great power politics' (Kurtulus, 2005, 190). In an international political environment that already views the *de jure* state as the pinnacle of social organisation, this is bad news for geopolitical anomalies seeking self-determination at the cost of the territorial integrity of an already existing and recognised state. Their problem is not that territorial integrity and self-determination are inherently incompatible, but that both principles have been given an intrinsic *de jure* state-centred bias.

Self-determination is only seen as legitimate when it is expressed within the confines of a legal state's territory. The liberal values of inclusiveness and universality, that seem to be so alluring within the principle of self-determination, are in fact at odds with a principle such as *de jure* recognition that keeps certain groups 'beyond the gate' and transforms them into 'international lepers in a world of lawful states' (Bartmann, 2004, 14). By definition, legal statehood recognition does not universally attribute all peoples the right to self-determination impartially and equally (Berg, 2009, 221), as 'the international community defends today the rights of established states against the nationalist claims of domestic ethnic groups' (Pegg, 1998a, 125).

The territorial integrity of formal states, furthermore, has been assumed in international law as the sacred factor assuring stability and order. International law largely attempts to protect existing state boundaries instead of acknowledging their artificial nature in many places. For Griffiths (2014), remarkably, this sanctification of territorial integrity actually formed a factor in the

proliferation of legal state recognition after 1945, as *de jure* states were thereby better protected against foreign incursions into their land, and thus somehow more inclined to relinquish part of their territory (pp. 566-567). This argument, however, seems to rather contradictorily suggest that solidifying the connection between territorial integrity and legal statehood simultaneously dissolved it.

Boaz Atzili (2012), here, mentions the concept of 'border fixity' (the moral prohibition of breaching a *de jure* state's territorial integrity), which, according to him, forms a powerful norm in international law and politics. However, he adds, while this norm was intended and remains presented as a safeguard ensuring international peace and stability, it may very well have the opposite effect. With the "fixity" of borders, weak *de jure* states survive even if they are stricken with, or on the verge of, internal warfare, while border fixity also precludes the potential for domestic conflict resolution through more fluid or overlapping juridical-territorial arrangements (p. 1). In fact, Atzili contends, the historical absence of border fixity precisely fed into the development of stronger states, who were forced to protect themselves against external territorial pressures (p. 2).

In this way, thus, Atzili actually criticises rigid views and approaches towards both the territorial integrity of *de jure* states and the self-determination of peoples. Although the concepts of self-determination and territorial integrity *in principle* carry an equal standing in international law (Kaikobad, 1996, 48), in cases where they are pitted against each other it is almost exclusively the latter that prevails, as 'territorial integrity is continually winning out in struggles with other principles of international law' (Elden, 2005b, 2089). In a world where the legal-territorial-state ideal has been made sacrosanct, any individual attempt at self-determination becomes a 'threat [not only] to a country's own borders, but to borders more generally' (Elden, 2009, 149-150).

Admittedly, in the second half of the 20th century the process of decolonisation and the collapse of the Soviet Union allowed for many self-determination movements to be awarded *de jure* state sovereignty (Bartmann, 2004, 12-13). However, these processes were guided through the principle of *uti possidetis juris*, 'the effect of which has been to ensure that self-determination takes place within the boundaries determined by the colonial powers, or within pre-existing boundaries of federal systems' (Brown, 2002, 78). As Zacher (2001) puts it, 'states... do not like secessions, but if they are going to occur, they do not want the successor states fighting over what their boundaries should be' (p. 235).

While the norm of *uti possidetis* was first invoked during the decolonisation of Latin America in the early-1800s, it has now been adopted by many international organisations and institutions:

The borders of African States, on the day of their independence, constitute a tangible reality (Organisation of African Unity, 1964).

The principle of *uti possidetis juris*... is not a rule pertaining solely to one specific system of international law. It is a principle of general scope, logically connected with the phenomenon of the obtaining of independence, wherever it occurs (ICJ, 1986, 172).

Newly independent states, thus, are programmed to adopt the boundaries of the contemporary colonial divisions, and any later attempt for self-determination is overridden by the territorial integrity of the decolonised independent state (Elden, 2006, 12). Indeed, *uti possidetis* can be

critiqued for becoming somewhat of a 'straitjacket' (Owen, 1995, 33), 'a permanent solution by default' (Ratner, 1996, 614) in which a new *de jure* state's territory is 'irretrievably predetermined' (p. 612).

Although, according to Freeman (1999), 'the UN... sought to reconcile the principle of territorial integrity of states with that of the self-determination of peoples' (p. 358), in practice the latter has come to apply to "territories" instead of to "peoples" (Fitzgerald, Stewart & Venugopal, 2006, 5). As such, recognition of claims to self-determination remains to this day an inherently territorial issue (Berg, 2009, 219), as the sanctity of state boundaries is continuously reinforced (Elden, 2009, 143-144). Graham (2000) notes that finding compromises between this sanctity of borders and self-determination will be the defining international legal issue of the 21st century (p. 465). While some contend that the 'territorial aspect of self-determination has effectively been exhausted' (Fitzgerald et al., 2006, 5) and that the concept has transformed from carrying colonial and territorial meanings to more human rights-based considerations (p. 2), self-determination has simultaneously 'descended from its status as an exercisable right to a mere privilege' for certain groups (Simpson, 1996, 264). Whereas most geopolitical anomalies' claims to self-determination thus are no longer coined in terms of decolonisation, they are now instead framed as "anti-state" instances of separatism and secession (Bartmann, 2004, 17). They are considered to reside outside of the legitimate (territorial state-centred) international political realm, and often represented as dangers to local and regional security.

To be sure, whilst a self-determination claim does not in itself imply a claim to independent legal statehood and is therefore not necessarily disruptive to the territorial integrity of the affected state (I return to this issue later on), a secessionist movement in fact does attempt to deny *de jure* state authority over a certain group or territory, not by demanding more autonomy and independence within that state or by overthrowing its government altogether, but by redrawing state boundaries to create a new juridical state (Buchanan, 1991, 10-11). As Brilmayer (1991) has found, 'without a normatively sound claim to territory self-determination arguments do not form a plausible basis for secession' (p. 192). When we speak, therefore, of territorial approaches creating independent *de jure* states as a route to resolution for geopolitical anomalies, we are speaking of secessions.

Buchanan (1991) has argued that 'there are sound moral reasons, and reasons enough, for [allowing] secession' (p. 151), and later extended this argument into a 'remedial right' of secession. In his words, 'a group has a general right to secede if and only if it has suffered certain injustices, for which secession is the appropriate remedy of last resort', and if the new state 'makes credible guarantees that it will respect the human rights of all those who reside in it' (Buchanan, 1997, 34-35). That simultaneously means, however, that 'international law should unambiguously repudiate the nationalist principle that all nations... are entitled to their own states' (Buchanan, 2004, 331). Some geopolitical anomalies, thus, could in severe cases perhaps call upon a right to secede, but certainly not all of them.

Horowitz (2003) adds to this, moreover, that international law should not 'preempt social complexity with rules' (p.14). According to him, a fully legalised right to secede, however constrained or circumscribed, will only serve to provide grounds for more problematic ethnic politics and violent conflict. For instance, he critiques the assumption that secession creates successor states more homogeneous than the old states, or that minority rights are better protected in those new states (p.8). In addition, he notes, since patterns of popular settlement are such that no boundaries can

ever be “natural”, carrying a right to redraw those boundaries will not lead to a rectification of their arbitrariness; it will not likely be ‘the end of an old bitterness but the beginning of new bitterness’ (p. 9-10). Finally, it remains questionable whether secession is a movement reinforcing legal statehood as it creates more *de jure* states, thus strengthening international law, or whether it in fact is an anti-state act; an international law that grants people a right to remedial secession risks to undermine the main structural components it is made of (p. 14).

As such, although the right to secede is neither explicitly prohibited nor unequivocally recognised in international law (Buchanan, 1997, 33), state practice has clearly demonstrated a strong reluctance to accommodate such rights (Crawford, 1999, 114). David Lynch (2004) outlines five global political reasons why the “international community” usually condemns secession: (1) a fear of endless secession (the domino theory); (2) fear that minorities will be trapped within the new state; (3) recognition of problems of dividing assets and resources between states; (4) concern for the effects of secession on democracy and civil society, and; (5) a fear of the proliferation of weak states in the international system (p. 106). For geopolitical anomalies, thus, an “escape” into full sovereign state independence is rife with obstacles, as it ‘often involves harsh components’ offering not only ‘clean and simple solutions, but... also... new conflicts’ (Gottlieb, 1993, 2).

A Juridical Approach?

This territorial approach, however, is certainly not the only option geopolitical anomalies may have in seeking to improve their status and circumstances. Horowitz (2003) comments that ‘the choice between secession... on the one hand, or murderous conflict, on the other, is a false choice’ (p. 14). Whereas an act of secession inherently implies a striving towards independence as a full-fledged legal state, self-determination does not necessarily denote independent statehood or formal *de jure* sovereignty (Buchanan, 1991, 18; Kaikobad, 1996, 17; Kingsbury, 1992, 498). Griffiths (2003) suggests that in the 21st century ‘the historical link between self-determination, nationalism and territorial sovereignty’ must be severed (p. 29). Alternatively, therefore, McConnell (2009a) notes ‘a near-endless array of autonomous or confederal arrangements within existing states’ that would leave those states intact and simultaneously accommodate geopolitical anomalies’ demands through consociational institutional designs and/or power-sharing agreements (p. 1905).

While such arrangements are certainly not particularly new, they have attracted a sizeable degree of attention and reconsideration in more recent decades. Political scholars and practitioners alike have over the past years increasingly engaged with questions surrounding autonomy and power-sharing, and have recommended and imposed such regimes on particular states. The *Lund Recommendations* drafted by the Organisation on Security and Cooperation in Europe (OSCE, 1999), for instance, as well as the *Liechtenstein Draft Convention on Self-Determination through Self-Administration* (Watts, 1997), both provide comprehensive suggestions for autonomy as a tool for good governance and state construction. Previously, autonomy was equated with potential “external” self-determination and secession. It was seen as ‘a first step onto that slippery slope that inevitably leads towards irredentist or secessionist claims’ (Wolff & Weller, 2005, 1-3). Now, however, contrary to this earlier belief, autonomy and power-sharing are rediscovered as actual remedies to secessionist claims, accommodating self-determination movements while at the same time preserving *de jure* state territorial integrity.

As Buchanan (1991) reiterates, secession is only the most extreme example of self-determination, and this latter concept can take many other forms that would allow for a broad range of political statuses (short of full legal sovereignty) for minority groups within their metropolitan state(s). If this is the case, he argues, 'the impulse to secede may in fact be weakened' as less radical forms of political independence could be satisfactory, seriously alleviating the costs and difficulties that secession would entail (pp. 20-21). International law, therefore, should encourage these less extreme alternatives to secession (Buchanan, 2004, 331) by promoting intrastate autonomy regimes (pp. 401-424). Self-determination can be expressed and accommodated not merely through a violent renegotiation of territorial state boundaries, but also through the promotion of minority rights, devolution of authority and federalism, and a greater acknowledgment for the legitimacy of cultural self-expression (Griffiths, 2003, 46-47). As Schell (2003) puts it, '[s]elf-determination... must yield to self-determinations and selves-determination – that is, to permission for more than one nation to find expression within the border of a single state and to permission for individuals and groups to claim multiple identities (p. 53).

Examples of such reinterpretations of self-determination can be found in places like Quebec/Canada and Catalonia/Spain, where sub-state nationalist movements have achieved a high degree of self-government that is accommodated within the *de jure* state, all the while committing themselves to civic state nationalism based on common values and culture, and respecting the juridical principles of state democracy.

While such movements have a long history of nationalist struggle, Keating (2001a) asserts that they should not be regarded as "tribalist" 'remnants of the past', but, conversely, as 'harbingers of a new form of politics' (p. vi) in which institutions and practices embrace the concept of plural sub-state/state nationality, and legal states share their prerogatives with supra-state, sub-state, and trans-state processes and systems (p. ix). Citizens in these new political formations, furthermore, are capable of adopting multiple identities and considering the disadvantages of strict *de jure* sovereign independence instead of other forms of self-government (p. viii). As he argues, we are moving towards a "post-sovereign" political order wherein traditional state sovereignty has not disappeared but 'transmuted into other forms and is shared, divided, and contested' (p. x). Others have made observations along similar lines (Linklater, 1998), discussing sub-state nationalism linking with supra-state institutions and re-territorialising forces of globalisation in a triad of rival sites to *de jure* state authority (Tierney, 2005, 164-166).

Whether we are indeed witnessing the emergence of such a 'new, differentiated, asymmetrical' (international) political framework remains up for debate (Keating, 2001b, 275), but some sub-state entities might be very well adapted and prepared for an international environment in which the role of juridical sovereignty has transformed – allegedly even better than formal states that do not possess a long tradition of challenging and reconsidering fundamental questions about constitutional state authority (Tierney, 2005, 168-173). As geopolitical anomalies' manifestations have so far been presented in this thesis as manifold and viable alternatives to the juridical state, so have certain legal states already embraced a variety of institutional mechanisms of plurinationality within their borders; the resulting autonomous national entities are not inherently less prosperous or well-faring than legal states (Keating, 2001a, viii).

There are a number of reasons why geopolitical anomalies might prefer a greater degree of representation and recognition within the state over a staunch secessionist stance. First of all, the legal state framework in which the national minority finds its autonomy remains a safeguard or buffer against supra-state processes that may otherwise undermine sub-state politics concomitantly to the legal state. Secondly, minorities in fact often carry strong ties of loyalty with their *de jure* state, and are therefore willing to opt for constitutional models accommodating autonomy combined with sustained relations with the state. McCrone (2001) argues that ‘there is something quite calculative about national identity which shifts according to political circumstances. It is far less a matter of sentiment than it is of political practice’ (p. 9). In relation to this, such pre-existing ties with the juridical state – both in socio-cultural and institutional terms – can shape and establish future debate surrounding minority accommodation within the state. New discourses on constitutional options for minorities are reframed and reinforced through the prism of those evolving arrangements and lineages already in place (Tierney, 2005, 176-180).

The variety of constitutional schemes that has emerged from such preferences for autonomy and power-sharing over secession ‘contain[s] many threads, but no single strand’. Such arrangements are ‘masterfully divergent’ as they inherently carry a great diversity of forms and modes (Potier, 2001, 54). Pinpointing them to a single definition, therefore, is difficult. Broadly, ‘political autonomy is a state of affairs falling short of [*de jure* state] sovereignty’ (Hechter, 2000, 114), and, coming back to Potier (2001):

should be understood as the means whereby an authority, subject to another superior authority, has the opportunity to determine, separately from that authority, specific functions entrusted upon it, by that authority, for the general welfare of those to whom it is responsible (p. 54).

More specifically, Lapidoth (1997) distinguishes between ‘territorial political autonomy’ and ‘personal autonomy’, the former indicating ‘a division of powers between the central authorities and the autonomous entity’, and the latter pertaining to ‘the right to preserve and promote the religious, linguistic, and cultural character of the group through institutions established by itself’ (p. 174-175).

Somewhat along the same lines, Lijphart (2004) discusses these arrangements in terms of “consociational democracies” consisting of two key interrelated elements. Firstly, the element of power-sharing denotes representation and participation of all minority groups in decision-making bodies; group autonomy, secondly, means that these groups possess authority to govern their internal affairs (p. 97).

Regardless of the extent and detail of such consociational democratic structures, they all in some degree entail a transfer of certain legislative, juridical and executive powers (or ideally a mix thereof) from the central *de jure* state government to the newly created political entity, as well as a recognition of minority-specific concerns alongside the concerns of individuals, on the one hand, and of the juridical state on the other (Wolff & Weller, 2005, 12-13). Naturally, correlating particular societal and state features with specific political mechanisms is paramount to the successfulness of the implementation of such power transfers and minority recognitions, and devising a “one-size-fits-all” model for them is problematic and perhaps even undesirable. Nonetheless, there are some who do offer some more general recommendations on consociational constitutions for countries with deep-seated national cleavages.

Lijphart (2004), first of all, calls for an electoral system that is easy to understand and operate, especially in newly emerging democracies, and ensures a proportional representation in state legislature, with voting districts that are relatively small as to “decrease the distance” between voters and representatives. In order to avoid purely majoritarian elections and create broad power-sharing executives, presidential forms of government should be discarded in favour of more collegial decision making bodies that parliamentary systems provide. The position of the head of state in such systems should be limited to symbolic roles, with a Prime Minister serving as the head of government. Autonomy for minority groups can be arranged on a non-territorial basis or via a federal system with a high degree of state decentralisation. The component units that form such a federation should not be too large in order to increase the socio-cultural homogeneity of each unit and to avoid dominance by larger provinces. Finally, power-sharing and minority representation is crucial not only in formal state parliaments, but also in political institutions like the civil service, judiciary, and police. Minority quota could aid in ensuring this, but Lijphart argues that often the consociational state parliamentary models in place are sufficient to achieve this goal (pp. 99-106).

Other mentioned arrangements that would contribute to the successfulness of consociational democracies are affirmed constitutional mechanisms to resolve disputes between the autonomous entity and the legal state, guaranteed access to education specified for the minority, and lasting economic ties between the sub-state entity and the central government with a fair share of investment by the latter in the former (Wolff & Weller, 2005, 14). Whichever way such consociational democracies are constructed, any one of those schemes is based on the assumption that it is an effective strategy to ensure individual, group, and state security, and prevent and settle ethnic conflict (p. 13). They are, according to their proponents, successful as they – through the establishment of a legal framework – stabilise a potentially divided state society, depoliticise possible conflicts, and prevent one ethnic group from exerting its dominance over other groups (Ryan, 1995, 45). When applied early on and sustainably rather than through an ad hoc and temporary post-conflict instalment, consociational models can help to prevent violent disintegration of ethnically divided states. In the words of Weller and Wolff (2005), consociation ‘does not generate peace in itself, but provides space for a transition to peace’ (p. 269).

Perhaps, then, such arrangements do appear to be more appealing for geopolitical anomalies and the “international community” than resolutions of territorial *de jure* statehood. In reference to *de facto* states, for instance, McGarry (2004) calls for ‘a negotiated re-entry resulting in a decentralised federal system combined with consociational power-sharing’ (p. xi). An issue that could be raised against this, however, revolves around whether (some) consociational models are really that different from secession.

McConnell refers to these arrangements as juridical instead of territorial “routes to resolution”, yet the lines between these two routes are quite indistinct. The latter, as the above paragraphs have demonstrated, involves a significant quantity of legal considerations, and the former certainly does not dissolve the issue of territoriality into oblivion. Distinguishing between power-sharing and autonomy, we surely may envision the granting of the latter on a non-territorial basis, whereby dispersed minorities can enjoy their rights no matter where they live on the host state’s territory (Wolff & Weller, 2005, 15), but in many ways and instances autonomy still resonates with the idea of a single governmental jurisdiction over a particular territory. Tierney (2005) even asserts that nationalist demands for consociational models actually form a more radical challenge to the legal state framework than secession. According to him, secession ‘simply involves a reduction in

the size of territory over which the [*de jure*] state and its constitution have jurisdiction', whereas consociational alternatives force the parent state to seriously re-imagine and reconfigure some central components of its main constitutional structure in ways that secessionism does not (pp. 181-182).

More importantly, however, critics of this consociational "way out" for geopolitical anomalies argue that it is mainly for reasons other than juridical ones that power-sharing and autonomy schemes work out well (Kingsbury, 1992, 512). It should be noted, for instance, that countries like Canada or Spain are far less diverse than other consociational states, such as Nigeria or Kenya. A major question remains, furthermore, around whether such "solutions" are only viable in industrially and economically advanced states with already well-developed constitutional structures maintaining democracy. Lijphart (2004) himself surmises that across the theoretical spectrum on autonomy and power-sharing it is agreed that 'the problem of ethnic and other deep divisions is greater in countries that are not... fully democratic than in well-established democracies' (p. 97), and Keating (2001a) deliberately focuses his investigation of consociational modes on 'the most advanced cases of stateless nation-building in industrial democracies' as these cases provide 'something of a laboratory for demonstrating what can be done' (p. vii).

Admittedly, one might argue that the success of such consociational frameworks in those states is in fact a reflection of the effectiveness of those "post-sovereign" models in *de jure* states with national divisions, rather than that it is a result of previously advanced political and economic circumstances. At the same time, it could be contended that autonomy and power-sharing arrangements such as these have proven to be viable particularly because it is these sub-state entities that were already independently capable of operating and functioning on levels beyond the state, for example within international organisations or the global economy (Tierney, 2005, 161-163).

The main criticism, finally, would point out that a central state government could still interfere with the acts of the autonomous entity in extreme cases (Daftary, 2000, 5). It still has the ability to act in a distinctly *de facto* sovereign way (see also Chapter Three), which again seems to imply that power-sharing or autonomy schemes are very much dependent on political rather than juridical dynamics. As Berg (2007) argues, '[a]lthough enduring compromises between facts and [legal] norms may allow talks about diffused power and fuzzy identities... they do not offer a recipe of how to end zero-sum games and provide communal security' (p. 199).

As such, it seems that both McConnell's territorial and juridical "routes to resolution" do not truly address, let alone resolve, the challenges that geopolitical anomalies pose to the current international relations framework. Both of these routes remain founded on the prevalent conceptions of territorial sovereignty and *de jure* sovereignty that characterise this framework so forcefully, but it is precisely those conceptions that do not correlate with expressions of *de facto* sovereignty. Geopolitical anomalies are specifically *material (de facto)* instead of *legal (de jure)* phenomena, so resolving the issues they face and provoke requires more than just creating new sets of juridical agreements about a (territorial) division of sovereignty.

Changing the Discourse?

It is for these reasons that McConnell (2009a) notes a third approach, which she admits is certainly more utopian: through significant shifts in international norms and discourses, geopolitical anomalies could maintain their current form while they are accommodated in a 'heterogeneous

international system' (p. 1905). In such a final "route to resolution", proposing an international society that no longer revolves around *de jure* sovereignty, could geopolitical anomalies be sustainable while apparently being "stuck in limbo"? Could retention of the status quo in fact be a workable "resolution" to the problems that geopolitical anomalies are presented with?

Even in our current territorial state framework 'the status quo may offer various forms of normalisation even when legal recognition has not been granted' (Berg & Toomla, 2009, 44), as 'in this better-the-devil-you-know-situation, enough groups profit enough... for the present to be acceptable' (Lynch, 2004, 119). Bahcheli et al. (2004a) question:

[t]o what extent is formal recognition still relevant in addressing the place and the fate of these disputed entities within the global system? In some cases these "nations in waiting" have already established the exclusivity of their writ on the ground and wait only for the outside world to come to terms with the realities of their existence (p. 8).

In some respects, this third alternative for geopolitical anomalies already appears to exist. First of all, geopolitical anomalies like TGIE, TRNC, and the Faroe Islands have endured their present status for quite some time, in part exactly because of the propensity of international politics to narrowly focus on territorial *de jure* sovereignty. Secondly, a number of these polities, such as Taiwan (ROC), Palestine, and Western Sahara (SADR), have managed to obtain some degree of recognition and legal personality through the ad hoc admission in international institutions and tolerance from other states (McConnell, 2009a, 1913).

There is, moreover, a difference between possessing full legal recognition and having 'a degree of toleration' (Pegg, 1998a, 98) and 'limited accommodation' (p. 198), and geopolitical anomalies such as the ROC are quite well aware of this distinction. Claypoole (2010), in addition, argues that there is strong evidence of a settled *de jure* state practice allowing certain geopolitical anomalies to enjoy juridical sovereign rights to natural resources located in their continental shelf. Returning to both facets of McConnell's third approach – continued existence in their present ambiguous status, and acceptance into a more diverse international system – such developments might indicate that geopolitical anomalies already form a harbinger of things to come (Bahcheli, Bartmann & Srebrnik, 2004b, 254-255).

What those things are – what a more diverse international system would look like – remains altogether quite unclear. This "resolution" has so far remained utopian in terms of both achievability and definability, and one might contend that it does not offer something new from the pluralisation of space and of international law that the first and second routes entail. McConnell mentions Gottlieb's (1993) *states-plus-nations* model as a source of inspiration, whereby a formal state maintains its *de jure* and *de facto* sovereignty over territory but not immediately over all peoples living in that territory. Nations and other ethnic minorities would become part of a separate sovereignty system of 'nations and peoples that are not organised territorially into independent states' (p. 36) – they, in turn, would not necessarily be sovereign over that territory, but possess rights and international recognition based on their nationality or ethnicity (pp. 39-47). This system, importantly, would not be a replacement of the "old" sovereignty framework, but a supplement to the existing international environment of territorial *de jure* states (p. 24).

Other thinkers that dwell on such “post-sovereign” or “post-Westphalian” orders similarly envision the emergence of ‘nations without states’ (Guibernau, 1999, 16-19) through their integration and proliferation in the globalised economy (Moore, 2001, 234; Waters, 1995, 139). Problematically, however, even if such models would be implemented successfully, any existing issues of *de jure* sovereignty – what are the criteria for a nation to be legitimate, and when should that “national legitimacy” be recognised – are seemingly not eliminated.

Nonetheless, that does not take away from the fact that perhaps a more serious engagement with geopolitical anomalies could integrate them into international society rather than excluding them as outcasts frustrated with their marginalised status and position. Again, Lynch’s (2004) recommendation for ‘a solution that balances *de facto* with *de jure* sovereignty [as] the key to achieving a lasting settlement’ (p. 143) does very little to elucidate on the exact appearance of such a balance, but the persistent viability and manifestation of *de facto* sovereignty and effective power expressions do urge us to venture beyond the conventions of the contemporary international political and legal system. Geopolitical anomalies expose a global juridical structure that in many ways is already undermined by actual power considerations on the ground, and an international acknowledgment of such legal limitations would go a long way to finding this third “route to resolution”. McConnell (2010), therefore, concludes that ‘[t]his is not necessarily a utopian vision of a state-less world consisting of fluid political communities, but rather a situation of stretching the boundaries of the existing international legal regime’ (p. 766).

This widening of the notion of sovereignty until it is ‘released from purely legal definitions’ (p. 764) inherently seems to necessitate a transformation in international relations thinking more than anything else. Again, the question could be asked whether such a discursive transformation would in itself suffice to better the circumstances and statuses of geopolitical anomalies, and McConnell’s motivations for suggesting this change in discourse perhaps already reveal certain shortcomings in her conceptualisation of *de facto* sovereignty (see Chapter Three). For instance, she maintains that this discursive metamorphosis would utilise geopolitical anomalies to highlight positive stories of political achievement – of cohesive communities, peaceful coexistence, and institutional innovation – instead of focusing on violence and conflict (McConnell, 2009a, 1911), yet the violent and conflictual nature of many geopolitical anomalies cannot be overlooked given its centrality to the emergence and existence of such entities.

Still, a new perspective on geopolitical anomalies could perhaps enable us to critically examine the role of other “exceptions” in international relations discourse, not only taking away our attention from the prominent spheres of interest (e.g. the developed world, “great power” politics, and accelerated globalisation) but also considering that “the abnormal” has something to tell us about “the normal” (see also Navaro-Yashin, 2003). This transformed discourse would, firstly, regard geopolitical anomalies as providing ‘an invaluable window on the nature of international legal processes’. Looking at the way that these polities exercise their *de facto* sovereignty every day could provide us new viewpoints on the different ways in which formal *de jure* states articulate their own sovereignty (McConnell, 2009a, 1910-1911). Additionally, a shift in international political discourse, ‘enriching our empirical vocabulary’ (p. 1915), would be a starting point towards a re-pluralisation of our conception of political space in both the global political and legal realm.

As mentioned in the introductory chapter of this thesis, the term “geopolitical anomalies” itself is used in this thesis to highlight the inherent variedness and heterogeneity of international political society. Relinquishing clear-cut definitions of statehood, and in some sense viewing all political entities as anomalous in relation to each other, might help us consider alternative visions on what international politics *is*. Such a ‘re-valuing of the political’, in which geopolitical anomalies are acknowledged and embraced as “real” places in an international system of ‘geopolitical multiplicity’, would hopefully be a contributing factor in rendering a new and more successful global political framework (McConnell, 2009a, 1914-1915).

The next chapter will try to make a start to such reconsiderations, discussing critical theoretical and classical realist notions of *de facto* sovereignty. As will become clear, however, while the former may present a good argument of how power relations in international politics are far more diverse than those between and within legal states, the latter provides a clearer and unambiguous definition of *de facto* sovereignty as a specific manifestation of power.

Chapter Three

***De Facto* Sovereignty: Exceptionality and Regularity in International Politics**

Chaos isn't a pit. Chaos is a ladder.

(Quote from HBO's *Game of Thrones*; Benioff, Weiss & Sakharov, 2011)

How does it survive, you might ask. Precisely by being so slow. Sleepiness and slothfulness keep it out of harm's way, away from the notice of jaguars, ocelots, harpy eagles and anacondas... The three-toed sloth lives a peaceful... life in perfect harmony with its environment.

(Description of the three-toed sloth in Yann Martell's *Life of Pi*; Martel, 2001, 4)

So far, this thesis has revolved around geopolitical anomalies and how they interact with different conceptions of sovereignty. I have contended that these polities are “real-life” manifestations of sovereignty existing in a world that seems to have more appreciation and understanding for legally recognised (constructed) sovereignty arrangements. Furthermore, I have suggested that through a very powerful myth these constructions are in fact transformed into natural realities that are seemingly unavoidable, unchangeable, and indispensable for international politics. Because of the tenacity of this myth, legal state sovereignty has become the absolute reality of international relations, while geopolitical anomalies, in contrast, are represented as the unnatural creatures that do not belong in this world. In this thesis, I have called for a reinterpretation of these perceptions of legal state sovereignty, and thus of our perceptions on geopolitical anomalies. International politics is not solely characterised by juridical state sovereignty.

Rather, the various entities of international politics can be better identified, investigated, and understood based on considerations of *de facto* sovereignty. That is, political entities may possess legal sovereignty or not, but that actually says very little about the “real” nature of those entities. In many examples of any form of polity, “actual” circumstances and developments are not reflective of their (lack of) legal status or arrangements. As such, in this chapter I would like to challenge the central position of international law in our understanding of sovereignty, by exploring the conceptualisation of *de facto* sovereignty. This chapter will provide a thorough exploration of the concept of *de facto* sovereignty, and suggest how *de facto* sovereignty can be understood as quite a particular, and thereby also a more clearly discernable, form of power.

There are, then, two types of critique imaginable about the way sovereignty is constructed as a legal concept. As suggested in the first chapter, critical theorists find that sovereignty is dependent on socially embedded rules and norms, yet these rules and norms are not necessarily formal or legal. Sovereignty is a relational rather than individual property, and power is therefore never “fixed” or “stabilised” in a political entity. For critical theorists, therefore, while sovereignty may have become constructed in the *de jure* state, it might be perceived in polities other than the legal state as well.

However, a more classical realist assumption suggests that sovereignty is actually not normatively constructed at all. It is in fact something that can be objectively observed to reside somewhere or with some social or political body. Sovereignty, thus, is neither constructed nor dependent on perspective, but rather just there or not. Its only condition rests upon who possesses the ultimate sovereign power at any given time. The meaning of sovereignty, then, is perpetual and absolute, and not dependent on how international society constructs or perceives it. How the international community or international relations scholarship would conceive sovereignty is largely a secondary consideration, because in the end the possession of sovereignty is only reserved for those who are the most powerful in any situation.

These two ways of thinking are not necessarily mutually exclusive in all aspects, and Barkin (2010) maintains that certain elements in classic realism open up space for a less rigid and more contingent view on international politics (pp. 166-173; see also Barkin, 2003; Jackson, 2004), but this chapter mainly focuses on those areas wherein these two theories do not correlate. As I observe, classical realists view *de facto* sovereignty as emerging in moments of chaos, whereas contrarily, from a critical theoretical perspective *de facto* sovereignty emerges in moments of peacefulness and regularity. Notably, however, these two conceptualisations do not so much contradict each other, but actually speak of very different kinds of power exercises.

I argue, therefore, that classical realist *de facto* sovereignty, as the decisive factor in moments of exceptionality, offers a more useful approach to that phenomenon than critical theory's conceptions of plural, varied, and subjective modes of power. Granted, critical theorists correctly argue that international politics is founded upon a seemingly endless diversity of different relationships of power, but it thereby overlooks the fact that *de facto* sovereignty remains very specific and, thus, neither diverse nor constructed. Critical theorists, as such, might helpfully uncover the various power manifestations other than *de jure* sovereignty that characterise geopolitical anomalies' everyday existence, yet classical realism forms a more useful approach if we want to think about the extent to which geopolitical anomalies actually possess *de facto* sovereignty.

This chapter, then, commences by utilising classical realist ideas to maintain that *de facto* sovereignty is a manifestation of power particularly connected to irregularity and crisis. I argue that *de facto* sovereignty as a specific power exercise relies on the legal exception, even if that legal exception may drag on for a long period or occur in relative social order. Subsequently, this chapter will proceed with a discussion of critical theory, critiquing its amalgamation of *de facto* sovereignty with any form of "actual" power that is not based on *de jure* sovereignty arrangements. I will first analyse Foucault's notions of "governmentality" and "biopower", and argue that neither of them should be perceived as manifestations of *de facto* sovereignty. Secondly, I will explore Agamben's conceptualisation of "bare life" and "zones of indistinction" to suggest that *de facto* sovereignty remains a manifestation of power in which the exception is sharpened rather than muddled. While it could be observed that the "diverse" and "multidimensional" power relations as described by these latter two theorists may play a role in everyday existence of geopolitical anomalies, those relations and manifestations are distinct from *de facto* sovereignty.

De Facto Sovereignty as a Ladder

Hobbes and De Facto Sovereignty

Arguably the most foundational thinker for classical realism has been Thomas Hobbes, who published his theories most famously in *Leviathan* in 1651. In this classic text, Hobbes presented the human (societal) condition before *de facto* sovereign governance as one of chaos, anarchy, and violence. In Hobbes's famous words, without absolute *de facto* sovereign authority 'life of man [would be] solitary, poor, nasty, brutish, and short' (Hobbes, 1997, 70). This 'axiomatic untrustworthiness of people' (Agnew, 1994, 64) implied that in humanity's state of nature individuals would become engaged in a "war of all against all" in which each individual human being was compelled to be solely engaged with self-preservation and survival.

True security, then, could only be obtained by people collectively surrendering their own natural right to a single *de facto* sovereign authority of their own making in the form of an unconditional social contract (Oakeshott, 1975, 41-42). In a fundamental passage from *Leviathan* we find Hobbes's idea of this social contract, in which anarchical people agree:

to confer all their power and strength upon one man, or upon one assembly of men, that may reduce all their wills... unto one will... This is more than consent, or concord; it is a real unity of them all, in one and the same person, made by covenant of every man with every man, in such manner as if every man should say to every man, *I authorise and give up my right of governing myself to this man, or to this assembly of men, on this condition, that thou give up thy right to him, and authorise all his actions in like manner...* This is the generation of that great *Leviathan*... to which we owe... our peace and defence... And he that carryeth this person is called *sovereign*, and said to have sovereign power; and every one besides his subject (Hobbes, 1997, 95-96).

Hobbes, thus, proposed a conceptualisation of *de facto* sovereignty in terms of a supreme authority that functions to mitigate the otherwise violent nature of people and communities. Because of this arrangement, *de facto* sovereignty had to be perpetual, as life without this protection-obedience relationship of *de facto* sovereignty would be self-destructive for humans.

Hobbes, thus, engendered the idea of the *de facto* sovereign as 'an omnipotent political body-machine, an inhuman person with a force and will of his own' (Neocleous, 2003, 21). Hobbes's *de facto* sovereignty entailed a continuance of the absolute power of a monarch beyond his reign into a "body politic", an impersonal sovereign that continuously inherited the absolute right to rule (Agnew, 2009, 52).

As such, Hobbes conceptualised the *de facto* sovereign as the law-providing entity, which at the same time always possessed the potentiality to exercise its power beyond and above the law. The *de facto* sovereign had an unrivalled ability to determine and enforce the law, but 'to those laws which the sovereign himself... maketh he is not subject' (Hobbes, 1997, 164); Hobbes's sovereign was the 'uncommanded-commander' (Cohan, 2006, 918). In such a way of thinking, *de facto* "power" becomes the most important (in fact only) requisite of a *de facto* sovereign person or entity. He/she whose *de facto* power is unlimited and decisive possesses sovereignty.

Therefore, *de facto* sovereignty, according to Hobbes, can only be overthrown by an expression of power greater than that of the former *de facto* sovereign. In other words, as soon as the *de facto* sovereignty of one authority becomes limited, it will immediately become limitless in the form of another *de facto* sovereign authority (Moses, 2013, 120-121). Hobbes formulated these contentions not just in *Leviathan* but in other works as well:

[W]hosoever thinking sovereign power too great, will seek to make it less; must subject himself, to the Power, that can limit it; that is to say, to a greater (Hobbes, 1997, 115).

for if his power were limited, that limitation must necessarily proceed from some greater power. For he that prescribes limits, must have a greater power than he who is confined by them. Now that confining power is either without limit, or is again restrained by some other greater than itself, and so we shall at length arrive to a power which hath no other limit, but that which is the *terminus ultimus* of the forces of all the citizens together (Hobbes, 1983, 103).

Perhaps the most contentious element of this Hobbesian conceptualisation of illimitable *de facto* sovereignty lies in the way in which the reciprocal tie between protection and obedience is interpreted. Hampton (1986), for instance, argues that *de facto* sovereignty cannot be limitless, because it is the people who decide whether obedience is conducive to their best interest. This means that ‘the ruler created by Hobbesian people... does not decide for his subjects the question whether or not they will obey his commands... [T]he subjects determine... whether or not he will continue to hold power’ (p. 206). From this statement it seems that the *de facto* sovereign is not absolute as the citizenry maintain the moral right and power to limit *de facto* sovereignty. Hobbes, as such, has been portrayed as a ‘consent theorist’ (Hoekstra, 2004, 34) who essentially viewed the *de facto* sovereign as intrinsically restrained from acting purely out of self-interest.

However, it is quite debatable whether absolute power and pure self-interest can truly be conflated in such a way. It might be in the *de facto* sovereign’s self-interest to act in accordance with the will of his subjects, and thus those acts can, and will, still be absolute. The Hobbesian social contract may stipulate that *de facto* sovereignty (sometimes) has to take on an altruistic nature, but that does not mean that *de facto* sovereignty is thereby limited. Sorell (2004) might suggest that ‘the more [the *de facto* sovereign] acts out of narrow self-interest... the more he stands to lose the [absolute] power that makes such acts tempting’ (p. 184), but from this statement it may equally be deduced that absolute power allows the *de facto* sovereign to *not* act out of narrow self-interest. Hobbes, thus, explicitly distinguished between the “authorisation” of *de facto* sovereign power through a social contract, and the power and authority that the *de facto* sovereign then could exercise (Jackson, 2007, 17). Although the *de facto* sovereign was created by the people, he could nonetheless exist separately from the people as an indispensable and absolute ruler.

This capacity to wield absolute authority was an indispensable requisite for the security-enhancing function of Hobbes’s *de facto* sovereign, because ‘covenants without the sword are but words, and of no strength to secure a man at all’ (Hobbes, 1997, 93). For Hobbes, then, an individual *de facto* sovereign could only be replaced by another, as ‘those seditious persons who dispute against absolute authority do not so much care to destroy it, as to convey it on others’ (Hobbes, 1983, 97). *De facto* sovereignty, thus, was seemingly created by the subjects, but that did not in turn

mean that those subjects could by their own volition simply dissolve *de facto* sovereign power (Agnew, 2009, 56). Hobbes maintained that although *de facto* sovereignty was enabled by a human collectivity, so that a particular *de facto* sovereign could be disobeyed and even overthrown, *de facto* sovereign power itself could not be dissolved by that same multitude because it constituted the *natural* “road to survival”. Because of the Hobbesian state of nature, *de facto* sovereignty followed out of necessity rather than out of a voluntary and specific granting of a *de facto* sovereign right; the subjects of *de facto* sovereignty ‘were compelled to obey their sovereign’ (Stacy, 2003, 2033).

As such, the establishment of *de facto* sovereignty does not follow out of the establishment of laws or morals, but rather the other way around, because such laws and morals are perpetually “unestablished” without an ultimate decision on them. For Hobbes there could not be a “will of the people” solidifying into a *de facto* sovereign entity, as it was precisely the absence of such a coherent collectivity that necessitated a *de facto* sovereign authority (for an insightful, though critical, outline of this argument, see Hampton, 1986, 104). Here, again, we are reminded of the discussion around the Kelsenian *grundnorm* – or the lack thereof. Hampton, indeed, observes that whereas Hobbes necessarily saw a political entity as a closed decision-making regime in which there had to be a final *human* decision-maker, Kelsen (and others) argued that such an entity can be “closed” even in the absence of such a final human authority, and that “finality” in a political regime can be achieved through fundamental rules.

On the face of it, certainly, the formation of a commonwealth through a social contract may seem paradoxical to the Hobbesian state of nature. In a human condition in which there is truly a perpetual threat to survival and no possible guarantee of security, it would presumably be in discord with this condition for anyone to unilaterally renounce their rights on the condition that others do the same. Hobbes remedied this issue by maintaining that the relationship of protection/obedience runs from the former to the latter. ‘[M]ight implies consent’ (Hoekstra, 2004, 68), so that the social contract is established first between the *de facto* sovereign and its subjects, before it can exist between the subjects themselves. Still, for Hampton, Hobbesian *de facto* sovereignty essentially rests purely on certain (false) assumptions about the state of nature, and she finds Kelsen’s rejection of these assumptions through his theory of the *grundnorm* just as persuasive (Hampton, 1986, 98-99).

Schmitt and De Facto Sovereignty

In order to develop a more precise understanding of *de facto* sovereignty, therefore, it is now useful to turn to the writings of Carl Schmitt, who can be seen as Kelsen’s intellectual opposite. Schmitt utterly rejected the Kelsenian idea of a normative foundation for a political and/or legal entity, maintaining instead that law and politics stem from real-life situations and ‘the normative power of the factual’ (Jellinek, 1960, 337; as cited in Suganami, 2007, 521). Michael Salter (2012) explains Schmitt’s critique on the notion of an ‘infinite regress of norms’ in legal judgment, which actually inescapably requires ‘a sheer act of judicial decision, a quasi-legislative judicial act, determining both the factual implications of the relevant norms and the normative meaning of the pertinent facts... [E]ach case will always exhibit a distinct and unique element, *a moment of irreducible particularity*’ (p. 102).

Schmitt, therefore, has been dubbed 'the Hobbes of the twentieth century' (Schwab, 1985, xxvi), and for good reason. Like Hobbes, Schmitt wanted to emphasise the human element in politics and sovereignty, as he argued that the ever-present propensity for violence in human nature could only be remedied by resolute personal action (Schwab, 1985, xvi). For Schmitt, 'the ultimately unruly and unruled quality of human life' necessitated rule to be 'of men and not of law' (Strong, 2005, xvii). Again in a Hobbesian manner, therefore, Schmitt found that 'political life cannot be regulated by legal norms, because societies encounter crises that must be resolved by the use of political authority', and that thus 'the will of the sovereign stands above the law of the land' (Luoma-aho, 2007, 38). As Strauss (1997) observes that Hobbes based his entire political doctrine on the extreme case – the fear of violent death – in which the law is suspended by the unlimited sovereign (p. 330), Schmitt famously contended that the 'sovereign is he who decides on the exception' (Schmitt, 1985, 5).

Pivotal in this reasoning was Schmitt's understanding of politics as the friend/enemy distinction. According to Schmitt, just as other paradigms were fundamentally defined through antitheses – such as good and evil in morality, beautiful and ugly in aesthetics – the paradigm of politics was defined through the antithesis of friend and enemy (Schmitt, 2007, 26). Schmitt saw a political unit as the result of the fundamental struggle for achieving a human identity, and believed that these struggles were settled through *de facto* sovereignty instead of the sovereignty of norms or rules (Norman, 2012, 410). In an oft-cited passage, Schmitt (2007) argued that:

[t]he political enemy need not be morally evil or aesthetically ugly; he need not appear as an economic competitor, and it may even be advantageous to engage with him in business transactions. But he is nevertheless the other, the stranger... existentially something different and alien, so that in the extreme case conflicts with him are possible. These can neither be decided by a previously determined general norm nor by the judgment of a disinterested and therefore neutral third party. Only the actual participants can correctly recognise, understand, and judge the concrete situation and settle the extreme case of conflict (p. 27).

Crucially, thus, Schmitt's "enemy" was not a "foe" that had to be annihilated, but merely a collectivity that had to be compelled to remain inside its own borders (Suganami, 2007, 521). In this sense, Schmitt's theory did not amount to a celebration of violence, as the decision on *who* the enemy was, rather than the decision to fight a war with them, entailed the formation of a political community. Actual conflict was not a necessary *occurrence* for the existence of politics, merely the *possibility* that the relationship between different communities might escalate into violence (Norman, 2012, 410-411). Notably, therefore, political communities did not so much evolve out of the human desire to escape the state of nature and find relief from the Hobbesian fear of violent death, but rather out of the fundamental human need to clearly define and maintain a collective identity. In Schmitt's argument, it is the desire to belong, more so than the desire to survive, that defines the political (pp. 411-413).

Schmitt did find, however, that with the intensification of the self/other relation, perhaps aggravating in a friend-enemy relation, human capability for self-identification would strengthen as well (Schmitt, 2007, 36). In fact, if the distinctness between groups is weakened too much, another more intense "enemy" will eventually (have to) be found (Norman, 2012, 417). For Schmitt (2007), therefore, those moments 'in which the enemy is, on concrete clarity, recognised as the enemy'

form the 'high points of politics' (p. 67). Schmitt's definition of the sovereign as the decider on the exception, then, refers to the sovereign's *de facto* power both to decide on *who* the other is, as well as whether that other should be treated and perceived as an enemy (Suganami, 2007, 516). In other words, the sovereign decides both what the exception is *and* what to do about it (Strong, 2005, xi-xii).

Importantly, this meant that the exception intrinsically cannot be pre-defined as a concrete "enemy" or "irregularity", and Schmitt therefore rejected Kelsen's attempts to devise a juridical system in which the exception was banished. By definition, the exception cannot be "subsumed" in a legal order, and thus there has to be a *de facto* sovereign person or group who has the supra-legal monopoly – not to rule or to coerce – but to decide whether an extreme situation is at hand, what measures should be undertaken to solve it, and when order and stability have been restored (Schmitt, 1985, 13; Schwab, 1985, xvii).

Given the unpredictable nature of the exception, for Schmitt a 'preset rule-fixed definition of sovereignty' could equally never be found (Strong, 2005, xiv). 'The exception reveals most clearly the essence of the [sovereign's] authority' (Schmitt, 1985, 13), as '[t]he exception in jurisprudence is analogous to the miracle in theology' (p. 36); the exception is simultaneously the occasion for and the revelation of the exercise of sovereignty. Thus, with the arising of an exceptional situation the sovereign equally comes to the fore. Schmitt interprets sovereignty in a "decisionist" manner, as it is not legal norms or statuses that define a sovereign but the capability of making an ultimate, or 'genuine', decision in a crisis situation (Strong, 2005, xx). For him, '[i]f [a sovereign] entity exists at all, it is always the decisive entity, and it is sovereign in the sense that the decision about the critical situation... must always necessarily reside there' (Schmitt, 2007, 38).

Schmitt saw sovereignty, therefore, as a "border concept" (*grenzbegriff*) that marked the line between orderliness and law, ruled by the sovereign, and that which lay outside of it. It is important to note that this means that, again, the nature and locus of sovereignty cannot be found *within* the law, but above and beyond it (Strong, 2005, xx-xxi). In Schmitt's own words, '[t]he decision parts... from the legal norm, and... authority proves that to produce law it need not be based on law' (Schmitt, 1985, 13).

Two preliminary conclusions can be drawn from Schmitt's writing. First of all, like Hobbes, Schmitt allocates a central role to the exception in his interpretation of the characteristics and place of sovereignty, arguing that *de jure* assumptions about sovereignty do not account for emergency situations that can only be resolved through an exertion of *de facto* sovereignty. Such emergency situations, however, also imply circumstances of order and regularity, and while Schmitt openly acknowledged this relationship, for him 'the rule proves nothing' about sovereignty, and 'the exception proves everything' (Schmitt, 1985, 14).

More importantly, for now, is the realisation that Schmitt's explanation of sovereignty challenged the conflation of that concept with a state purely in juridical terms. The political, for Schmitt, is not the same as the *de jure* state, as the position of the sovereign is dependent on effective decision-making capabilities and specifically not on legal arrangements. Defining sovereignty purely as a legal concept would be to depoliticise and to dehumanise it (Strong, 2005, xv; Strong, 2007, xv). Instead, Schmitt, in continuation of Hobbes, finds that manifestations of *de facto* sovereignty characterise a polity, nullifying persistent assumptions about classical realism as the primary celebrator of *de jure* statehood in international politics (Barkin, 2003, 327-328; Moses, 2013, 126).

Morgenthau and De Facto Sovereignty

A third prominent thinker within this classical realist sovereignty paradigm is Hans Morgenthau. Like Schmitt, Morgenthau rejected a Kelsenian primacy of international law over the (factual) sovereignty of *de jure* states, believing sovereignty to be a *de facto* manifestation of supreme authority instead of a juridical arrangement. Arguing that such a *de facto* kind of sovereignty was 'incompatible... with a strong and effective, because centralised, system of international law', he instead thought of international law as 'a decentralised, and hence weak and ineffective, international legal order' (Morgenthau, 1973, 308). For Morgenthau, 'what really mattered in relations among nations was not international law but international politics' (Morgenthau, 1978, 65). Any utopian, moralistic, or legalistic assumptions about the international political world were 'either so vague as to have no concrete meaning that could provide rational guidance for political actions', or they were 'nothing but a reflection of the moral preconceptions of a particular nation' (Morgenthau, 1951, 35). Institutions like the United Nations and international law, therefore, 'were imagined as substitutes for power politics – while in fact they were simply new forums for it' (Koskenniemi, 2004, 439). The nature of international politics was derived from the actions of its *de facto* sovereign units, rather than from the norms and regulations of international law.

Morgenthau's conception of *de facto* sovereignty, thus, asserts that statehood inherently cannot have a purely juridical character. In his words:

[*de facto*] sovereignty points to a political fact. The fact is the existence of a person or group of persons who, within the limits of a given territory, are more powerful than any competing person or group of persons and whose power... manifests itself as the supreme authority to enact and enforce legal rules within that territory (Morgenthau, 1973, 314).

Here, Morgenthau's indebtedness to Hobbes and Schmitt becomes apparent, particularly when we proceed onto Morgenthau's views on Grotian or Lockean ideas of constitutionally divisible or popular sovereignty.

[I]n any state, democratic or otherwise, there must be a man or a group of men ultimately responsible for the exercise of political authority. Since in a democracy that responsibility lies dormant in normal times, barely visible through the network of constitutional arrangements and legal rules, it is widely believed that it does not exist, and that supreme lawgiving and law-enforcing authority, which was formerly the responsibility of one man, the monarch, is now distributed among the different co-ordinate agencies of the government, and that, in consequence no one of them is supreme. Or else that authority is supposed to be vested in the people as a whole, who, of course, cannot act. Yet in times of crisis and war that ultimate responsibility asserts itself... and leaves to constitutional theories the arduous task of arguing it away after the event (Morgenthau, 1973, 323).

Morgenthau's *de facto* sovereignty cannot be divided or shared between different components of a political entity, because it precisely refers to that ultimate and supreme capability to act. This means that political entities cannot be "quasi-sovereign" or "half-sovereign", as sovereignty, according to Morgenthau, always entails a "real", "definitive" and "unitary" action. The fact that we may think of *de jure* states as possessing "limited" or "surrendered" sovereignty in legal

terms 'is a significant symptom of the discrepancy between the actual and pretended relations existing between international law and international politics' (Morgenthau, 1973, 320). *De facto* sovereignty never disappears, as it always resides somewhere and always asserts itself in exceptional circumstances (Moses, 2013, 126).

Morgenthau, thus, reiterates Schmitt's conceptualisations of "decisionist" sovereignty, defining the *de facto* sovereign as the maker of the ultimate decision to resolve a crisis situation.

[T]hat authority within the state is sovereign which, in case of dissension among the different lawmaking factors, has the responsibility for making the final binding decision and which, in a crisis of law enforcement, such as revolution or civil war, has the ultimate responsibility for enforcing the laws of the land (Morgenthau, 1973, 321).

Morgenthau's thinking again exposes a pivotal role for the exception in understanding and locating *de facto* sovereignty. In general, classical realism portrays (international) politics as a structure in which the possibilities for emergency and crisis are always present, and in which thus order and regularity are fragile or even imaginary. However, periods of peace and stability do exist, also in places where the possession of *de facto* sovereignty is seemingly in contention or unclear. It is therefore necessary to analyse how to explain and interpret the nature and characteristics of classical realist *de facto* sovereignty in these moments of orderliness. If the exception functions as a ladder for *de facto* sovereignty to reveal itself, can we discern classical realist *de facto* sovereignty also in the regular, and if so, how?

Classical Realism and Regularity

Any of the three classical realist thinkers discussed above base their theory of *de facto* sovereignty on the assumption that, without it, chaos will ensue, and that thus inversely it is in the departure from chaos that we can find the true face of *de facto* sovereignty. Crisis and *de facto* sovereignty are bound to one another. Yet, in doing so, these thinkers must also deal with the fact that an exception requires a rule, and that thus *de facto* sovereignty must also have some sort of relationship with regularity. Scheurman (2007), indeed, has contended that in explaining *de facto* sovereignty classical realism 'suffers from a misleadingly one-sided focus on the emergency or crisis' (p. 84). In circumstances of regularity *de facto* sovereignty is described as 'dormant' (Morgenthau, 1973, 323), or as Schwab (1985) puts it, *de facto* sovereignty 'slumbers in normal times but suddenly awakens when a normal situation threatens to become an exception' (p. xviii). From such statements, it might be deduced that for classical realism *de facto* sovereignty essentially does not exist in moments of regularity, but that would be a misinterpretation.

Instead, *de facto* sovereignty lurks in circumstances of regularity, waiting for the moment when other manifestations and relations of power – emergent from those orderly circumstances – to again come into conflict with one another and cause a crisis that begs for an ultimate and final decision on a resolution of that crisis. Classical realist *de facto* sovereignty, thus, actually forms the point of demarcation between order and disorder – it is the Schmittian *grenzbegriff*. The *de facto* sovereign, then, recognises an exceptional situation as well as decides on it (Suganami, 2007, 522), and as a logical consequence, the sovereign thereby defines and decides on the regular (Strong, 2005, xxi). According to Schmitt himself (1985), 'he is sovereign who definitely decides whether th[e] normal situation actually exists' (p. 13). In other words, 'the routine is made possible by the

exceptional circumstances in which critical decisions... are taken in the sovereign act of the political community' (Suganami, 2007, 521).

In addition, while it is in times of emergency that the *de facto* sovereign capacity to decide is exercised most obviously, for some thinkers that "decisionist" quality operates continuously even in orderly circumstances (Suganami, 2007, 517). For Suganami, the exception in which law is suspended does not have to manifest itself as a clear break with the regular, as long as in those "exceptions" the element of decision-making is "maximalised". The operation of law depends on factual and political decisions by the *de facto* sovereign, but those decisions do not need to occur in extreme moments of anarchy or violence, as they essentially involve reinstating law and order repeatedly. While the exception, on those occasions, is a temporary suspension of the operation of the law, simultaneously *de facto* political order might be maintained (Suganami, 2007, 521-522).

Schmitt, nonetheless, observed that legally '[t]here exists no norm that is applicable to chaos', and that 'for a legal system to make sense, a normal situation must exist' (p. 13), thereby rejecting the possibility of *de facto* stability and tranquillity existing independently from the effectiveness of *de facto* sovereignty to decide on the law (Schwab, 1985, xxv). Moses (2013) reiterates this difficulty, writing that:

while *de jure* theories of sovereignty find meaning for the term in shared understandings, practices, legitimacy and recognition, *de facto* theories find sovereignty in the opposite: at points of crisis, mutual misunderstanding, lack of recognition and, most importantly, in the (forceful) resolution of... intense political conflicts (p. 125).

For classical realism, thus, it is precisely because the *de facto* sovereign (re-)establishes order in contexts of disorder and antagonism that a variety of power structures may come about in which the actors are not necessarily in discord with one another. Applied to geopolitical anomalies, as they try to create a political order that is separate from the *de jure* state, their success or failure seems to be dependent on respectively their own *de facto* sovereignty or that of the *de jure* state(s) in which they exist to decide on the exception and (re)instate regularity. Some geopolitical anomalies become exceptions to formal state law precisely because they manage to exercise *de facto* sovereignty and create a separate domestic political order.

However, as geopolitical anomalies are supposedly "stuck in limbo" for a significant period of time, some may seem to be stuck not just between their own *de facto* sovereignty and a lack of international legal recognition, but also in a suspension of the *de facto* sovereign decision on the exception by either them or the formal state. In other words, as geopolitical anomalies manifest power in a variety of ways, some of them may sustain a prolonged juridically exceptional situation while creating a semblance of political order, as the decision on whether either geopolitical anomaly or *de jure* state possesses *de facto* sovereignty is suspended. As such, perhaps some geopolitical anomalies could be identified as occasions where there has not yet been a *de facto* sovereign decision on a resolution to their conflict with the *de jure* state. The mere manifestation of a juridically exceptional situation does not necessarily instantaneously provoke a decision. As a current example, we may tentatively think of the Islamic State in Syria and Iraq, which continues to uphold a political order of some form, in spite of long-standing conflict over *de facto* sovereignty in the region (Lister, 2015; Weiss & Hassan, 2016).

Certainly, the classical realist perspective on *de facto* sovereignty seems to uphold that the exceptional situation is unequivocally also the violent situation, apparently not accounting for the possibility that in crises of laws or norms extreme violence might not inescapably occur. Indeed, maybe the extreme situation does not intrinsically necessitate an immediate decision (Strauss, 1997, 330). Morgenthau (1973) explains that in those circumstances ‘sovereignty is held in abeyance’, and while he contends that in such occasions ‘a struggle... between the pretenders to supreme authority will decide the question one way or another’, he immediately adds that the responsibility to decide ‘must rest somewhere – or nowhere’ (p. 321; my emphasis). Schmitt (1985) writes that ‘[i]n the exception the power of real life breaks through the crust of a mechanism that has become torpid by repetition’ (p. 15), but such statements overlook the question whether geopolitical anomalies may experience torpidity (or *slothfulness*) in their circumstances of enduring exception. For geopolitical anomalies, thus, it may not always be clear whether there is a difference between an “undecided crisis” and “normality” (see Chapter Five).

In those situations, however, classical realists would argue that geopolitical anomalies exist in their exceptional predicament by coercion rather than by their own choice. *De facto* sovereignty, in such a line of thinking, is still carried by the formal state in which they reside, because that formal state still ultimately decides on the exception. Regularity, thus, remains inextricably tied to a *de facto* sovereign decision (perhaps by the *de jure* state), until another *de facto* sovereign (perhaps a geopolitical anomaly) decides to alter that regularity. Classical realism, therefore, remains a valuable theoretical lens for analysing the *de facto* sovereignty of geopolitical anomalies, as it reminds us how in (international) legal system(s) extra-legal decisions and activities are carried out repeatedly, and that in those moments of (international) legal exception sovereignty might not lie in the juridical realm. For classical realism, ‘[*de facto*] sovereign political communities are those which have a freedom, readiness, and capacity to decide for themselves whether and when to fight against whom’ (Suganami, 2007, 527). Upholding that geopolitical anomalies do not possess such freedoms or capacities is to ignore their origination, as well as their persisting resistance against their “metropolitan state”.

Some geopolitical anomalies manage to garner a political order without any international legal status through a series of *de facto* manifestations of sovereignty. Others, alternatively, may exercise a variety of non-sovereign practices of power – be they norms, discourses, social rules, or more material forms of authority and control – in a constant state of domestic legal exception. As we will see in the paragraphs to follow, however, some thinkers on (international) politics have confusingly stretched the meaning of *de facto* sovereignty to denote any such practical power functionalities, misconceiving the concept of *de facto* sovereignty as any form of power not exercised by a legal state, and thus ignoring the specificity and exceptionality of possessing and manifesting *de facto* sovereignty.

***De Facto* Sovereignty as a Sloth?**

As suggested earlier, a significant point of conflict between classical realism and critical theory revolves around the problem of the locus of *de facto* sovereignty. Critical thinking contends that *de facto* sovereignty can simultaneously be situated in different places or levels, while classical realism believes *de facto* sovereignty always resides in only one place at a time. As such, it seems that they actually utilise quite different conceptualisations of sovereignty. For classical realism, sovereignty denotes supremacy and thus indivisibility, but critical theorists appear to speak more of

“sovereignties” in a multi-layered and integrative structure of power. Litfin (1997) even argues that it might be better to avoid the term altogether, finding that ‘[g]iven that the empirical status of “sovereignty” is uncertain, we are well advised to proceed by unbundling the term into such elements as autonomy, control, and legitimacy, which are perhaps more readily amenable to empirical research’ (p. 178).

Others conflate *de facto* sovereignty with authority, contending that the former is multi-interpretable because the latter is concerned with a range of issues and thus varies through space and time (Biersteker, 2002, 168). Authority is never absolute, as its strength can be seen as a divergence of the authority’s command and the subject’s voluntary compliance. Authority, unlike absolute power, is a term that refers to some voluntary and justified coercion, and authority relations thus rely on some degree of legitimacy (Lake, 2003, 304-305). The concept of legitimacy has already been discussed in the context of geopolitical anomalies and international law, but it might also be thought of as the consent of the governed or the internal popular belief in the validity of an authority (Berg, 2012, 1273-1274). In any case, this relationship between belief and authority is seen as a matter of degree, and legitimacy is thus a multidimensional construct or a continuous variable rather than a fixed point on a scale in time or space (Gilley, 2006; Parkinson, 2003).

These conceptualisations of multi-interpretable power, authority, and legitimacy, however, inform a view that is altogether different from *de facto* sovereignty as conceived in this thesis. Litfin (1997) rightfully argues that emphases on *de facto* sovereignty rather than on juridical considerations are far more likely to provide empirical insights into political organisations and activities, but then proposes ‘to consider the multiple dimensions of [*de facto*] sovereignty... in constant flux’ (p. 171). Berg and Kuusk similarly deconstruct (*de facto*) sovereignty into several (somewhat arbitrary) variables like “governance”, “monetary systems”, and “security structures” to “quantify/calculate” the ‘degree of [empirical] sovereignty’ of different kinds of political entities – from dependencies, through autonomous regions, *de facto* states, and governments-and-exile, to legal states (p. 48). Such scholarly contributions treat *de facto* sovereignty as if it could be conceived as any power relationship, but it is exactly the quality of the *de facto* sovereign to be that unique manifestation of power.

Furthermore, John Agnew’s piece on *sovereignty regimes* (2005) criticises three dominant assumptions about sovereignty in international relations thinking, but familiarly fails to escape the pitfalls of conflating divergent types of sovereignty. For Agnew, first of all, sovereignty comes about not from a factual supreme decisional act in an exceptional situation, but ‘as a result of the purposes of states in interaction’. In doing so, again, he seems to speak of socially constructed and normative forms of sovereignty – forms that can be found, if anywhere, in *de jure* arrangements. At the same time, however, Agnew also dismisses suggestions of sovereign equality in international politics – equalities that reside precisely predominantly within such legal, relational, and normative considerations of sovereignty (p. 440). Thirdly, Agnew challenges the idea that sovereignty is inherently territorial, as he, in yet another conceptual u-turn, proceeds to present sovereignty as ‘the socially constructed practices of political authority’ – not as the *de facto* sovereign material, and inherently physical and territorial, capacity to decide on the exception (p. 441).

In terms of critical theorists’ engagement with the place of the concept of sovereignty within the international political framework, Cynthia Weber’s (1995) influential work on *Simulating Sovereignty* at first sight appears to pay heed to the significance of the friend/enemy distinction as revealed in classical realist views of *de facto* sovereignty. Contending that ‘the

sovereignty/intervention boundary is the location of the state' (p. 127), Weber argues that the state is simulated, imagined, and represented fundamentally through presumed opposites: the practice of intervention and the rules of sovereignty (non-intervention) in international politics. However, while this initially seems to suggest a consideration of sovereignty as a Schmittian *grenzbegriff*, Weber's argumentation still relies on 'signs' or 'codes' of sovereignty as they exist in legal/normative paradigms of international politics (pp. 127-129) – paradigms that are dismissed in classical realist understandings of *de facto* sovereignty (see also Walker, 1993).

I maintain, as such, that critical theorists actually employ more concern for norms and networks of power than for the particular nature of *de facto* sovereignty. Certainly, the exercise of power is relative to another actor, and it is relational in the sense that the subjects of power can be agents themselves (Solomon, 2012, 212); power networks may be grounded in the logic of the social or the structural. However, it is the nature of *de facto* sovereignty that should still be interpreted through an individualist ontology as purposeful, effective, and intentional acts (Barkin, 2010, 166-169). *De facto* sovereignty denotes a particular kind of power, and when it comes to geopolitical anomalies the term may actually signify something distinctly different from power in its critical theoretical meaning. I maintain that geopolitical anomalies may possess and exercise many forms of power in regular circumstances, but that in exceptional circumstances the characteristics of *de facto* sovereignty remain necessarily stable and unitary.

De Facto Sovereignty as Governmentality and Biopower?

As has been mentioned above, for critical theorists power is not an independent "thing" that can be gathered at the will of a pre-existing institution. For them, power is dispersed rather than centralised, as it originates in social interaction rather than being possessed, produced, or controlled individually. It does not exist in advance of the entities or persons to which it gives rise, as it is both derivative and formative of social interaction. It cannot, therefore, solely be understood as a top-down phenomenon, as it does not only control subjects but also produces them. These ways of thinking are most explicitly derived from the many works of Michel Foucault, who preferred to speak of *power relations* rather than *power* in itself (Agnew, 2009, 88; Edkins & Pin-Fat, 2004, 2). In Foucault's words:

Power must be analysed as something which circulates... It is never localised here or there, never in anybody's hands, never appropriated as a commodity or piece of wealth. Power is employed and exercised through a net-like organisation. And not only do individuals circulate between its threads; they are always in the position of simultaneously undergoing and exercising this power. They are not only its inert or consenting target; they are always also the elements of its articulation (Foucault, 1980, 98).

Foucault argued that 'where there is power, there is resistance' (Foucault, 1978, 95), by which he meant that power and resistance are mutually constitutive. Power can only be exercised 'over free subjects and only insofar as they are "free"'. In other words, '[t]he relationship between power and freedom's refusal to submit cannot... be separated' (Foucault, 1983, 221). Dillon (2004) lucidly summarises this argument: 'As a force that circulates [power] only comes to presence in the context of the freedom of human being acting in effect as a conductive material for power's very circulation... If we were not free... we would not conduct or enact power relations' (p. 53).

Foucault, therefore, adamantly represents power relations as ‘directly productive’ (Foucault, 1983, 185) instead of repressive or destructive. Power relationships are only power relationships if ‘the one over whom power is exercised [is] thoroughly recognised and maintained to the very end as a person who acts’ (p. 220). For Foucault, thus, it was nonsensical to imagine subjects as pre-existing the power relations that actually produced them (Dillon, 2004, 53), because, in fact, ‘it is... one of the prime effects of power that certain bodies... come to be identified and constituted as individuals’ (Foucault, 1980, 98).

Thinking of the concept of sovereignty, then, Foucault actually called for scholars of politics ‘to cut off the king’s head’ (Foucault, 1980, 121), by which he meant that a political theory solely founded on *de facto* sovereignty as the absolute authority to create, uphold, and enforce the law should be discarded. Not only was *de jure* (state) sovereignty a legal smokescreen concealing its extra-legal *de facto* manifestations, Foucault also challenged the notion that those manifestations could be a purely coercive force unilaterally emanating from a single source (Edkins & Pin-Fat, 2004, 3). Agnew (2009) has even labeled this a ‘non-sovereign or diffuse conception of power’ in which *de facto* sovereignty is ‘equivalent to energy moving in a circulatory system’ (p. 89).

Indeed, Foucault argued that while theories of *de facto* sovereignty as supreme and absolute authority constantly attempt to explain and justify some essential discontinuity between sovereign (*de facto*) power and any other form of power, he, on the other hand, found that ‘in the art of government the task is to establish a continuity’ (Foucault, 1991, 91). In such a continuous and multilateral view, power is ‘produced from one moment to the next, at every point, or rather in every relation from one point to another’ (Foucault, 1978, 93).

Simultaneously, as Foucault thus rejected a rigid top-down approach to sovereignty, his idea of *de facto* sovereignty should not be misunderstood to be a purely Lockean conception. Instead of perceiving Foucault’s *de facto* sovereignty ‘as resting largely on power “from below”’, it is the relational character of Foucault’s power that makes his *de facto* sovereignty not just ‘a mechanical opposition’ between a source of power on the one hand and an obedient or disobedient subject on the other (Agnew, 2009, 89), but more of ‘a set of effects involving differential impacts of combinations of authority and control’ (p. 90).

The *de facto* sovereignty of a polity, in Foucault’s argument, does not involve a monopolisation of power by either ruler or subject, but functions more as a coordinating device connecting and integrating different networks of power (Agnew, 2009, 101). In the words of American sociologist Philip Gorski (2003), ‘the capillaries and synapses of power within the social body are gradually plugged into and connected with the central circulatory and nervous system of [*de facto* sovereignty]’ (p. 23). As others have put it, Foucauldian *de facto* sovereignty ‘is necessarily about ceded, seduced, and co-opted diffused power as well as coercion by (and acceptance of) centralised power’ (Agnew, 2009, 116).

Foucault amalgamated these conceptualisations of *de facto* sovereignty in the term *governmentality*, which can be defined as ‘the micro-political practices through which a governing agency conditions people to act in specific ways and through which people govern themselves’ (McConnell, 2012, 78). Governmentality posits *de facto* sovereignty not merely as a unitary possession of absolute power, but ‘as an activity, or an “art” that is plural and immanent’ (Dean, 2010, 123). Rather than altogether displacing *de facto* sovereignty, in the processes of governmentality a political entity comes to ‘incorporate the disparate arenas of rule concerned with the government of the population’ (Dean, 1999, 2).

In the critical theoretical and Foucauldian view, then, *de facto* sovereignty is ‘the emergent and contingent outcome of a myriad of transactions and governmentalities’ (Agnew, 2009, 9), or, as Foucault (2008) himself puts it, it ‘is nothing more than the mobile effect of a regime of multiple governmentalities’ (p. 77). This means that, through the concept of governmentality, critical theorists find *de facto* sovereignty as a system of power without a singular centre (Neal, 2004, 375). To reiterate Foucault’s reasoning, ‘[W]e have to abandon the model of Leviathan, that model of artificial man who is at once an automaton, a fabricated man, but also a unitary man who contains all real individuals, whose body is made up of citizens but whose soul is sovereignty’ (Foucault, 2003, 34).

However, I would again argue that such assertions mix up the specificity of *de facto* sovereignty with the general nature of exercises of power. As has already been suggested in this chapter, perhaps in normal circumstances a political community may be able to engage in governmentality practices and may power be dispersed across the relational networks of that polity, but the formation of such a political entity in the first place is dependent on unitary and supreme *de facto* sovereign decisions on the establishment of those normal circumstances. Foucault (1991) writes that ‘it is the tactics of [governmentality] which make possible the continual definition and redefinition of what is within the competence of the state and what is not’ (p. 103), but that power to define and redefine can only exist at moments in which *de facto* sovereignty is unlimited and singular. It is precisely the role of the *de facto* sovereign to bring together the “disparate arenas of rule” at times when they conflict with one another – at times when governmentality fails. Viewing governmentality as *de facto* sovereignty, thus, demonstrates a certain disregard for the critical importance of the exception to international politics – an importance actually symbolised by geopolitical anomalies.

That is not to say that a decentralised notion of governmentality does not have any value for our understanding and perception of those geopolitical anomalies. For one, while Foucault would specifically view governmentality as a spatial strategy, it is not territorial in a Westphalian *de jure* state sense. For Foucault, governmentality is ‘essentially defined no longer in terms of its territoriality, of its surface area, but in terms of the mass of its population with its volume and density’ (Foucault, 1991, 104); it focuses on lives rather than places. As such, on a *de jure* state level, Foucault shows how actors and entities other than the legal state authorities and institutions may tap into those governmentalities available within the formal state’s territorial and organisational framework.

As governmentality, thus, entails ‘a multidimensional and trans-scalar endeavour which can be undertaken by a range of non-state as well as state actors’, it thereby ‘refuses the reduction of political power to the actions of the [legal] state’ (McConnell, 2012, 80). The Foucauldian conception of governmentality presents us with ‘specific rationalities and technologies of governing’ (Cadman, 2010, 539), the diversity of which makes many different forms of political organisation possible. In exposing ‘the actual daily experience of power exercised by a multitude of non-state sources’ (Agnew, 2005, 439), a consideration of governmentality could regard the power manifestations of geopolitical anomalies certainly as equally important to those of the *de jure* state (Rose-Redwood, 2006, 471).

However, as governmentality involves ‘practices dispersed throughout and across societies’ it becomes a rather ‘tentative and unstable project’ (Hansen & Stepputat, 2005, 3). To reiterate, such terminologies – instability, uncertainty, changeability – once more imply that, as power is unstable and unfixed, there is a requirement for *de facto* sovereignty to be centralised and absolute. Yet, for Foucault, the tentative and disparate nature of governmentality could still be successful in maintaining order and regularity. In Foucault’s theory, each of governmentality’s micropolitical practices could be seen as a moment of exception, but not of chaotic crisis or disorder. Rather, governmentality again becomes understood as ‘the circulation of power among a range of actors at dispersed sites’ (Agnew, 2009, 9); it becomes conceptualised as an everyday process constantly enacted.

To be sure, through a consideration of governmentality, geopolitical anomalies can be interpreted from an almost ethnographic perspective, from a perspective of day to day social interactions and lives lived producing power and subjectivities (Edkins & Pin-Fat, 2004, 2). Central to Foucault’s governmentality, then is his concept of *biopower*. On the one hand, this concept explains how *de facto* sovereign power might be specifically defined as absolute power over human life and bodies, emphasising the vulnerability of the human body as an inversion of the supra-legal inviolability of the *de facto* sovereign. Biopower signifies how the body of the subject(s) may form the ‘surface of inscription’ of *de facto* sovereign power (Hansen & Stepputat, 2005, 11).

Yet, for Foucault, the human body is simultaneously the place where that biopower is resisted most clearly. As mentioned before, while certainly power relations subjugate, suppress, and reduce human life, they also create, cultivate, and even empower (Dillon, 2004, 55). Foucault describes how human bodies subjected to biopower, be it in excessive or subtler forms, may become symbols of resistance, if only through the mere fact of the simple life force they contain. Such life force may come to represent biopower’s counterpoint, a body that may be killed but that *cannot* be killed because it is the “object” of biopower (Hansen & Stepputat, 2005, 11-13).

In this regard, Michel de Certeau (1984) distinguished between strategies and tactics, representing the latter as a “biopowerful” ‘art of the weak’ (p. 37). By employing an everyday and improvisational ‘artisan-like inventiveness’ or *bricolage* (p. xviii), subjects of domination actively create their own space, “poaching” territory from agents of power (see also Isachenko, 2012, 4-5).

For Bataille (1991), this actually meant that everyday life possessed *de facto* sovereignty in itself, as he argued that ‘[l]ife beyond utility is the domain of the sovereign’ (p. 198). Bataille contended that *de facto* sovereignty could be found ‘in the desire to enjoy and revel in brief moments of careless freedom... in moments of simple non-anticipatory existence’ (Hansen & Stepputat, 2005a, 13). As *de facto* sovereignty was supposedly produced through “biopowerful” gestures disregarding death or danger, *de facto* sovereignty could reside in every human being (Bataille, 1991, 222-227). Such individual biopower, experiencing spontaneity of life, engendered ‘the miraculous sensation of having the world at [its] disposal’ (p. 199), a sensation of *de facto* sovereignty. However, such an interpretation of *de facto* sovereignty as excessive enjoyment beyond any calculation (p. 226) again demonstrates how it remains an exceptional mode of power altogether quite different from other modes.

In geopolitical anomalies, thus, *de facto* sovereignty may on the one hand be grounded in the exception and thus unitary and absolute, while on the other hand governmentality and biopower allow many different actors to exercise some form of power in regular circumstances. In the Foucauldian state of mind, however, these two distinct power manifestations are actually

combined so that the latter is referred to by the former. As (some) critical theorists of international relations have embraced these Foucauldian theories, their notion of *de facto* sovereignty becomes that of a dispersed process in which a distinction between regularity and exceptionality is indiscernible. As critical theorists bring governmentality, biopower, and *de facto* sovereignty together, they present geopolitical anomalies, and their inhabitants leading their daily lives, as possessing *de facto* sovereignty through their everyday existence (again see Isachenko, 2012).

De Facto Sovereignty and Geopolitical Anomalies

As such, from a classical realist perspective geopolitical anomalies may exercise *de facto* sovereignty by maintaining domestic order, having decided on the exception in the critical break from the *de jure* state(s) within which it resided. From a critical theoretical perspective, however, that everyday expression of *de facto* sovereignty is interpreted differently as an expression muddling the lines between regularity and disorder. In other words, for critical theorists, geopolitical anomalies create and maintain a *de facto* order even if they are hampered by exceptional circumstances. They normalise the abnormal by placing it in an everyday context (Navaro-Yashin, 2003, 107-108). Even if that context means being '[b]etwixt and between life and death, hanging in the middle of time, living in interruption', and thus '[d]isruption... appears permanent' (p. 121), geopolitical anomalies are able to keep up a day-to-day existence. McConnell (2010), therefore, actually finds that it is 'from the perspective of quotidian practices... at the local level and through everyday interactions' (p. 764) that geopolitical anomalies are 'magicked into existence' (Sidaway, 2002, xi) as political entities.

In this critical theoretical paradigm, *de facto* sovereignty becomes more of a process found in geographical proximity and intimate relationships (Megoran, 2010, 383), rather than something that is tied to the spectacular, the antagonistic, and the exceptional. Again, as Megoran (2006) calls for a 're-peopling' of international relations theory, arguing that 'the study of elite discourses remains only a partial contribution to the construction of a fuller understanding of [international] political processes' (p. 625), critical theoretical *de facto* sovereignty assumes a form that is very different from classical realist interpretations. Critical theoretical and Foucauldian *de facto* sovereignty is not an 'entity set apart from society by an internal boundary' (Fuller & Harriss, 2001, 23), but rather a 'multifaceted' phenomenon with an 'everyday reality' (Williams, 2007, 159-160). With regard to geopolitical anomalies, as such, civil society, integrated communal relationships, associational economic networks, even individual agency, are seen as at least as important to maintaining a situation of order and regularity (to exercising *de facto* sovereignty) as the classical realist interpretation of a singular ruler more powerful than any other actor in society (pp. 162-173).

Such conceptualisations of the quotidian and ambiguous nature of *de facto* sovereignty also reverberate in the way critical theorists represent the relationship between geopolitical anomalies and *de jure* states. Critical theoretical *de facto* sovereignty does not have an either/or quality, but is instead "flexible". At the local level, officials of geopolitical anomaly and juridical state may interact with each other to constantly negotiate and integrate their respective *de facto* sovereignties as part of the continuous daily reiteration of both (McConnell, 2009b, 349). *De facto* sovereignty, in this sense, is neither 'openly declared... nor explicitly acknowledged'. It is 'tacit sovereignty', which 'is not sovereignty in its final instance, with everything stripped away', but rather which 'exists through practice, in what is done but not named, in what is held in suspension' (p. 350). For some geopolitical anomalies, therefore, *de facto* sovereignty is ostensibly 'based on implicit understandings and is assumed through... everyday interactions and performances' (p. 351).

Instead of a classical realist definition which places it in moments of disorder and crisis, thus, McConnell (2010) proposes a very different understanding of *de facto* sovereignty in relation to geopolitical anomalies, claiming that '[w]hilst *de jure* sovereignty can be examined at the level of state interactions and through legal discourses, *de facto* sovereignty is articulated at the scale of the everyday, the mundane and the undramatic' (p. 764). In a clear departure from any classical realist considerations, McConnell even speaks of 'overlapping sovereignties', implying that the boundaries between the *de facto* sovereignty of the geopolitical anomaly and that of the legal state might be very difficult to discern, and that the expression of the former may not coincide with a demise of the latter (McConnell, 2009b, 349; see also Grundy-Warr & Wong, 2002, 98). Territorial borders between *de jure* states and geopolitical anomalies might range from impermeable to fluid, and the authorities of either polity may be juxtaposed in a multifaceted spectrum of power and subjectivities.

Sidaway (2003) attempts to refer to this in proposing 'multiform sovereign visions without an original pure sovereign reference point' (p. 160), and several examples of such visions can be found. Aihwa Ong (1999) introduces a notion of 'graduated sovereignty' to discuss 'a series of zones that are subjected to different kinds of governmentality and that vary in terms of... disciplinary and civilising regimes' (p. 7). Cassidy (1998) argues that a geopolitical anomaly's *de facto* sovereignty can be 'concurrent' with that of another political organisation or entity (pp. 99-119). And Bruyneel's (2007) exposure of the 'third space of sovereignty' opens up possibilities for placing geopolitical anomalies neither fully inside nor outside the *de facto* sovereignty of a *de jure* state, but precisely on the very boundaries between different *de facto* sovereignties (pp. 217-230).

To repeat, however, there are a few problems with such assumptions about *de facto* sovereignty. First of all, while we may think of power structures coexisting, overlapping, integrating, or otherwise blurring boundaries between them, it is the nature of *de facto* sovereignty to actually make those boundaries clearly visible. *De facto* sovereignty can never coincide with other *de facto* sovereign entities, as it is their respective fundamental purpose to draw the distinction between each other.

Secondly, as McConnell observes how the relationships between *de jure* states and geopolitical anomalies are characterised by overlapping and multiform sovereignty arrangements, she familiarly appears to speak of *de facto* and *de jure* notions of sovereignty as if they were identical. *De facto* sovereignty and *de jure* sovereignty may not be mutually exclusive, but *de facto* sovereignties themselves certainly are. Finally, critical theorists might again be correct in assuming that international political processes are only partially characterised by manifestations of *de facto* sovereignty, but that does not mean that all power relations – perhaps implicit or without a pure centre – can be qualified as *de facto* sovereignty. An expression of *de facto* sovereignty always remains an expression in a final instance, openly declared and explicitly acknowledged.

Geopolitical Anomalies as Zones of Indistinction?

As such, another thinker on *de facto* sovereignty, Giorgio Agamben, actually attempted to take into consideration both the *de facto* sovereign exception and people's daily lived experiences, utilising both Foucauldian and Schmittian ideas to inform new theories about biopower and the role of the exception in finding and analysing sovereignty. Following Schmitt, Agamben argues that it is the requisite of *de facto* sovereignty to ultimately decide on the exclusion of certain groups and individuals from the political community. And in line with Foucault, Agamben finds that this

sovereign power of exclusion leads to an inseparable connection between power and human bodies, between *de facto* sovereignty and people's lives.

To elaborate, Agamben in fact sees a distinction between two different forms of life. As both concepts originate from Ancient Greek language, *zoe*, on the one hand, signifies the simple fact of living that is shared by all beings, while *bios* denotes a specific way of life of an individual or group. For Agamben, *zoe* should be interpreted as 'bare life' outside of any political-legal structure, while *bios* should be perceived as politically qualified life. The operation of *de facto* sovereignty relies on permanently distinguishing between these two modes of living (Seri, 2004, 83). As Agamben puts it himself, 'bare life has the peculiar privilege of being that whose exclusion founds the [*polis*]' (Agamben, 1998, 12).

It should be noted, as Derrida (2009) lucidly points out, that this distinction between *zoe* and *bios* appears to miss the contention that any human being is political 'by nature' (p. 315), and that thus there seemingly does not exist a difference between the two terms. Indeed, '[t]he specific... attribute of man's living, in his life as a living being, in his bare life... is to be political' (Derrida, 2009, 330). Because of this, Agamben's *zoe/bios* conceptualisation is perhaps better understood as a differentiation between *legally* qualified and unqualified life; as a distinction between life inside and outside the law.

Agamben, indeed, proceeds on Schmitt's ideas about the distinction between "inside" and "outside" as the prime foundation for *de facto* sovereignty and politics. In contrast to Schmitt, however, Agamben does not speak of an exclusion in a true friend/enemy sense, as an individual or group that exists only and completely external to the polity's territorial boundaries, and that therefore embodies a clear "foe" that has to be kept at bay at all times. Instead, Agamben's *de facto* sovereign excludes people from formal and legal politics while they remain internal to society and economy (Hansen & Stepputat, 2005, 17). Agamben, in fact, speaks of an 'inclusive exclusion', even contrasting his earlier statement by arguing that 'the *inclusion* of bare life in the political realm constitutes the original – if concealed – nucleus of sovereign power' (Agamben, 1998, 11-12; my emphasis).

Agamben, therefore, comes up with the concept of *homo sacer*: 'an obscure figure of archaic Roman law, in which human life is included in the juridical order... solely in the form of its exclusion' (p. 12). *Homo sacer* denotes a "sacred" (or rather "cursed") man who is expelled from the political community, and therefore may be killed yet simultaneously not sacrificed in favour of the divine. *De facto* sovereignty, then, constitutes itself as it excludes bare life from its *de jure* component precisely by including it in its political realm (Edkins & Pin-Fat, 2004, 7; Hansen & Stepputat, 2005, 17). It produces bare and sacred life (Edkins & Pin-Fat, 2004, 4), while conversely, in doing so 'the production of a biopolitical body [*bios*] is the original activity of sovereign power' (Agamben, 1998, 11). In order to create a community of political individuals, a *de facto* sovereign authority has to exist that can decide which human beings are not members of the legal framework of that community.

As Agamben contends, however, the problem is that 'life exposed to death... is the originary political element' without which *de facto* sovereignty cannot exist (Agamben, 1998, 55). Bare life, as 'life amenable to the sway of sovereignty', is required for *de facto* sovereignty's own self-production as an entity being transcendent to its subjects (Dillon, 2004, 57). *De facto* sovereignty 'needs bodies and bare life to manifest itself' (Hansen & Stepputat, 2005, 31). As such, to demonstrate *de facto* sovereignty bare life has to remain included in politics in the form of a *de jure* exclusion. The *de facto* sovereign has to create a 'state of exception' occupied by *homo sacer*, where the differences

between order and exceptionality become invisible (Agamben, 1998, 12-13). In his words, '[n]either political *bios* nor natural *zoe*, sacred life is the zone of indistinction in which *zoe* and *bios* constitute each other' (p. 56).

Instead of a binary spatial arrangement of exception versus norm, inclusion versus exclusion, Agamben's zones of exception (*ergo* zones of indistinction) exist within the polity (Seri, 2004, 80-84). For Agamben, the boundaries – territorial and conceptual – between zones of legal normality and of non-legal exceptionality become fuzzy or destabilised (p. 84), resembling a 'Möbius strip... where exterior and interior in-determine each other' (Agamben, 2000, 25). To put it in different terms, the zone of exception/indistinction 'is a hybrid of law and fact in which the two terms have become indistinguishable' (Agamben, 1998, 97).

It may seem, therefore, that Agamben's notions can function as useful analogies to identify geopolitical anomalies as 'polymorphous yet vital' and 'permanent' zones of indistinction (Hansen & Stepputat, 2005, 18). As the international legal order tries to create an international community and produce "proper" life in the interstate system, we might simultaneously consider geopolitical anomalies as spaces of exception leading a displaced and disenfranchised life. As international law is seen as an ideal realm of governance, order, and discipline, geopolitical anomalies are perceived as undisciplined and plebeian spaces. They become bare life that transforms into *homo sacer* in a zone of indistinction. They are legally unqualified life that nonetheless has entered the international political system (Molloy, 2004, 130).

However, such an analogy would imply that the geopolitical anomaly's "broken-from" state, or international law itself, is in fact a *de facto* sovereign entity; a supreme authority that purposefully decides to exclude geopolitical anomalies from legal state sovereignty. On the contrary, In keeping with Diken and Laustsen's (2005) suggestion that a geopolitical anomaly 'signifies a... community that offers a paradoxical ideal of belonging on the basis of not belonging, a community, in which undoing the social bond functions as the social bond' (p. 147), some geopolitical anomalies might be better conceived as *de facto* sovereign polities creating a political community by excluding themselves from domestic and international law. Assuming that different political entities rather than international law exercise *de facto* sovereignty, geopolitical anomalies that possess that *de facto* sovereign capacity cannot truly be conceived as zones of indistinction. They decide on their own exclusion from formal state law through a classical realist manifestation of *de facto* sovereignty.

On the one hand, then, certain geopolitical anomalies might represent a classical realist intensification of a *de facto* sovereign decision on the law, exposing a *de jure* state's lack of effective control. By becoming an exception to *de jure* state while becoming a member of international political society, such geopolitical anomalies muddle the lines between what constitutes *zoe* and *bios* in international politics. Rather than only and always arguing that the lines between these two concepts should be drawn elsewhere – that their polity should be included in the international legal order – they also contest the international community's capability to draw those lines in the first place (Edkins & Pin-Fat, 2004, 13-15). In other words, such geopolitical anomalies contest the idea that a global legal community could possess *de facto* sovereignty in any form, utilising their own *de facto* sovereignty to establish themselves as the 'excluded remainder of the social edifice' (Husanovic, 2004, 224). They expose an international legal and formal state deficit of *de facto* sovereignty precisely by accepting and embracing their regularity as international legal "bare life" (Edkins & Pin-Fat, 2004, 16-17; see also Chapter Four on Somaliland).

Alternatively, other geopolitical anomalies might be seen as suspensions of the decisional moment on the exception, as ‘frozen conflict[s]’ made possible by the reluctance or incapability of both geopolitical anomaly and *de jure* state to make a *de facto* sovereign decision (Elden, 2007, 827; see Chapter Five). For all geopolitical anomalies, their life excluded from the international legal community is certainly not a powerless life, as their predicament might be sustained either by their own *de facto* sovereign decision on being the formal state’s (and international) legal exclusion, or by their own power manifestations in the context of another *de facto* sovereign attempting to transform the exception into order. However, while in these latter geopolitical anomalies the exception and the rule – the state of nature and the state of law – might appear to pass in and out of one another according to the operation of their own power simultaneous to the *de facto* sovereignty of the formal state (Dillon, 2004, 56), in those situations *de facto* sovereignty retains its function as a clear classical realist threshold between law and non-law; it is then merely the position of *de facto* sovereignty that is in contention.

For McConnell (2009b), nonetheless, the diverse and everyday power practices of geopolitical anomalies still signify *de facto* sovereignty. In her view, geopolitical anomalies still daily function as the primary source of authority over a population and engage in a variety of formal state-like practices. Again, she argues, unlike other types of institutionalised organisations (transnational companies, social movements, or NGOs) that also carry a significant degree of influence and authority in international relations, geopolitical anomalies are *de facto* sovereign polities as they form a population’s most revered governmental entity and attempt (and frequently succeed) to live not just outside but simultaneously also inside the international legal state system (p. 350).

More accurately, however, whether geopolitical anomalies do possess *de facto* sovereignty is a question that will be more thoroughly investigated in the upcoming chapters, but if so, that is neither because they “look like *de jure* states” nor because they may occupy different but coinciding spheres of power within a political community. Indeed, whereas Agnew (2009) argues that in international politics ‘*de facto* sovereignty is all there is when power is seen as circulating and available rather than locked into a single centralised site’ (p. 7), he seemingly does not see the paradoxical nature of such a statement. Power, certainly, may be plural and polyvalent, but *de facto* sovereignty remains a specific exercise of ultimate capacity in moments of exception. The following examples aim toward an illustration of this distinction.

Chapter Four

Somalia and Somaliland: *De Facto* Sovereignty and Westphalian Myths

Compare it to Somalia, and Somaliland is paradise.

(Human Rights Watch's Christopher Albin-Lackey; Foreign Policy Magazine, 2009)

The country of Somalia, straddling the eastern and northern parts of the Horn of Africa, has over the last few decades built up an image as perhaps Africa's most dysfunctional state. As a place marred by piracy, famine, warring tribes, and Islamic extremism, Somalia has become a symbol of state failure, whereby formal state institutions have lost effective sovereignty over their nominal territory; Somalia has indeed been mentioned earlier in this thesis as the 'archetypal failed or collapsed state' (Elden, 2009, 99). In line with this image, Somalia has become of great concern for many prominent members of the international community. Navy deployments in the Arabian Sea and the Gulf of Aden, several humanitarian and military intervention missions, and a large quantity of foreign NGOs, are all examples of international involvement in Somalia. However, in spite of this seemingly overwhelming international dedication towards Somali peace-building and state-building, none of them has so far appeared to instigate any sustainable solution to the many problems of the region.

Simultaneously, as Somalia has reverted into formal state weakness, a geopolitical anomaly has emerged that has proved to be relatively successful in performing state-like functions. Somaliland, the north-western part of Somalia, has over the last twenty years managed to hold multiple democratic elections, to build a comparatively functional government, and to preserve a situation of general peace and stability. It has tried to obtain full independence and legal recognition as a sovereign state, but has remained unsuccessful so far, even though it is a seemingly well-faring region. Many arguments about the effectiveness of its *de facto* sovereignty have been forwarded in favour of its recognition, but as yet to no avail. Somaliland, as such, actually seems to be a quintessential *de facto* state.

As this situation carries on, it should expectantly become more and more obvious that Somalia's presumed failure, coincidental with Somaliland's success, can no longer be ignored. It appears increasingly impossible to overlook the irony of Somaliland's lack of recognition in a country that seemingly continues to be incapable of devising centralised legal state institutions, and that cannot demonstrate any semblance of *de facto* sovereignty as a *de jure* state. This chapter, indeed, initially focuses on this tension between Somalia and Somaliland to demonstrate that both of them challenge conventional notions about statehood and sovereignty. More specifically, as this thesis has already briefly discussed some of the problems and limitations of new notions of contingent sovereignty, state failure, and the RtoP (Chapter Two), Somaliland's manifestations as a geopolitical anomaly can be utilised to exemplify and illustrate these issues.

However, this chapter offers neither strategic advice on what to do with Somalia, nor a true call for legal recognition of Somaliland. Rather, it utilises it as an example of *de facto* sovereignty emerging out of an otherwise chaotic environment. I argue that through its exertions of *de facto* sovereignty, Somaliland challenges Westphalian myths that might exist about Somalia. More importantly, perhaps, while such Westphalian ideals remain omnipresent and important in

Somaliland itself, it is its *de facto* sovereignty over north-Western Somalia that makes it a viable and sustained political community or geopolitical anomaly.

In this chapter, thus, I will mainly focus on circumstances and developments in Somaliland itself, investigating the extent to which Somaliland decides on its own exception regardless of any international legal status. Consequently, the question has to be raised whether Somaliland actually truly needs *de jure* sovereignty, and moreover, whether its non-legal status may in fact be helpful in maintaining *de facto* sovereignty. Somaliland may actually be so “paradisiacal” *in lieu* of any meaningful or sustained external interference or juridical status, remaining a largely untouched political community devising its own *de facto* sovereignty arrangements. Before I come to these issues, however, I will first place the recent developments in Somalia and Somaliland in a historical context.

Somalia: A Unitary State?

The “nation” of Somalis (see Ahmed, 1995; Brons, 2001, 31) is dispersed over regions in Somalia, Kenya, Ethiopia, and Djibouti, a result of the fact that it was divided by British, Italian, French, and Ethiopian colonial empires. On June 26th 1960, the former colony of British Somaliland became independent, and was followed on July 1st by Italian Somaliland; under direction from the UN, they combined into the Republic of Somalia. This merger was initially greeted with a strong pan-Somali nationalism and a great domestic enthusiasm about the end of the colonial powers (Lewis, 2002, 161-165; Samatar, 2005, 91), yet it was not without its problems. First of all, it is very questionable whether the Somali nation ever constituted a unitary state population. Other than most decolonised countries, the idea of a Somali state took root only at the end of – instead of during – the colonial period (Clarke & Gosende, 2003, 132-133). As Coyne (2006) puts it, ‘no meta-game around a central Somali state has ever evolved endogenously’ (p. 347), and Kaplan (2008) adds that ‘Somalia embodies one of postcolonial Africa’s worst mismatches between conventional state structures and indigenous institutions’ (p. 144).

Traditional Somali culture, then, is generally more nomadically than sedentarily grounded, and is dominated by pastoralist communities and clan lineages (Le Sage, 2005, 15). Ioan Lewis, who became the foremost writer on Somali society after British decolonisation, labeled the Somali socio-political structure as ‘a pastoral democracy’ (Lewis, 1961), and found that ‘[f]ew societies can so conspicuously lack those judicial, administrative and political procedures which lie at the heart of the western conception of government’ (p. 1). Lewis portrayed Somali pastoral society as ‘acephalous’ (Evans-Pritchard, 1940, 181) – as profoundly egalitarian without any hierarchy of political or administrative entities (Bradbury, 2008, 15; Renders, 2012, 40). Somali politics and society were organised along lines of kinship, which formed the most important basis for people’s identity (Bradbury, 2008, 13). Lewis’s works, however, have been subjected to some notable criticism for presenting Somali politics and society as essentially untouched or even “improved” by colonial rule (Kapteijns & Farah, 2001); this is an issue that I will come back to at the end of this chapter.

These criticisms notwithstanding, it has been conceded that the amalgamation of the former colonies into a single formal state did unsettle the clan-based and kinship-based Somali political structure (Bradbury, 2008, 32-33). For example, the *Isaaq* clan had dominated politics in the British dependency, but when this former colony was joined with its southern counterpart the influence of the *Isaaq* was diluted by the other major clans elsewhere in the new republic (e.g. *Dir*, *Darod*, *Hawiye*, *Rahanweyn*) (Cornwell, 2004, 2; Srebrnik, 2004, 212). Furthermore, while the Italian officials

had tried to establish a 'full fledged colony' with formal political administrations (Hoyle, 2000, 80), British authorities had insisted on leaving Somaliland relatively "undisturbed" and recognised some of Somalia's basic juridical and social arrangements as more informal foundations for the colony's political framework (*diya*-paying groups, *heer*, *guurti*) (Le Sage, 2005, 16-17; Lewis, 2008, 30; Renders, 2012, 41-43). The colonial experiences of the two regions had thus been very different (Reno, 2006, 154-155).

So, from the outset, the new Republic of Somalia was characterised by internal problems, as combining the divergent legal systems (British common law, Italian continental law, Islamic *Shari'a* law, and Somali customary law) proved very challenging (Le Sage, 2005, 18). Overall, no serious consideration had been made about the appropriateness of a western-style centralised state in conjunction with a highly decentralised traditional Somali political structure: '[t]his was an entirely Euro-centric exercise' (Lewis, 2008, 34). The new unitary state government seemingly merely created 'another layer in the... clan-oriented arrangements' (Brons, 2001, 164) and became seen predominantly as a tool for obtaining benefits for the clan. Politics in Somalia thus became more and more fragmented by tribal alliances, leading to constant fragility and eventually a military coup in 1969 (Kaplan, 2008, 146, Le Sage, 2005, 19; Renders, 2012, 46-47).

The oppressive "pan-Somalist" regime of Siyyad Barre that followed did very little to alleviate the tensions in Somali society, as his attempts to unify the Somali nation in a single state eventually failed (e.g. the *Ogaden War* against Ethiopia in 1977-1978, a state ideology of "scientific socialism", and political formal state centralisation) (Clarke & Gosende, 2003, 134-139; Cornwell, 2004, 2-3). As Barre allocated key political and military positions particularly to members of his own clan (*Darod*), several groups began to feel increasingly marginalised, and in the 1980s some resistance movements started to take up arms against the Mogadishu regime. In response, Barre manipulated clans against each other to withhold his power, but his actions only resulted in the further disintegration of Somalia (Coyne, 2006, 348; Kaplan, 2008, 146; Le Sage, 19-21). For instance, in the 1980s Barre mobilised different tribes against the *Isaaq*-dominated Somali National Movement (SNM) in the north-west and launched offensives against *Isaaq* villages and civilians, drawing even more *Isaaqs* into the rebellion. Barre's 'savagely' offensives (e.g. bombing of Hargeysa and Bur'o in 1988) against the SNM left tens of thousands civilian casualties and forced many more into displacement (Bradbury, 2008, 45-46).

By the time Barre was deposed in 1991, international engagement with his regime had largely dissipated and Somalia had already reverted into a patchwork of clans, leading to atrocious reciprocal violence and the collapse of the Somali state (Bradbury, 2008, 41-45; Samatar, 2005, 94). In other words, the Somali state under Siyyad Barre had already "failed" to secure an order within its territory before it actually "collapsed" (Brons, 2001, 33-34). It remains subject to discussion whether the Somali societal structure of clanship inescapably obstructed (and obstructs) any attempt to form a centralised legal state framework, as it supposedly makes Somali society 'pervasively bellicose' (Lewis, 1998, 100), or whether, conversely, the Somali kinship-based political system was (and perhaps remains) corrupted by externally imposed (post)colonial state centralisation (Besteman, 1998; Renders, 2012, 33-34; Samatar, 1988). What should be noted already, however, is that the numerous (sub-)clans constituting the SNM in north-west Somalia appeared to succeed in overcoming any of these clan rivalries, declaring the Republic of Somaliland on May 18th 1991.

Somalia: Building Blocks or State Ideals?

Around that same time, as the end of the Cold War necessitated a scholarly reconceptualisation of the nature and outlook of global society, certain new ideas emerged about state sovereignty and its relation to international politics. This thesis has already raised issues with the recent international (legal) norms emanating from the idea of contingent sovereignty, such as the failed state discourse and the RtoP-doctrine (see Chapter Two). This latter notion has not explicitly been applied by the UN or individual governments in the context of Somalia – the country’s long-lasting internal conflicts and state weaknesses are, for ICISS co-chair Gareth Evans, ‘not a classic [RtoP] situation’ (Lee, 2009) – but many important elements of this new perspective on state sovereignty can be traced back to the international response to the crisis in Somalia in the early 1990s (Bellamy, 2010, 155). To be sure, in the last twenty-five years Somalia has been one of the most prominent examples of countries whose legal sovereignty was breached under the pretext of it not fulfilling the benchmarks for *de jure* state sovereignty.

At the start of the 1990s, ‘Somalia’s importance [came] to be measured by the misery of its people’ (Clarke & Gosende, 2003, 139). The images of starvation, destruction, and decay in Somalia led to calls for a greater international role in the country, and in April 1992 the United Nations Mission in Somalia (UNOSOM I) was created to provide humanitarian aid and oversee a cease-fire. When this did not succeed, a US-led Unified Task Force (UNITAF) was deployed in December 1992, later supported by a second UN Mission (UNOSOM II) until spring 1995. In 2006, a U.S.-backed intervention by the Intergovernmental Authority on Development (IGAD) sought to assist the Somali Transitional Federal Government (TFG), established at a Nairobi conference in 2004, against a collective of Islamist groups who had seized control over large parts of the country. This intervention was transformed in 2007 into the AMISOM peacekeeping force under the auspices of the African Union (AU), which to this day remains in effect. Finally, since 2013, the United Nations Assistance Mission in Somalia (UNSOM) attempts to aid the Federal Government of Somalia (FGS) in peace- and state-building exercises.

However, these series of external interventions in Somalia, well-intended as they may have been, regrettably confirm many of the problematic issues connected to the notions of contingent sovereignty. Questions, first of all, have revolved around the nature and scope of these interventions, and how successful they have been and will be in mitigating tensions in a “collapsed” state like Somalia. More fundamentally, in Somalia such interventions have been motivated ‘more by strategic concerns than by humanitarian concerns’ (Bellamy, 2010, 157). Somali legal sovereignty, and the international dismissal thereof, has been contingent not on an objective and universal higher sovereign authority or norm to which it is accountable (international law), but on the subjective political and ideological considerations of certain specific powerful *de jure* states (Acharya, 2007). In Somalia, the “failure” of the state has been compared to a certain legal state (Westphalian) ideal. The state has been abstracted from particular socio-political processes and is instead articulated in terms that are portrayed as universal (Coyne, 2006, 356-357). Interventions in Somalia, as such, have been mainly based on rather subjective (“Western”) views on political formation – views held by the more powerful actors and forces in international politics.

All in all, since the early-1990s seventeen foreign-led attempts have been made to reconcile the Somali state (Walls, 2009a, 372). All of these interventions have (hitherto) been unsuccessful for a great variety of reasons (Bradbury, 2008, 47-49; Clarke & Gosende, 2003, 148-155; Lewis, 2008, 77-85), but what seems to stand out is the fact that throughout these twenty-five years of

intervention maintaining the formal Somali state within the boundaries of decolonisation has ostensibly remained sacrosanct. For example, UN Resolution 2102 that established UNSOM again reaffirmed 'its respect for the sovereignty, territorial integrity, political independence and unity of Somalia' (UNSC, 2013), as to this day a central government within Somalia as a federal but singular state is pursued.

From the late 1990s onwards, admittedly, a so-called "building block approach" to state-building in Somalia was adopted, promoting 'a decentralised state consisting of regions that have extensive power' and suggesting that 'Somalia should be federalised and that peace must be created locally before it can be achieved centrally' (Hansen, 2003, 60). This "building block approach" would accommodate the fact that all around Somalia rudimentary governance structures and "grassroots" systems of order had already been established (Cornwell, 2004, 5), and anticipated that Somalia's faction leaders could be called upon to create clan-based administrations eventually evolving into the organic federal components of the reunified Somali republic (Bryden, 1999, 135-140).

Problematically, however, as the "building block approach" seems to have anchored the future of Somalia in a federalist vision (FGS), its adherents still appear to desire a single state within the territorial boundaries of Somalia. Additionally, one maintains a view of Somali governance as an externally imposed and "top-down" generated power-sharing arrangement between different "blocks" in a single government (Le Sage, 2005, 24). As the International Crisis Group (ICG) (2011) has argued, local ownership of governing processes has remained largely obstructed, and the international community has continued 'its emphasis on restoring a European-style centralised state based in Mogadishu' instead of 'a much more decentralised system in which most power and resources are devolved to local administrations' (p. 25). Furthermore, the international actors involved in the "building block" peace process have themselves been in competition with one another to see their own interests fulfilled (Menkhaus, 2007, 364), which has led to Somali actors perceiving this process as 'a forum for political struggle rather than reconciliation and compromise' (ICG, 2004, 12). The "building block approach" has in practice actually enabled certain tribal warlords to exploit its rhetoric and arrangements by gaining additional funds and power (Hansen, 2003, 60), as they proved very adept at manipulating the international intervention efforts to their own benefit (Cornwell, 2004, 4).

Menkhaus (2004), therefore, notes that 'it is... the process of state building which appears consistently to exacerbate instability and armed conflict' (p. 18), or as Coyne (2006) puts it:

one can make a strong argument that attempts by foreign governments to revitalise a central state since 1991 have only served to increase the level of armed conflict... While the aims of foreign powers to bring a central state to Somalia may be noble, these interventions have had the perverse outcome of inducing greater conflict and instability (p. 350).

Indeed, although Somalia's legal sovereignty has been deemed as contingent, the unitary legal state itself has not been. Somalia has been described as 'a mere geographical expression, a black hole into which a failed polity has fallen' (Rotberg, 2003b, 9), apparently dismissing other scholars who have observed Somalia's many local authorities administering a degree of law and order. Many of such scholars have described 'a system of governance within anarchy' (Menkhaus, 1998, 222), endogenous networks and mechanisms of law-making and welfare provision (Coyne, 2006, 351-355;

Le Sage, 2005, 23-24), and a relatively flourishing informal economy (Little, 2003). Rotberg himself (2003b), actually, uses Somalia and Somaliland as an example of how sub-state actors can take over the position and activities of the former state after it has collapsed (p. 10).

The collapse of Somalia, thus, might be better understood as a ‘culmination point’ in the struggle for political authority between different social forces – the point at which *de facto* sovereignty is decided and decisive – and thus not as the *ending* but merely as an exceptional *moment* in the *continuous process* of exercising *de facto* sovereignty (Raeymaekers, 2005, 6-7).

As such, even more than the plethora of local political networks and informal frameworks of power in Somalia, the oxymoronic nature of the concept of contingent sovereignty seems most lucidly exemplified by Somaliland. While Somalia has experienced more than a dozen interventions in the past twenty-five years, all of which have failed to construct a unitary formal Somali state, the geopolitical anomaly of Somaliland is not legally recognised as a *de jure* state by the international community even though its *de facto* sovereignty is relatively effective. Moreover, it has established that political structure through local clan-based and low-cost peace initiatives rather than external interference. On the one hand, this latter assertion suggests that Somaliland has created its own manifestations of *de facto* sovereignty independently from any *de jure* sovereign (Westphalian) ideals or statuses; this geopolitical anomaly has decided on its own exception. On the other hand, the “grassroots” and apparently “peaceful” foundations of the creation of Somaliland seem to indicate that order and stability were actually established in this geopolitical anomaly without a true *de facto* sovereign decision. It is to this question of *de facto* sovereignty in Somaliland, therefore, that this chapter now turns its focus.

Somaliland: Hybrid State or *De Facto* Sovereign?

As mentioned before, the Republic of Somaliland was proclaimed in 1991 at a Somali National Movement conference in the town of Bur’o, after Siyyad Barre had fled Mogadishu and Somalia had *de facto* ceased to exist as a unitary state. It would be a misconception, however, to view the SNM as a traditional separatist movement that was established from the outset with the sole purpose of seceding from a *de jure* state. In reality, the SNM came into being as a diaspora movement, founded in Saudi-Arabia and London by *Isaaq* intellectuals in the late 1970s and early 1980s. Notably, it was never the intention of the SNM founders to establish their own independent state, or even to create a solely *Isaaq* movement. Rather, it aimed to dispose of the Barre regime in Mogadishu and subsequently retain the Somali union as a single *de jure* state (Bradbury, 2008, 60-61).

Simultaneously, certain *Isaaq* professionals in Hargeysa (north-western Somalia’s main city) had set up some informal social welfare institutions and local protest groups to remedy some of the grievances brought about by the Barre regime. Initially, these groups and the SNM stayed largely unconnected, yet throughout the 1980s the SNM became increasingly dependent on the local *Isaaq* clan elders in north-western Somalia, particularly to provide it with contacts, materials, and legitimacy on the ground. These clan elders were at first merely given certain advisory roles in the SNM, but soon proved themselves indispensable for local logistical and political support. In fact, the clan elders seemed to have much more control over the armed militias in the region than the SNM itself (Renders, 2012, 60-75). While throughout the 1980s the SNM launched a series of guerrilla attacks on government installations in the north-west, as a rebel movement it remained relatively weak (Balthasar & Grzybowski, 2012, 150).

Following Barre's bombing of Hargeysa and Bur'ó in 1988, more and more *Isaaq* aligned with the SNM's military and strategic causes, and the SNM consequently turned into a broader popular movement (Balthasar & Grzybowski, 2012, 150; Srebrik, 2004, 218; Walls, 2009a, 377). At the same time, however, Barre's attacks left the SNM even more dispersed and weakened, and thus made them even more reliant on local communities and clan elders. Effectively, the SNM could no longer be seen as an integrated guerrilla force, but had instead split up into multiple clan-based units dependent on clan elders. The SNM thus became considered as 'the *Isaaq* people up in arms' (Prunier, 1990, 109), but thereby also transformed into little more than a symbolic referent for altogether quite independent guerrilla troops, who did not depend on the SNM but on the clan elders. As some former SNM officers have asserted:

everything we had – men, vehicles, clothes, food, money – everything came from the clans
(Dr. Aden Abokor, as cited in Richards, 2015, 6).

[T]he SNM never had control over the *Isaaq* clans. It was the *Isaaq* clans who made up the SNM. It was them who gave SNM young men [and] guns (Abdulkadir Girde, as cited in Renders, 2012, 80).

Gradually, the SNM became just one component within a popular uprising that was led by the clan elders, and by the time Barre's centralised Somalia eventually collapsed in 1991, the SNM was left to its own devices in the north-west of the country 'under the *de facto* control of the *Isaaq* elders' (pp. 79-80).

Claims made by Srebrik (2004), therefore, about the SNM receiving 'widespread support from the *Isaaq* population for its demand for greater northern autonomy' (p. 214), do not completely hold ground. Instead, it seems that the role of the SNM in expelling Barre's central government forces from north-western Somalia should not be overstated. Whereas Bradbury (2008) argues that 'the restoration of stability in Somaliland owes much to the existence of the SNM and the history of its struggle against the Siyyad Barre regime' (pp. 60-61), and Richards (2015) finds that '[t]hroughout its existence, the SNM maintained that the clan system was a building block of government in Somalia' (p. 5), it actually seems that the *Isaaq* (sub-)clans and its elders were the ones to win the war in the north-west, thus *forcing* the SNM to align themselves with *them*.

The SNM itself, actually, had made no provisions to establish an independent Somaliland administration after the war with Barre was won (Compagnon, 1998, 77). As a result, when Barre was finally defeated and the political future of the north-west had to be envisioned, the decision to proclaim the Somaliland Republic was not so much made by the SNM itself, but rather coerced upon them by the clan elders representing the SNM's "rank-and-file" and the new state's local populations (Höhne, 2011, 312). As such, the question arises on what grounds the clans and their leaders made a claim to independent *statehood*, and more importantly, why this claim even turned out to be successful.

De Facto Sovereignty and Hybridity

Given the SNM's weakness, the guerrillas warring against Barre's regime in north-western Somalia had become very clan-based. After Somalia's collapse, consequently, the political landscape in the north-west could be characterised by clan institutions and roaming clan militias led by the clan

elders. Surprisingly, however, this did not instantaneously lead to violent and substantial clan feuds after Barre's rule had been overthrown. Again, while Drysdale (2000) notes that the SNM saw clan institutions as useful, necessary and stabilising elements in a new government (p. 160), it in fact seems that it was largely through the efforts of the local clan elders themselves that a degree of peace between *Isaaq* clans (e.g. *Habar Yunis*, *Habar Ja'lo*) and non-*Isaaq* clans (e.g. *Gadabursi*, *Dhulbahante*, *Warsengeli*) was secured (Lewis, 2008, 75; Renders, 2012, 82-85; Walls, 2009a, 377-379). As such, with regard to the issue of *de facto* sovereignty in north-western Somalia at the beginning of the 1990s, it seems that individual clan elders were the ones capable of both excluding central government Somali forces from the region, and establishing order in their communities. As Höhne (2011) observes, 'Somaliland was not "born" as a... *de facto* state' (p. 310).

The SNM Conference in Bur'ó in May 1991, then, was actually not initiated with a secessionist agenda in mind (Bradbury, 2008, 80). However, among the peoples and clans of the north-west, a strong sentiment existed against "the south" and in favour of separatism. As the conference was in session, major demonstrations in northern Somali towns ensued, and under increasing public pressure the Bur'ó meeting promptly declared independence, claiming the boundaries of former British Somaliland. Altogether, this decision appeared mostly to reflect a pragmatic desire among Somaliland's population for peace and reconstruction after protracted warfare (Lewis, 2008, 75; Renders, 2012, 91-92). Höhne (2011) argues that 'secession was essentially a security measure. It created political distance from collapsing southern Somalia and provided people in the northwest with some political orientation and the incentive to halt the escalation of violence in the region' (p. 313). It seems, as such, that the idea of independent statehood was not only founded on a certain historical precedent, but also on a deep-seated fatigue for inter-clan strife. As discussed above, however, independence was actually gained by the clans and their elders, and not at all through peaceful means; *de facto* sovereignty did not seem to exist at any centralised state level.

Yet, the clan elders in Somaliland were not simply the remnants of a pre-colonial past. These elders had played a major role in the war of independence, and some of them were thus closely connected to the SNM leadership. In 1989 already, the position of the clan elders in the SNM had been formalised through the establishment of an integrated clan council (*guurti*). What is more, the clan elders had become products of many decades of state-clan interactions, which made it easier for them to move beyond their pastoral contexts. They had become quite used to shifting between clan-based and state-based politics, and even though they did not rise towards effective leadership in the new state, they were indispensable in conceptualising and controlling it (Renders, 2012, 88-91; Richards, 2015, 9-11). Renders (2012) paints an insightful picture:

What ensued... was a very particular political space... in which state-based and clan-based discourses and modes of action coexisted and interacted... [T]hey had coexisted and interacted since the introduction of the concept of a state in Somalia. What had changed was that now the clan elders were on top of the game (p. 91).

As SNM Chairman Abdirahman Tuur was appointed at Bur'ó as the first Somaliland president, he appeared to immediately realise that the real power in the new country, as well as his chances for political survival, lay with the Somaliland *guurti*. Bradbury (2008) again reiterates his conviction that '[i]n 1991 the SNM was the only organisation in Somaliland with sufficient authority

to establish law and order' (p. 83), but he himself seems to immediately realise his conflation of legal authority and effective capacity (pp. 85-87). Although Tuur attempted to bring all of the former clan militias under his control, he never succeeded in these efforts of implementing certain elements of state centralisation, which actually invoked a period of military conflicts between several *Isaaq* sub-clans. By the time these conflicts had come to some degree of resolution, the SNM had basically withered away, as Tuur had deliberately severed his ties to the movement, and the clan elders proved once more capable of consolidating their positions of power (Renders, 2012, 92-99). Again, while assertions have been made suggesting that the SNM 'consented' for the clan elders to reconcile between the fighting militias, framing it as a deliberate SNM 'policy of peaceful coexistence' (Bradbury, 2010, 125-126), others contend that it was the Somaliland *guurti* leading the peace process(es) following the inter-clan strife (Bradbury, Abokor & Yusuf, 2003, 459; Walls, 2009a, 381-384). These clan-led peace initiatives culminated in 'the watershed of peacemaking and political development in Somaliland' (Renders, 2012, 100): the 1993 Borama Conference.

At Borama, the SNM was officially disbanded and all of its powers transferred upon the *guurti*. As a result, the clan elders' role in militia demobilisation and peacekeeping in the country was formalised, institutionalising their position in Somaliland governance. A Transitional Charter was devised that proposed the *guurti* as the highest governing body in the state (Upper House), with a lower House of Representatives, a President, and a Council of Ministers forming the other governing components (Bradbury, Abokor & Yusuf, 2003, 460-461). The elders at Borama elected Mohammed Ibrahim Egal as the new Somaliland president, which appeared to be a rather surprising move. Egal had been one of the architects of the Somali union in 1960, had then aligned himself with the Barre regime, and had denounced Somaliland independence. On the other hand, Egal had been prime minister of Somaliland in its five-day long spell of decolonised statehood in 1960, and was an experienced and well-respected statesman rather than some obscure guerrilla leader. In addition, by choosing Egal the *guurti* sidelined ex-SNM figures vying for top positions in government, while non-*Isaaq* members of the *guurti* saw him as a "politician" rather than an *Isaaq* clan leader (Renders, 2012, 100-104).

Although, ironically, Egal would eventually marginalise the *guurti* as a force to be reckoned with in Somaliland politics, for the time being the central state government remained relatively powerless. Borama, as such, has been credited with establishing the image of Somaliland's synergy of decentralised and centralised statehood (Bradbury, 2008, 97-100; Höhne, 2011, 314; Renders, 2012, 115-117). It ostensibly epitomised the "hybridity" of Somaliland's political order, signifying the amalgamation of "traditional" and "indigenous" forms of governance with "modern" and "state-centric" modes; in recent years this hybridity has been championed by many (Balthasar, 2015; Höhne, 2013; Renders, 2012; Richards, 2015; Walls & Kibble, 2010).

It would be a misunderstanding, however, to equate this notion of hybridity with the absence of a *de facto* sovereign, or to present it as an example of disaggregated (Foucauldian) power relationships. Instead, Somaliland's hybridity as a geopolitical anomaly seems more accurately understood as a political space in which on multiple critical occasions decisions were made and order was restored, while simultaneously adhering to quite a strong "Westphalian" ideal for the new country. For instance, if we want to hail the SNM as a contributor to Somaliland gaining independence, it might be not so much in its actual material role in the people's struggle, but perhaps more so as a provider of a normative framework symbolising peaceful clan coexistence and centralised statehood (Lewis, 2008, 94; Bradbury, 2008, 72; see also Samatar, 1997). Even if

effectively such central statehood remained mostly an ideal in the early years of Somaliland's existence, state-based discourses in Somaliland did not disappear.

Still, in those days it was the "traditional" power structures maintained by the clan elders 'that rose up during times of crisis', thereby consolidating their formal role in Somaliland government (Richards, 2015, 12). As former government minister Mohamed Said Gees confirms, '[t]he guurti was the seed... that the current administration was built on. Because of them, we have rule of law, order and a social system. They were absolutely necessary for statebuilding' (as cited in Richards, 2015, 11). Or, in other words:

Remarkably, Somaliland's national heroes, the ones who are remembered as having defeated Siyyad Barre and birthed the nation, are not the guerrilla fighters or the political cadres of the Somali National Movement. Somaliland's national heroes are by general consensus the clan elders (Renders, 2012, 87).

In spite of Somaliland's hybridity as a polity, thus, the *de facto* sovereign capacity to decide on the exception(s) never "dissolved" or "perished" from the region; it merely resided with individual clan elders who became increasingly drawn into a central governing structure. However, after Egal's ascendance into the presidency that situation changed, as he gradually managed to become the single most powerful figure in Somaliland politics. Notably, from a *de facto* sovereignty perspective, that was perhaps also a necessary consequence of the incorporation of the clan elders into a central *guurti*, which assumingly required a powerful figure creating stability between clan elements at the state level. Indeed, the post-Borama period saw its share of conflict between different (sub-)clan militias, from which Egal emerged as the new *de facto* sovereign entity of Somaliland.

A New De Facto Sovereign

Immediately after his presidential installation at the Borama conference, Egal began to try and demobilise the remaining clan militias and integrate them into a Somaliland National Army. Furthermore, he saw the expansion of government control over public infrastructure (such as roads, airport, and ports) as crucial for the sustainability of central state control over Somaliland. In order to achieve these aspirations, Egal managed to garner a significant amount of funding through his connections with certain wealthy businessmen abroad, most of which belonged to Egal's *Habar Awal* sub-clan. With this financial assistance from his own clan, Egal succeeded in mustering support from a considerable number of other clan elders, and in creating a nationalised Somaliland army (Bradbury, 2008, 112-114; Lewis, 2008, 95-96). That army would prove useful very soon, as in early 1994 it managed to defeat a small armed group refusing Egal's claim of central state ownership over Hargeysa airport. That conflict, however, turned out to be a mere prelude to a broader inter-clan strife, with elements from the *Habar Yunis* and *'Idagalle* (sub-)clans clashing with government forces and *Habar Ja'lo* fighters (Höhne, 2011, 314-316; Renders, 2012, 126-135).

Instead of weakening Egal, however, the mid-nineties conflict in Somaliland turned out to only strengthen his central government (Bradbury, 2008, 121). The leadership of the military units opposing Egal was very unclear, as they themselves were divided on whether to merely depose Egal or to incorporate Somaliland in a re-unified Somalia. Most importantly, however, the crisis in the country gave Egal the opportunity to invoke a state of emergency, enabling him to replace certain clan elders in the *guurti* with local government officials. Furthermore, the ongoing conflict at Bur'o

helped Egal to convince the *guurti* to prolong his presidential mandate until peace had been secured. Utilising the increased financial, political, and military resources at his disposal, Egal managed to form a governing coalition of clans and subordinate the “clan factor” in Somaliland politics (p. 124). Although he had gathered these resources mainly through connections with his own clan, he deliberately included other clan networks in his state structure. As a result, whereas the war seemed mostly fought along clan lines, most Somalilanders increasingly appeared to perceive these conflicts as “political” instead of clan-based struggles – a perception that was happily perpetuated by Egal. He propagated a sentiment of “Somaliland nationalism” and increasingly vilified “anti-Somaliland” external forces like UNOSOM II and Puntland (Renders, 2012, 138-151); I will return to these two factors later on in this chapter.

At the conclusion of the conflict, Egal had succeeded in placing himself at the centre of peace processes and state consolidation. Steering any attempt at peace-making away from clan-based initiatives, peace and stability were established very much according to Egal’s terms. The Hargeysa Conference that brought the peace processes to an end in 1997, therefore, was subjected to fierce criticisms for ostensibly dismissing the clans, yet it simultaneously signified a shift of the (*de facto* sovereign) capacity to sustain order from these individual clan leaders onto a centralised governing structure (Bradbury, Abokor & Yusuf, 2003, 461-462).

Unlike the Borama conference, “Hargeysa” was paid for by the central government, which was also heavily involved in choosing conference delegates. Also, the *guurti* had by now become a component of the government, instead of the institution that defined and controlled it. Egal, thus, was able to manipulate the conference in his favour, and was re-elected as president without any difficulty (Renders, 2012, 154-156). As Bradbury (2008) concludes:

[i]n many respects Egal’s first term in office had been a failure... Nevertheless, despite the social and physical damage caused by the civil war, this period ended, by and large, with a stronger government and a more integrated country than had existed in 1993... The agreements reached at the 1997 Hargeysa conference ushered in six years of uninterrupted stability (p. 127).

After Hargeysa, Egal started to try and build local government administrations and institutions as a way to expand and strengthen state control. In doing so, however, he still very much relied on local clan elders who already had a prominent role in upholding local stability and security. In some sense, thus, the hybrid political order of Somaliland remained and resembled some form of ‘mediated statehood’ (Menkhaus, 2008), as the everyday maintenance of public order was laid in the hands of local clan elders and customary law (*xeer*).

On the other hand, although those clan-facilitated peace and security arrangements seemed to largely function without central government interference, they were initiated on a rather ad hoc basis (Renders, 2012, 159-161). Moreover, in some sense the outsourcing of security maintenance merely worked to mask the transition of *de facto* political control from the clan leaders to the central government, as the latter still retained the capacity ‘to intervene in cases when political stakes were high’ (Renders & Terlinden, 2010, 734).

Furthermore, by that same time the Somaliland economy had really begun to flourish, and along with more centralised means to accrue tax revenue and (minimal) international aid, Egal's opportunities for gathering resources to build his government had enhanced significantly (Höhne, 2011, 318-319). According to Le Sage, 'Egal...was able to run the Somaliland government as a combined mechanism for profit, patronage, and protection racketeering' (as cited in Renders, 2012, 156). Egal could now simply buy allegiance from clan elders and political opponents. Masterfully manipulating the clan factor in Somaliland politics – dividing government positions equally among different clans while regularly reshuffling these positions so that no ministerial department could become dominated by a single clan – Egal demonstrated that *he* was the one regulating access into central state institutions.

This prerogative was further enhanced by the Hargeysa Conference's proposal for a new constitution, which would replace the clan-based system of representation with a multi-party democratic system. The clans and their leaders had been pivotal in the early stages of Somaliland's political development, but now more and more they had lost their legitimacy as the political actors capable of developing Somaliland any further (pp. 156-159). As Ahmed Silanyo argues, 'in the end... one needs a modern government and a modern state: the use of traditional structures was only justified in terms of the reactivation and the revival of the modern structures that existed before state collapse' (as cited in Renders, 2012, 158).

Indeed, the people in Somaliland were purposefully demanding centralised statehood, seemingly convinced that a "modern" government would be better capable of providing welfare services and security than "traditional" clan-based modes of politics (Renders, 2012, 154). Again, thus, certain state ideals remained quite prominent in Somaliland's political mindset, yet Egal's capacity to repeatedly restore order when conflict erupted, and to increasingly centralise political power within a state structure, shows us that the *de facto* sovereign decision on the exception remained the most important foundation for the existence and sustainability of Somaliland as a state-like entity.

Somaliland's first local democratic elections in February 2002 were preceded by increasing political tensions between Egal's supporters and his opposition, yet the election itself successfully took place without any noteworthy incidents. More significantly, when Egal eventually passed away just a few months after the elections, Somaliland's political landscape remained remarkably quiet and orderly (Bradbury, 2008, 131-136; Renders, 2012, 198-223). Egal's successor, Dahir Riyale Kahin, seemed to be able to just pick up where Egal had left off. The *de facto* sovereign in Somaliland had been replaced, but apparently *de facto* sovereignty itself remained firmly positioned in the polity's centralised governing body.

In the post-Egal decade, Somaliland has appeared to have held on to its *de facto* sovereignty as a geopolitical anomaly. After the 2002 local elections and Kahin's inauguration as president, Somaliland proceeded on its path to more democratisation and institutional maturation. The multi-party democracy and the new constitution replaced clan-based political mechanisms (at least juridically) and the 2002 elections formed the official entry-point for three new political parties: the *UDUB* party founded by Egal and his government, *Kulmiye* led by opposition leader Mohammed Silanyo, and the *UCID* party of Faysal Waraabe. Since then, these parties have competed in two presidential elections (2003, 2010), a parliamentary election (2005), and another local election (2012), each of which has seen its level of preceding tensions and unrest followed by surprisingly peaceful and orderly election days and power transitions.

The two presidential elections are particularly remarkable in this respect. In 2003, election result margins were incredibly narrow, leading to widespread confusion around who – Kahin or Silanyo – had won the election. However, in spite of this potentially destabilising uncertainty, protests against the election outcome remained relatively small. On the one hand, Silanyo himself reiterated the general population’s – and his own – desire to “keep the peace”, while the Kahin government invoked emergency laws to prevent such an outbreak of public disorder (Bradbury, 2008, 194-195; Renders, 2012, 245-248). For some, furthermore, ‘the lack of public protest... reflect[ed] the limited power of political entrepreneurs to mobilise the public’ (Bradbury, Abokor & Yusuf, 2003, 469-471), again implying that power in Somaliland had become increasingly centralised in a single *de facto* sovereign body (politic). Clan-based mechanisms to regulate struggles for political power did not disappear fully, but the multi-party system did unsettle the clan-factor in Somaliland politics, ironically making Somaliland a more ‘closed political system’ (Renders, 2012, 255).

The 2010 presidential election was repeatedly postponed due to civil and institutional unrest and misgivings over the fairness and openness of the to-be-held election (Walls, 2009b; Walls & Kibble, 2011a), with some characterising Somaliland politics as a ‘largely “securocratic” or semi-authoritarian model’ (Kibble & Walls, 2012, 41). When the election did eventually take place, however, the resulting presidential transition from Kahin to Silanyo proceeded with surprisingly little effort (Renders, 2012, 258; Walls & Healy, 2010).

Somaliland: Centralised or Decentralised?

For Walls (2009b), ‘the Somali tradition of dialogue and consensus-building’ remains the fundamental reason behind the peaceful resolution of crises such as these (p. 2). I argue, however, that Somaliland’s oft-heralded normative foundations of peaceful clan cooperation and involvement more seemingly remain fragile and reliant on a *de facto* sovereign ability to intervene in moments of crisis and conflict. As Walls and Kibble (2010) find, ‘customary clan-based structures have generally proven to be a stabilising influence’, yet ‘tensions between state, clans, territory and nation... may still undermine that stability’ (p. 52).

Given the relatively young age of Somaliland’s political parties, for example, it remains tempting to perceive them in some sense merely as ‘clan turfs’ exacerbating ‘the fissions and fragmenting nature of the kinship system’ (Fadal, 2012, 46). Certainly, earlier elections in particular generally witnessed voting along clan lines, and political parties remained almost indistinguishable except on personal and clan differences (Bradbury, Abokor & Yusuf, 2003, 468). Additionally, local elections in 2012 actually exposed rather intransigent clan tensions underlying political disputes. After these most recent elections, particularly in Somaliland’s fringe regions, ‘events... arguably show a shift from the usual mix of politics and kinship towards a situation that is increasingly taking the form of a primarily inter-clan standoff’ (Kibble & Walls, 2013, 30). In introducing and sustaining a multi-party democratic system, thus, it may appear that Somaliland has moved beyond being an *Isaaq* “ethnocracy” (Srebrnik, 2004, 219), but inter-clan and intra-*Isaaq* relations, as well as interplays between clanship and central governance, remain tense.

For instance, through his study towards certain members of Somaliland’s returning diaspora population, Hansen (2013) exposes the ambivalence towards “traditional” and so-called “modern” elements in Somaliland’s social and political system. According to him, this group of returnees, who have lived in Western-Europe and North-America for many decades and are relatively well-educated, is trying to impose a Westphalian ideal upon Somaliland’s social and political framework

through a critique of the usage of *khat*, a mild stimulant consumed daily by most of Somaliland's men. These returnees point to the widespread consumption of *khat* as an indicator of the shortcomings of traditional clan structures and processes, arguing that 'educated people like themselves, rather than uneducated clan leaders, should govern Somaliland, as what is needed in the political and developmental process is precisely what they embody – knowledge of and experience from Western democracies' (p. 144).

Richards (2015) actually does not regard such tensions between "tradition" and "modernity" in Somaliland as destabilising, but rather as a 'flexible and responsive state-building process', arguing that in situations of political crisis the traditional and non-state elements of Somaliland's political structure can 'fill the gaps when the government is weak, absent, or vulnerable' (p. 16). Some thinkers, indeed, maintain that Somaliland's central state institutions are relatively fragile, allowing civil society, traditional actors, and informal structures of governance to capture a large and very visible role in people's everyday lives (Bradbury, 2008, 172-173; Walls & Kibble, 2011b, 343). Others reiterate such a stance, arguing that a lack of central governmental resources has reduced incentives for clan leaders to try and forcefully challenge central state power (Harris & Foresti, 2011, 17). In such lines of thinking, 'the notion of a Somaliland state appears to be rooted in the popular consciousness, rather than imposed from above', making Somaliland's political order more representative and enhancing its popular legitimacy (Bradbury, Abokor & Yusuf, 2003, 475).

At the same time, however, multiple discrepancies seem to remain between norms, ideals, and practices of (Westphalian) statehood, and those around clan traditions of coexistence and peacefulness. Höhne (2013), in fact, characterises Somaliland as 'a "crippled" hybrid order that advances neither effective democracy nor strong traditional governance' (p. 213). As such, Renders (2012) asks whether perhaps 'Somaliland's hybridity has... turned the wrong way', as the clan element has remained part of Somaliland politics but now merely serves 'the interests of an increasingly narrow political... elite' (p. 264).

On the one hand, the argument goes that the institutionalisation of clans and their elders into central governing bodies (*beel* system) has impeded the establishment of an inclusive and fully representative democracy, and makes that central government too amenable to "clanism" (Hashi, 2005, 2; Kaplan, 2008, 151). Hersi (2012) contends that the 'politicisation of the *guurti*' through its transformation from a 'traditional house' into a central government institution 'has compromised [its] legitimacy... and authority... in society'. He even calls, therefore, for a dismantling or restriction of the *guurti*'s power(s) in order to again 'foster traditional, inclusive clan representation' (p. 117). However, he thereby overlooks the fact that the *guurti* was already exactly set up with that purpose before its incorporation into a (*de facto* sovereign) central state structure. Clan elders were in fact the initial drivers of democracy in Somaliland, but are now considered to be largely powerless and ineffectual outside the context of central state politics.

It seems, as such, that *de facto* sovereignty in Somaliland cannot be concealed behind notions of either traditional egalitarian clan-based customs and politics, or so-called "modern" Westphalian state discourses. Instead, the fact that neither democracy nor local and informal clan arrangements are considered to be particularly strong more convincingly suggests the existence of a *de facto* sovereign entity. Alternatively, the two different political frameworks – "modern" and "traditional" – that supposedly converge into a hybrid political order can more accurately be characterised as power imbalances:

The case of Somaliland... illustrates that the traditional system based on local communities and customary law and the state system based on democratic principles and statutory law merge at best for the sake of convenience on a temporary basis. While such blending of systems of authority may in fact lead to an increase in legitimacy of the hybrid political order for some time, such orders never are in balance for long. Usually one side takes the lead to the detriment of the other (Höhne, 2013, 213).

Hersi's argument for a return to a 'separation of modernity and tradition' (Hersi, 2012, 117), then, may actually merely imply a re-instigation of conflict over who exercises *de facto* sovereignty over Somaliland. Indeed, 'it is entirely possible that creation of hybrid institutional orders may lead to competition rather than cooperation', which can only be remedied by '[a] common grounding' (a *de facto* sovereign) that is capable of avoiding and resolving conflicts between 'different realms of authority and decision making' (Harris & Foresti, 2011, 8).

That is not to say, notably, that it is this chapter's aim to legitimise any authoritarian or oppressive elements of Somaliland's *de facto* sovereignty. Somaliland is not paradise, and many actors have raised legitimate issues about Somaliland's human rights record (Albin-Lackey, 2009; Yusuf & Bradbury, 2012). Up until the introduction of the multi-party system, for instance, women had basically been excluded from political participation (Renders, 2012, 157), and gender equality and women's empowerment remains a pressing issue for Somaliland's socio-political environment (Jama 2012). Bryden (2003), furthermore, observes that ordinary Somalilanders are 'hostages to peace' (p. 363), implying that the Somaliland population might be 'less likely to challenge questionable practices of the government for fear of destabilising a hard-won peace' (Harris & Foresti, 2011, 18). As Albin-Lackey (2009) confirms:

there are... severe limits to public willingness to openly challenge government actions for fear of threatening Somaliland's hard-won peace and stability or damaging its chances of international recognition. The president and his party have successfully exploited this widespread aversion to direct confrontation to occupy a space well past the legal limits of their power but short of what would trigger real public anger (p. 4).

Others, however, argue that this is 'the flipside of a coin which on the other hand also helped forward a process which has led to prolonged stability' (Walls, 2011). To be sure, perhaps justified criticisms on 'the presidency's consistent and brazen refusal to abide by the rule of law' (Albin-Lackey, 2009, 3), or potentially correct observations that the legal and constitutional constraints to presidential power 'are frequently swept aside and ignored' (p. 4), also have to come to terms with the fact that those critiques simultaneously portray the *de facto* sovereign capacity both to decide what constitutes an exceptional situation and how to restore (the *de facto* sovereign's) normality.

Certainly, any "bad behaviour" by Somaliland's central government might end up compromising its own *de facto* sovereignty, as it might lead to internal challenges to, and potentially the removal of, its *de facto* sovereignty. It remains not only imprudent, but more importantly, counter-effective for the Silanyo administration to mistreat, neglect, or oppress its citizens. So far, however, it seems that that point of crisis has been avoided or decided upon by the *de facto* sovereign entity that is Somaliland. Harris and Foresti (2011) even suggest that Somaliland's *de facto* sovereignty has actually enhanced its capacity to provide key public goods to its population (p. 10).

The central government's tendencies 'to sacrifice civil liberties in the name of security' (Kaplan, 2008, 151) may certainly be lamentable, but that security is also often praised as one of Somaliland's assets. Walls and Kibble (2010) ascribe that stability to Somaliland's "unique" fusion of kinship and "modern" statehood, but above paragraphs have already indicated that such a hybrid order cannot truly replace unitary *de facto* sovereign power.

Instead, Balthasar (2013) concludes that Somaliland is 'not solely established on "bottom-up" processes and "grassroots" democracy', but appears to be more shaped by "'top-down" policies and elitist power politics' (p. 231):

Somaliland's "best kept secret" lies less with the commonly emphasised processes of reconciliation and consensus-based governance driven by "traditional authorities" than with the shrewd politics and war projects that underpinned its state-making endeavour (p. 218).

While clan leaders and traditional authorities might play a role in Somaliland's security order, those local arrangements are only made possible as the central government's *de facto* sovereignty compels those actors 'to participate in a collaborative form of policing' (Balthasar & Grzybowski, 2012, 168). Furthermore, these "sub-state" actors may have been instrumental in clan disarmament and reconciliation, but have proved just as likely to mobilise (sub-)clans for conflict (pp. 166-167).

The (sub-)clans in Somaliland, then, may perhaps be capable of creating peace in their own communities, yet simultaneously remain reliant on a *de facto* sovereign decision at the centralised state level in occasions where these clans come into conflict with one another; Foucault's conceptualisation of governmentalities and its relationship to *de facto* sovereignty comes to mind here. Leonard and Samantar (2011), for instance, maintain that in Somaliland "social contracts" are negotiated between collectivities (clans), yet also concede that while these kinship groups might be effective at sustaining order *within* the clan, "social contracts" *between* them are nullified in extreme or conflictual circumstances. As such, these thinkers may be correct in contending that '[legal] [s]tatelessness does not automatically mean disorder', but fall in a familiar trap by confusing that absence of *de jure* sovereignty with a lack of *de facto* sovereignty. Peace in Somaliland is not in the first place derived from '[s]tructured interactions...through extended families' (p. 577), those interactions are shaped by Somaliland's *de facto* sovereign statehood.

For Höhne (2011), still, the most remarkable contributions to Somaliland's achievements as a geopolitical anomaly remain:

the countless, everyday practices and decisions of ordinary people who increasingly left their guns at home when tensions arose, tolerated power-hungry and corrupt leaders patiently, worked for slow but steady transitions of the system of government, endured economic hardship due to lack of resources and non-recognition, and relied on self-help and their relatives abroad rather than on help from the government or the international community (pp. 336-337).

Such norms and practices of toleration and peacefulness have undoubtedly aided Somaliland to become the extraordinary political enterprise that it is today. However, it seems that Somaliland's extraordinariness is not so much derived from those ideals and activities, but that these are instead derived from *de facto* sovereign decisions on the extraordinary.

Somaliland: *De Jure* Statehood or *De Facto* Statehood?

Naturally, the reasons and processes behind Somaliland's existence and development as a political entity remain very complex. While its *de facto* sovereign capacity has been most fundamental, there are various other conditions and circumstances that have played a part in Somaliland's relative stability and success (Bradbury, 2008, 90-95; Bradbury, Abokor & Yusuf, 2003, 462). Again, this chapter's subordination of norms of clan coexistence and "modern" statehood to *de facto* sovereignty, for example, should not be interpreted as an assumption that such norms are in themselves completely irrelevant for polity-building in Somaliland.

It should be noted, however, that Somaliland's *de facto* sovereignty and its self-established Westphalian ideal of stability-through-statehood also clash with one another. On the one hand, Höhne (2009) finds that 'the (partly deceptive) imitation and representation of contemporary standards of statehood and nationhood... strongly contributed to institution building in [Somaliland]', and that they 'play a role in the ongoing processes of identity formation and nation building' (p. 254). Here, it seems, norms of differentiation from (southern) Somalia, to not devolve into a similarly violent state of affairs but instead build a "modern" Westphalian state, have functioned as the friend/enemy distinction involved in the *de facto* sovereign creation of a political order. Yet, at the same time, Somaliland's *de facto* sovereignty does not appear universal; Bradbury (2008) asserts that by 2005 the Hargeysa government could confidently claim civil administration and control of 80 percent of the country, but that obviously also means that Somaliland's presumed *de facto* sovereignty does not extend over its entire claimed territory (pp. 231-232).

Hargeysa's relationship with Somaliland's eastern regions (Sool and Sanaag) has been very problematic, and these regions' integration into the central political order remains slow and unsteady. Whereas they are partly inhabited by *Isaaq* sub-clans, non-*Isaaq* clans (*Dhulbahante*, *Warsengeli*) also have a large presence. These clans may have managed to construct tentatively peaceful relationships between one another, but their connections to Somaliland's central political structure are very divergent. During Egal's presidency, the *Isaaq* clans in Sool and Sanaag were successfully integrated in Somaliland's government and army (Renders & Terlinden, 2010, 739-740), yet in those areas controlled by *Dhulbahante* and *Warsengeli* clans 'any claim to governance from Hargeysa was just nominal' (Renders, 2012, 179). The existence of Somaliland has been tacitly acknowledged (p. 105), and central "state" law in principle prevails over other local arrangements (p. 112), but *de facto* presence of the government in these regions seems no more than skeletal (p. 181). As a result, Sool and Sanaag are characterised by 'a failure to develop a meaningful degree of supra-clan governance', as the centralised state role in local inter-clan disputes is 'limited to the facilitation of ad hoc consensus building between the sub-clans' (Renders & Terlinden, 2010, 741).

To make things more complicated, as Somaliland's political control over its eastern fringe remains weak, those areas are now also claimed by bordering Puntland. Established in 1998, that political entity is, notably, not striving for independence, but for autonomy within a federal state of Somalia (Gaas, 2014). Höhne (2011), therefore, even contends that 'the conflict between the two administrations in the north is not about land or resources, but about political vision' (p. 329). Although Sool and Sanaag are spatially and politically peripheral to both Somaliland and Puntland, they are strategically important for both entities. For the former, the old colonial boundaries of British Somaliland remain a vital component of its legitimisation of independent statehood and *de jure* recognition, while the latter attempts to undermine these arguments by challenging those

boundaries (Renders, 2012, 194-195). The Puntland administration even went so far as to establish its own governors and security forces to work alongside Somaliland officials in Sool and Sanaag, as neither polity has gained political control over the regions (p. 185).

From time to time, Somaliland's border dispute with Puntland has turned violent, partly due to repeated international attempts at re-installing the Somali union, yet it has remained without any decisive result. Höhne (2007a) refers to the Sool/Sanaag/Puntland issue as a 'Gordian knot' – an 'intractable problem' that can only be 'solved by a bold stroke' – ostensibly implying that this dispute requires a *de facto* sovereign decision, but none has been made so far. Borderland communities have suffered from the continuous instability in the contested territories (Höhne 2011, 329), as Sool and Sanaag now ostensibly constitute 'a buffer zone between two entities, without clearly defined sovereignty' (Battera, 1999, 12). In a somewhat circular fashion, therefore, due to the weakness of Somaliland's *de facto* sovereignty in the east, the political status of those regions remains undecided, which leads to difficulty in building effective local political power structures tied to the central state (Renders & Terlinden, 2010, 741).

It seems, then, that the political manifestations of Somaliland have certainly benefited from strong Westphalian ideals, yet those ideals of universal *de facto* sovereignty over a clearly defined territory also weaken its claim to independent statehood. Somaliland partly grounds that claim in its former territorial arrangements as a British protectorate and its few days of full independence, yet abiding by such ideals may also hamper its endeavour towards *de jure* recognition. As Harris and Foresti (2011) state, 'insistence on the incorporation of the entirety of former British Somaliland has resulted in clear challenges for Somaliland's... institutions of governance' (p. 18). The situation in Sool and Sanaag remains a contentious issue in the broader discussion around Somaliland's potential graduation into *de jure* statehood. At the same time, however, it seems clear that Somaliland's troubled claim to universal *de facto* sovereignty over territory is certainly not unique (for instance, see Herbst, 2000), and that it therefore also serves as an example of the artificial nature of any *de jure* recognition of state territory. While the question of recognition of Somaliland perhaps remains impossible to ignore, Somaliland may also be seen as a challenge to the entire ideal and concept of international legal recognition.

Somaliland and De Jure Recognition

Almost no one trying to assess and analyse Somaliland is able to escape the issue of international legal recognition. As with so many other geopolitical anomalies, not only does it remain a pivotal issue for Somaliland's future, it also retains a great influence on its manifestations to this day. Arguments against its *de jure* independence sound familiar, such as a wish to sustain Somalia's territorial integrity, and a fear of opening a "Pandora's Box" of countless secessionist attempts in Africa and elsewhere (Hoyle, 2000, 85; Samatar & Samatar, 2005, 123). In addition, Bradbury (2008) asks whether Somaliland is sufficiently economically viable to meet all costs that "modern" well-functioning statehood would entail, or 'whether recognition of its independence would leave it eternally dependent on international largesse' (p. 253). As mentioned earlier, criticisms have also been made towards Somaliland's upholding of certain human rights (Freedom House, 2014; Human Rights Watch, 2012), while the Somaliland political system has been described as tainted by corruption (Bradbury, 2008, 239-240). Finally, Somaliland's colonial history and momentary encounter with *de jure* independence is not always seen as legitimate ground for its current claim to *de jure* statehood (Bryden, 2003, 342). Aside from such considerations, specific political

deliberations and pragmatic calculations by countries in both Somaliland's neighbourhood and further afield remain a general obstacle to *de jure* status (Arieff, 2008, 68).

However, among those writing about Somaliland, argumentation in favour of juridical recognition (or at least a discontent with the lack thereof) seems to be more omnipresent. Over the past decade, several news media have reported on Somaliland in positive terms (Gettleman 2007; Jeffrey 2015; Lacey 2006; McConnell & Mahon 2010), while Somaliland has been described as '[t]he little country that could' (Shinn, 2002) and as 'Africa's best kept secret' (Jhazbhay, 2003). Somaliland's relatively well-established democratic system, its economic resilience, and its comparative peace and stability are repeatedly brought up as efforts to be rewarded with *de jure* status (Bradbury, 2008, 3-8; Kaplan, 2008, 152; Srebrnik, 2004, 223-226). Even the African Union has apparently 'evaluated the case of Somaliland favourably' (Höhne, 2011, 335), asserting that the issue of Somaliland recognition is 'unique and self-justified in African political history' and that it therefore 'should not be linked to the notion of "opening a Pandora's Box"' (AU, 2005).

Also from a purely legalistic viewpoint, the idea of legal Somaliland statehood remains compelling for many. Already early on in its existence, Carroll and Rajagopal (1993) utilised an analysis of international, colonial, and Somali legal practices, principles, and arrangements to support their call for the *de jure* recognition of Somaliland. As suggested above, furthermore, Somaliland itself contests the *uti possidetis*-principle as a legal arrangement protecting Somalia's territorial integrity, arguing that the new country would be a mere continuation of the old colonial territorial divisions (Arieff, 2008, 68).

Additionally, Somaliland's claims to legal independence are bolstered by what Hoyle (2000) calls the 'human rights imperative', arguing that Barre's violence against the *Isaaq* in the late 1980s gives Somaliland a juridical right to statehood (p. 84). Moreover, in 'the most detailed legal analysis of Somaliland's claim for recognition' (Höhne, 2011, 335), Schoiswohl (2004) contends that a new political entity which emerges out of a collapsed state and proves a sufficient degree of continuous stability could, albeit in theory, acquire legal statehood recognition (pp. 48-58). For many in Somaliland, indeed, a "return" to Somalia seems no option (Bradbury, 2008, 253). Jhabzay (2003), therefore, indignantly asks whether 'emerging democracies [will] be supported, and allowed to breathe, or will the plug be pulled on the patient by neglect and diplomatic purgatory' (p. 81)?

Yet, statements such as these may also uncover certain problematic connotations of the whole discussion on *de jure* recognition of Somaliland – and *de jure* recognition in general. Qualifying Somaliland as a "patient" not only seemingly ignores the political attainments it has made, but more fundamentally, also seems to imply that Somaliland is reliant on a certain "caregiver". As, presumably, any relationship of care inherently signifies a relationship of power and subjectivity, questions can be raised about the connection of such power relationships to the issue of *de jure* recognition. Such questions would touch upon postmodern debates around post-colonialism, neo-imperialism, and the universality of Western liberal values – debates that this thesis has only implicitly addressed so far – in assessing the nature of legal recognition, geopolitical anomalies, and international law in general.

In the context of this chapter, for example, perhaps even those international (mainly Western) reports that speak enthusiastically about Somaliland's achievements and call for its legal independence should be consulted with certain trepidation, because Somaliland appears exactly testament to the fact that local, self-regulated, and indigenous attempts at constructing a political community without external involvement can work relatively well. In other words, while colonial

administrator Douglas Jardine (1925) described British Somaliland as the ‘Cinderella of the Empire’ (p. 100) – as an ugly duckling – the fact that it is now slowly being championed as a princess or a beautiful swan (as a great example of indigenous polity-building) might be considered as equally patronising and problematic.

Somaliland as a Geopolitical Anomaly?

Some arguments, then, in some sense circumvent the question of legal recognition as they try and inquire whether Somaliland might actually be better off without juridical statehood. Such arguments usually run as follows: Somaliland has managed to create a relatively functioning political entity, not so much despite the fact that throughout its existence it has largely had to fend for itself, but because of it. International legal recognition, therefore, would apparently actually have a negative impact on circumstances and processes both in Somaliland and in the wider region. Many Somalilanders themselves believe that the region’s success is due to the fact that the international community has barely been involved in its polity-building process; the advances that have been made are more sustainable because they are institutionally locally based. Such sentiments are mirrored by non-Somali thinkers, who find that Somaliland’s ‘own particular brand of democracy’ has carried the political entity a long way (Walls & Healy, 2010, 2).

Admittedly, *de jure* recognition would endow people in Somaliland with certain desirable rights and privileges, such as the right to travel freely and to engage in global politico-economic arrangements and processes more easily (Höhne, 2011, 335). Foreign investors are presently very reluctant to become involved in a supposedly “lawless” region without any international legal status, and Somaliland’s currency remains unaccepted abroad (Arieff, 2008, 63). Melik (2009) also speaks of ‘rich reserves of natural resources’ that can apparently only be exploited when Somaliland obtains legal recognition. Conversely, however, some predict that recognition may also lead to certain problems. It might be argued, for instance, that Somaliland’s peripheral conflicts with Puntland in the Sool and Sanaag areas have so far remained relatively calm because the ambiguous boundaries of today have not yet been solidified into fixed juridical state boundaries (Walls, 2011). Moreover, Reno (2006) analyses that throughout Somalia informal and non-state institutions have played the most important roles in constructing political authority. Such ‘marginal elites’ have historically been capable of settling disputes and protecting their communities, and thus carry very strong local legitimacy (pp. 172-173). He concludes, subsequently, that ‘where elites who adapt informal institutions... face competition from new institutions and outside resources, the risk of fragmentation is higher’ (p. 174).

Overall, certainly, the track record of international engagement with Somaliland can hardly be described as a success story. Lewis (2008) expresses his disdain for the numerous interventions that have taken place in Somalia, vilifying the incompatibilities of the Eurocentric organisations’ ‘many fruitless attempts to re-establish governance in Somalia’ with Somaliland’s local customs and modes of politics (p. x). As suggested earlier, those humanitarian interventions in Somalia (particularly UNOSOM II) are now mostly perceived as nothing less than disastrous, because ‘[s]tate-building in...Somalia had to happen on the terms of the international community’ (Renders, 2012, 117). As such, UNOSOM II, committed as it was to retaining the Somali union, did not provide any assistance or contribution to Somaliland’s demilitarisation campaign (Lewis, 2008, 93).

More remarkably, it seems that UNOSOM II actively and deliberately obstructed any attempt at forming a stable political community in Somaliland. It organised Somali-wide conferences simultaneous to peace conferences in Somaliland in Borama and Erigavo, persistently opposed any suggestion that Somaliland could be a political authority to cooperate with, and supported political figures in Somaliland who were against the idea of independence (Renders, 2012, 120-126). The argument could certainly be made that '[i]nstead of supporting peace processes on the ground, UNOSOM II... chose to interfere with them and to corrupt them where possible, in order to achieve its own vaguely defined political goals' (p. 126).

Furthermore, compared to the rest of Somalia, international assistance to Somaliland was, and remains, rather limited. At the start of his presidency, Egal did try and obtain foreign aid, yet given the lack of recognition of its independence very little was actually acquired (Renders, 2012, 118-119). Even though Egal's efforts at obtaining international development funding proved slightly more rewarding later on in his presidency, the UN Secretary General's report to the Security Council (UNSC, 1997) seemingly remained unable to distinguish between circumstances in Hargeysa and Mogadishu, or to regard Egal as anything other than yet another tribal faction leader (Renders, 2012, 168-169). Not only was (is) foreign aid seen as more necessary in war-torn south-Somalia (Bradbury, 2008, 92-93), Somaliland aid has also remained a mere component in wider-Somalia aid strategies, as these are 'handicapped by international conventions that privilege only "legitimate" states... and are highly ambivalent about how to work with "quasi-state" polities' (pp. 157-158).

As such, arguments have been made stating that Somaliland in fact benefited from being an "aid-free zone" (De Waal, 1997, 178), as the absence of significant international aid revenues has supposedly prevented the monopolisation of resources in single political figures or institutions (Harris & Foresti, 2011, 15-16). In addition, it is quite plausible that the UNOSOM II machinations (or lack thereof) juxtaposed to Somaliland's growth as an independent polity added to the legitimacy and stability of the Somaliland government and political frameworks (Renders, 2012, 153). Such convictions again emphasise the merit of indigeneity and locale in the creation and retention of peace and socio-political community. On the other hand, however, the absence of international legal recognition for Somaliland should not be conflated with a lack of international engagement. Somaliland itself, in fact, is a prime example of a political entity that is capable of doing without *de jure* recognition, but not without international linkages. While Somaliland is what it is with minimal external support, and has stayed rather immune to some of the tragic consequences of international aid and interventions in Somalia, it would remain a misconception to argue that therefore Somaliland should be "left alone" (Walls, 2011).

For one, not only was the SNM originally a diaspora movement, Somaliland also remains heavily dependent on diaspora remittances. These money flows (*hawala*) are indispensable for many families in Somaliland, and have contributed to infrastructure, schools, hospitals, universities, and many other forms of development (Höhne, 2011, 321; Lewis, 2008, 134; Yonis, 2013, 6). Furthermore, the mere fact that foreign aid revenues have been comparatively small does not mean that they had no role to play in Somaliland's social and political order. Also, it appears that 'Somaliland has achieved a high degree of *de facto* acceptance internationally' (Bradbury, 2008, 255), and is thus increasingly internationally seen as a *de facto* separate polity (Huliaras, 2002, 174). International institutions and players like the United Nations, the African Union, the Arab League, the European Union, European countries, the United States, and countries and organisations in the

Horn of Africa, all maintain unofficial bilateral or multilateral ties to the Somaliland government in the absence of legal recognition (Arieff, 2008, 68-74).

As such, the political project of Somaliland remains not an entirely indigenous endeavour independent of any external involvement. As Walls and Kibble (2011b) conclude, even the traditional elements of Somaliland politics continue to rely on external inputs from non-Somali and diasporic agents, countering the assumption that “Somali’s will succeed if only they are left to themselves” (p. 337).

Maybe, then, *de jure* recognition is not necessary for Somaliland to survive, as it (perhaps paradoxically) seems able to sustain *de facto* sovereignty “on its own” while simultaneously creating informal external linkages even without the perks that come with international legal standing. Legal statehood recognition could potentially be beneficial for the polity, but Somaliland has gotten this far without it. However, while such assertions might find a middle ground in the discussion on Somaliland’s recognition, they do not appear to address, let alone resolve, any of the earlier mentioned postmodern power structures and discourses that come with it.

De Facto Sovereignty and Colonised Somali Studies

Those viewpoints that commend Somaliland yet do not wish to see it legally recognised might still perpetuate the power dynamics involved in aid provision and governance-building. Promoting Somaliland as a candidate for foreign assistance in spite of a lack of *de jure* recognition, for instance, neither truly rebukes any critiques on the inherent dependency relationships that define such arrangements, nor really challenges the assumption that powerful international actors have a responsibility and an obligation to be involved in local affairs (Renders, 2012, 14). The case of Somalia is a textbook example of the state-building catastrophes that those assumptions may lead to, as historically contingent Western liberal ideals of what it means to be a “state” (have) become transformed into “one-size-fits-all” approaches and “silver bullets” for governance and statehood. Moreover, these strategies of aid and governing assistance have seemed less aimed at bettering the political community involved than at reproducing and reinforcing such Western liberal modes of politics. De Waal (1997) has labelled this as ‘philanthropic imperialism’ (p. 178), as Somalia’s governing capability was more disempowered than strengthened by external intervention and aid (Richards, 2015, 3-5).

Somaliland has generally managed to avoid such problems, and thinkers reiterating the superfluity of Somaliland’s *de jure* recognition often point to this fact to underline their argument. However, whereas those thinkers may progress from previous state-building narratives that see “the traditional” as an archaic and anachronistic remnant of pre-modernity, they may still co-opt “the indigenous” in governance-development theories to overcome the limitations of imported forms of politics (Höhne, 2007b; Ogbaharya, 2008). As Somaliland is now increasingly often suggested as a potential exemplar for bottom-up state-building, championing its indigeneity as proof against *de jure* recognition may equally risk reiterating the paradigm of Somaliland as a benchmark to be judged by external actors. Renders (2012) rightfully contends that (in Somaliland and elsewhere) the legitimacy and power of traditional institutions and practices is not a given, nor are they lifeless structures malleable at will (p. 24), but the issues related to this reconsideration of “traditionalism” run much deeper. Is there, for example, an overwhelming “whiteness” to the study of “traditional” societies like Somalia, and moreover, is labelling them as “traditional” therefore in itself problematic?

Such questions recently came to the fore in a rather heated online debate on the newly launched Somali Journal of African Studies (SJAS), which, surely remarkably, had no Somalis on its editorial and advisory boards. The discussion truly exploded, however, after Markus Höhne – who has been frequently referred to in this chapter – carelessly complained that:

I did not come across many younger Somalis who would qualify as serious scholars... because they seem not to value scholarship as such... I guess you would have to first find all the young Somalis who are willing to sit on their butt for 8 hours a day and read and write for months to get one piece of text out... But in my life, I met only very few diaspora Somalis who seriously pursued such a career (in social sciences) (Aidid, 2015a).

For many participating in the debate, Höhne's remarks truly reinforced those colonial tropes that portray Somali society as a mere 'backdrop for [European] intelligence and understanding' and as 'superstitious, irrational, unsophisticated, and unscientific' (Aidid, 2015b). While Höhne's argument was more elaborate than presented above, and he later redeemed himself slightly (Höhne, 2015), this internet altercation does uncover the question whether any "outsider" writing on the nature of Somali society – even positively – can truly escape colonial epistemologies that presume that knowledge can only be produced *for* or *about* Somalis, not *by* them (Mire, 2015). As Ioan Lewis himself was enabled to start his research on Somali society by funding from the British colonial administration, he exemplifies the fact that '[t]he production of cultural and historical information about Somalis was tied to the expansion of European power' (Aidid, 2015a); post-colonial discourses should be wary of not reproducing such power relationships.

Such arguments expose problems perhaps for the entire world of academia. This chapter, and this thesis as a whole, is certainly not isolated from such problems, although addressing them in depth is definitely beyond its scope. Nonetheless, the issue remains that even arguments finding that Somaliland need not be legally recognised on the basis that it would damage its indigeneity, should make sure to avoid the pitfalls of essentialising Somali society into a dehistoricised and decontextualised monolithic kinship system that is inherently incompatible with "modern" international politics (Aidid, 2015b). When it comes to the general discussion on *de jure* recognition, those contending that it would actually not be beneficial for Somaliland should not necessarily do so by discussing whether Somaliland's traditions and indigeneity might be tainted by recognition, but rather by pointing out the problem that any recognition apparently intrinsically occurs at the detriment of tradition and indigeneity.

As argued earlier, while the "international community" maintains an emphasis on "good governance" and democracy as prerequisites for *de jure* statehood, the inconsistent nature and application of such values, particularly in the context of Somalia and Somaliland, has been decried justifiably. Observing that Somaliland actually fulfils those benchmarks while Somalia does not, however, only brushes the surface of the issues related to juridical recognition.

More fundamentally, the example of Somaliland demonstrates that formal statehood recognition might be framed in legal terms to give it an "objective" and "universal" connotation, but that it seems more accurate to argue that recognition is actually dependent on very specific and subjective terms and contingent circumstances. As Anne Orford (2012b) observes, many international legal experts stick to their claim that modern international law has transcended its European heritage and operates today as a universal law capable of governing and protecting all

humanity (pp. 1-2). Yet, precisely in issues of conditional *de jure* sovereignty and legal recognition we find how international law is actually heavily embedded in international relationships of political power, and how, thus, colonialism may in fact be seen as ‘continuing, systematic, and ingrained in international law as we know it today’ (Gathii, 2000, 2020).

Regardless of such questions, aside from the particular political considerations of individual *de jure* states, recognition is dependent not just on whether a political community can demonstrate governance, but on it demonstrating a very specific type of governance. As Renders (2012) points out, ‘Somaliland [has] to demonstrate an *internationally acceptable* system of government’ (p. 198; my emphasis), and Bryden (2003) is convinced that ‘[a]s Somaliland edges ever closer to recognised statehood, its leaders would do well... to remember that they will ultimately be judged not merely on whether Somaliland becomes a state, but on the kind of state that Somaliland becomes’ (p. 364).

Somaliland, then, exemplifies that recognition could also be perceived as a principle denoting a power relationship between those that grant recognition and those that receive it. Statements such as the above not only imply that it is actually in “the recogniser’s” prerogative to make demands on the domestic political order that might emerge after recognition, but also assert that it has the capacity to do so.

That brings us back to the issue of *de facto* sovereignty, because the *de facto* sovereignty of Somaliland, in spite of its non-recognition, actually signifies that international law as a unitary global entity does *not* have that capacity. *De jure* recognition, instead, remains a political privilege for individual provider and receiver states, not a legal representation of universal norms and identical material circumstances. For geopolitical anomalies like Somaliland, that means on the one hand that they might try and adhere to certain norms presumed to be necessary for obtaining *de jure* sovereignty, but that they will have to come to terms with the shortcomings and potential futility of that adherence. On the other hand, however, it indicates that no norm, internationally or domestically, can be established or imposed without a *de facto* sovereign decision on it, meaning that certain values that are presumed to be universal are in fact contingent upon a *de facto* sovereign decision; sovereignty is not contingent upon legal criteria, but on power. Somaliland, therefore, is capable of repelling the international Westphalian adherence to Somalia’s juridical statehood, which will therefore, more than Somaliland, actually have to come to terms with the limitations of its *de jure* sovereignty ideals.

Hansen (2003), for example, observes that ‘Puntland and Somaliland are cited as examples that have benefitted from [the building block] strategy’ promoted by the “international community” in Somalia (p. 60), yet Somaliland in particular was actually just capable of deciding on its own exception/separation from the violence and disorder in the rest of Somalia. Norms of decentralisation in Somalia seemed to follow from *de facto* sovereign decisions, not the other way around. Conversely, a reunion with the rest of Somalia may be preferred by many international actors over *de jure* recognition for Somaliland, but that would not by itself remedy the incapacity of any central Somali government so far to implement their law and order over its north-west regions (Samatar & Samatar, 2005, 121-122). Regardless of any international norms on the kind of juridical arrangements that will emerge in Somalia, thus, Somaliland has already established its own order through its *de facto* sovereignty.

Walls's (2011) assertion that 'Somalis are very good at... managing ambiguity', then, may from one perspective imply that Somaliland's conflict with Somalia has not yet been decided. This is mainly a result, however, of uncertainties with regard to Somaliland's international legal status, not of a lack of *de facto* sovereignty. From another perspective, it may refer to those norms of peaceful clan cooperation and "traditional" governing practices that have been important factors in sustaining Somaliland's political order. Those norms, however, are in essence derived from its *de facto* sovereignty. Somaliland has actually decided on its own exception, demonstrating its *de facto* sovereign capacity to "manage ambiguities" of power in north-West Somalia. Whereas Leonard and Samantar (2011) maintain that Somaliland's 'bottom-up, organic, disjointed negotiation of indigenous governance... closely tracks the history of state formation in Europe' (p. 559), Balthasar (2013) more convincingly acknowledges that the creation of Somaliland, or any political entity, is based at least as much on violent conflict and autocratic leadership as it is on peaceful negotiations of power (p. 231). I will expand on this issue in the next chapter.

Chapter Five

The Democratic League of Kosovo: *De Facto* Sovereignty in a Parallel State?

We believe it is better to do nothing and stay alive than to be massacred.
(LDK leader Ibrahim Rugova in 1992, as cited in Vickers 1998, 264)

The Republic of Kosovo might be the best-known geopolitical anomaly in the world today. As it is the most recent, and probably final, entity declaring its *de jure* independence from the former Republic of Yugoslavia after a long period of resistance, and as it was the site of one of the most extensive NATO military operations in recent history, Kosovo has been the focus of attention in both academic and popular media for many years. It remains anomalous, however, due to its juridically undecided status: at the hour of writing this thesis, the Republic of Kosovo has not yet been legally recognised as an independent *de jure* state by 88 UN member countries – including both Russia and China. It has, thus, been “stuck in (legal) limbo” for quite some time, even though a large part of the international community has taken Kosovo more seriously than it has other political units striving for *de jure* statehood recognition (Caspersen, 2008). As Hehir (2010a) points out, ‘this small corner of Europe has served as something of a microcosm of broader international trends and also, in many respects, a guinea pig upon which new ideas and policies have been tested’ (p. 185).

As such, the Republic of Kosovo provides a wealth of issues that are also brought forth in this thesis. How does it presently function as a geopolitical anomaly, and how should its current international legal and political status be considered? How should we interpret the Western global powers’ (particularly NATO’s) willingness to intervene in 1999, and how can that intervention be considered in reference to notions of international law and geopolitical anomalies? And does the *de jure* recognition of Kosovo, by for instance the United Kingdom and the United States, set a precedent for legally recognising other geopolitical anomalies? These are all important questions, many of which will be addressed in the second of the two chapters on this example (Chapter Six). This chapter, however, aims its primary focus on another matter.

This research has so far tried to expose the importance of considering *de facto* sovereignty when looking at geopolitical anomalies. By focusing on Somalia and Somaliland, I have attempted to rebuke certain persistent ideals about *de jure* sovereignty, and promote the merits of considering manifestations of *de facto* sovereignty as indicators of material power. Furthermore, I have tried to argue that in spite of a diversity of local grassroots arrangements and traditional norms of peaceful coexistence, *de facto* sovereignty cannot be transformed into a pluralistic or “shared” exercise. While *de facto* sovereignty is not intrinsically juridical or formal – it is not necessarily fixed in a *de jure* state – it is always centralised in a single entity. Moreover, the previous chapter in fact suggested that the conflictual nature of the emergence of *de facto* sovereignty implies that any political community is ultimately founded upon a resolution of crisis through some form of violence. The coming into being of *de facto* sovereignty is always accompanied by a disruption, which can only be remedied by an even more disruptive intervention that restores order. Peacefulness and orderliness exist only after *de facto* sovereignty has been established.

Such assertions seem to argue that geopolitical anomalies are either created through violence, or do not possess *de facto* sovereignty. Indeed, these arguments raise questions about the role of violence and peace in the creation and maintenance of geopolitical anomalies. In order to investigate this issue, this chapter will focus on the Democratic League of Kosovo (*Lidhja Demokratike e Kosovës*, LDK) movement under the leadership of Ibrahim Rugova during the early 1990s. This political movement, coming to rise in former Yugoslavia at the end of the cold war, pushed for political independence of Kosovo Albanians in Yugoslavia and later Serbia, and even declared an independent republic of Kosovo in 1991. Crucially, it promoted non-violent strategies for reaching this independence. When Serbian president Slobodan Milošević juridically stripped Kosovo of its autonomy and instituted a series of discriminatory practices against the majority Albanian population in the area, the LDK installed a “parallel state”. Coexisting with the formal Serb-governed institutions, Rugova operated a pacifist administration organising most aspects of life for the Albanian majority in Kosovo.

By discussing this aspect of the Kosovo example, I hope to determine the extent to which geopolitical anomalies may exist as *de facto* sovereign political entities, even if they appear to establish their political community through peaceful means. Should we qualify the LDK’s parallel state as a *de facto* sovereign polity, or did it remain a mere “zone of indistinction” for the *de facto* sovereign Serbian government? Furthermore, the critical theoretical conflations of *de facto* sovereignty with “circulating power”, discussed in earlier in this thesis, will be worked through in reference to this example. As will be made clear, such conflations do not really make sense with regard to Kosovo’s parallel state, which remained a geopolitical anomaly that unequivocally lacked *de facto* sovereignty.

A Short History of Kosovo

The history of Kosovo, and of the Balkans in general, is often described in reference to its violence and bloodiness. Somehow, it seems very difficult to tell any story about the Balkans without mentioning its turbulent history and discussing how these old tales of conflict feed into the divisive nature of many contemporary issues. Debates remain, however, over whether the (repeated) eruptions of violence in this region can be attributed to ‘primitive Yugoslavs nursing ancient ethnic hatreds’, making them historically and culturally inevitable (Gagnon, 2004, xiv), or to the purposeful manipulations of norms of ethnicity and nationality by political leaders.

On the one hand, certainly, it cannot be denied that ethnic conflict has been widely apparent and very bloody in recent Balkan history. Ethnicity was never meaningless, the Balkans never was a multi-cultural paradise, and more importantly perhaps, ethnic, religious and linguistic differences in the region have been accentuated by its turbulent history. More specifically to Kosovo, the mythical position of the region in Serbian history and national (ethnic) identity – the 1389 defeat against the Ottoman Empire on *Kosovo Polje* is annually remembered in Serbia as the epitome of Serbian heroism and cradle for the Serbian nation – has served as a major catalyst for warfare in Kosovo.

Others, however, counter this view, arguing that trouble in the Balkans, and in Kosovo, did not arise due to a supposedly inevitable ethnic inclination towards mutual conflict. Rather, it came about through a specific configuration of political patterns and developments both within and outside the area (Gagnon, 2004, xiv-xxi; Hehir, 2010b, 4; Mertus, 1999, 5; Pavlakovic & Ramet, 2004,

77). According to this view, the overemphasis on an apparent “primordial strife” between different ethnic groups in the region has led to an ‘identity fetishism’, which in turn has led to a misrepresentation of the political processes and conditions that gave rise to these conflicts (Van Beek, 2001, 527-529).

Notably, both of these arguments have some resemblance to arguments made about *de facto* sovereignty. One of these perspectives, presenting the breakup of Yugoslavia and the war in Kosovo as an outcome of naturally and eternally conflictual ethnic identities, can be seen as an example of the Hobbesian state of nature in the absence of *de facto* sovereignty. The “political” rather than “ethnic/primordial” perspectives, on the other hand, feed into the proliferation of norms of identity and ethnicity by political actors in power – the *de facto* sovereign’s friend/enemy distinction.

Perhaps, therefore, something can be said for both these viewpoints; conflict is inevitable in any place without *de facto* sovereignty, and in the Balkans that conflict was politicised along specifically national and ethnic lines. When talking about current and historical animosities in Kosovo, however, this chapter will generally set aside this debate about the role of political struggles for power in Balkan identities and ethnicities. While this debate will be touched upon at several places in this chapter, it does not form its main component, nor is it to be discussed any further at this point. Instead, I will now proceed to first provide a concise historical overview of developments and events in the region before the emergence of Rugova’s LDK.

Kosovo, Yugoslavia, and Tito

The political dispute between Serbs and Albanians in Kosovo might be traced back at least as far as the late nineteenth century, when the 1878 Congress of Berlin established a border between the Ottoman Empire and independent Serbia. In the subsequent decades, mostly Muslim Albanians were expelled from Serbia proper into Kosovo, while many Orthodox Serbs fled from the region in the opposite direction. These mutual expulsions have been recognised as the first real emergence of an ethnic divide between Serbs and Albanians in Kosovo, and more importantly, as the first construction of a concrete political division. When in 1913 the new Albanian state was created without the geographical entity that is now Kosovo, an area that was populated by a majority of Albanians became part of the Kingdom of Serbia, thereby turning Kosovo effectively into a Serbian colony. Ethnic cleavages in Kosovo were solidified, exacerbated, and politicised more firmly (Duijzings, 2000, 7-8; Malcolm, 1998, xxix-xxxi; Muharremi, 2008, 405-406).

Kosovo had been (re)conquered from the Ottomans by Serbian, Montenegrin, and Greek forces a few months earlier (1912) (Malcolm, 1998, 251-252). For the Serbs, this victory constituted a liberation of the Serbian minority population in Kosovo from the “Turks”, yet the Albanians in the region most probably merely perceived it as the replacement of one colonial empire with another (p. xxx). Citizenship rights for Kosovar Albanians in the new Kingdom of Yugoslavia remained rather limited. Albanian-language schools were gradually prohibited and closed. Also, Serb colonisation and land confiscation projects in Albanian-inhabited settlements were initiated, and Albanian migration to Albania or Turkey was actively encouraged. Yugoslav officials simply denied that there existed an Albanian minority in (southern) Serbia, regarding these minorities simply as “Serbs who spoke Albanian” (Vickers, 1998, 103-120). As a result, the *interbellum* years were characterised by sporadic armed clashes between Kosovar Albanian resistance movements (*Xhemijet*, *Kaçaks*) and Yugoslav authorities – particularly the Serb Radical Party led by Nikola Pašić (Malcolm, 1998, 267-287).

After World War II, then, Kosovo was given a legal status as a separate entity for the first time, thereby becoming an “Autonomous Region” and “national minority/nationality” in the new Yugoslav Federal Republic. That juridical status, however, was still subordinate to that of the six republics that actually constituted the federation (Muharremi, 2008, 406). Kosovar Albanians had been (justifiably) perceived as Axis collaborators during the war, and their resistance against the reinstatement of Yugoslavia was crushed down hard under martial law. Now, the region was subject to the power of a new *de facto* sovereign, Josip Broz Tito, who was able to place Yugoslavia (and thus Kosovo) under a highly authoritarian and centralised regime (Pavlakovic & Ramet, 2004, 82; Vickers, 1998, 142-143).

Kosovo’s juridical status, therefore, was perhaps rather ‘artificial’, as ‘[p]ower in Yugoslavia had come out of the barrel of a gun – Tito’s own guns and those of his Soviet sponsor’ (Malcolm, 1998, 317). Kosovo’s autonomy ‘mostly remained on paper’, as local political institutions were controlled by Serb and Montenegrin officials (Kubo, 2010, 1137). Furthermore, Aleksandr Rankovic, as the head of the Yugoslav security forces, became a particularly important figure for Serb policies of oppression, harassment, and terrorisation of Kosovar Albanians in the 1950s and 1960s (Clark, 2000, 12; Judah, 2008, 51).

While the status of Kosovo was “promoted” in the new 1963 Yugoslav constitution from “region” to “autonomous province”, it was at the same time ‘constitutionally yoked closer to Serbia’ (Judah, 2008, 53). Malcolm (1998) contends that this constitution brought ‘the “autonomous” status of Kosovo... to its absolute nadir’, as it eliminated Kosovo from the Yugoslav federal level to make it ‘a mere function of the internal arrangements of the republic of Serbia’ (pp. 323-324). Rankovic’s fall from Tito’s grace in 1966, however, has been described as a turning point (Vickers, 1998, 163). His purge was in itself a component of a wider transformation in Tito’s thinking, in which the endeavour towards homogeneous “Yugoslavism” was gradually discarded in favour of strategies and policies allowing for more national self-direction (Malcolm, 1998, 324). For the Albanians in Kosovo, this meant that several concessions were made in their favour, such as an increased number of Albanian officials in local political bodies, the right to raise the Albanian flag, and the establishment of an Albanian language university in its capital Priština (Judah, 2008, 53; Kubo, 2010, 1137).

The 1970s, therefore, are perceived by many Kosovar Albanians as a ‘golden age’ for Serb-Albanian relations in Kosovo (Judah, 2008, 55). Culminating in the 1974 Yugoslav constitution, Kosovo was given a juridical status that effectively made Kosovo almost equivalent to the (other) republics in the federation. To be sure, ‘[b]y 1974 Kosovo had become a Yugoslav republic in all but name’ (Judah, 1999, 8), and ‘[a]lthough the 1974 constitution continued to assert that Kosovo and Vojvodina were parts of Serbia, by most criteria of constitutional law they were... fully-fledged federal bodies’ (Malcolm, 1998, 327). That simultaneously meant, however, that whereas Kosovo and the Albanians were granted an unprecedented degree of freedom and autonomy, its powers remained ‘in many ways more theoretical than real’ as ‘Tito was the final arbiter and the real law of the land’ (Judah, 1999, 8).

Kosovo’s status legally remained just short of that of the republics, not only because the Belgrade leadership feared the (juridical) possibility that Kosovo may leave Yugoslavia and join Albania, but also because it desperately wanted to avoid any political unrest among Serbs in Serbia and Kosovo itself (Malcolm, 1998, 328-329). Still, the “Albanisation” of Kosovo in the 1970s did enhance Serbian resentment (Clark, 2000, 13), and it would surely be misleading to claim that Serbs

in Kosovo could in no way be perceived also as victims of the ethnic and political tensions that presided over the region. Dragović-Soso (2002) cites a Serbian study which argued that:

the [Yugoslav Communist] Party represented the vehicle of ethnic domination in all parts of communist Yugoslavia, which meant in Kosovo – as elsewhere – the ethnic group which controlled the Party apparatus at a particular time (Serbs from 1945 to 1966, Albanians from 1966 to 1988 and Serbs again from 1989) discriminated against members of the other ethnic community, using all the instances of power: the administration, legal system, media, security apparatus, and education (p. 121).

Notably, the lines between the different “periods of oppression” as described above were certainly not absolute, further complicating any assessment of the nature and severity of mutual ethnic grievances. Albanians in Kosovo remained unhappy with their sub-republican standing, while Serbs grew increasingly uncomfortable with developments in the region – especially with regard to the alleged expulsion and emigration of Serbs from Kosovo and the growing population of Albanians in South-Serbia (Judah, 2008, 57; Malcolm, 1998, 329-333).

Milošević and Serbian Nationalism

Tito’s death in 1980, then, could on the one hand be perceived as the demise of the *de facto* sovereign that had been capable of maintaining order and stability in the Yugoslav federation, keeping conflicting elements within the political community in check. That does not mean, on the other hand, that the eventual outbreak of war in the Balkans was an inevitable and natural outcome of supposedly irreconcilable ethnicities in the area. A mere year after Tito’s death, Albanian students in Priština started to protest against bad conditions at university, which soon spiralled into a “nation-wide” Albanian uprising against Kosovo’s subordinate status. For Judah (2008), these protests constituted a watershed point in Kosovar and Yugoslav history: ‘[i]n a very real sense the demonstrations changed the course of history and not just of Kosovo, but also of the whole Yugoslavia’ (p. 58). Dragović-Soso (2002) confirms that ‘[t]he Albanian revolt of 1981 shook the very foundations of the post-Tito regime’ (p. 116). The uprising was crushed harshly by Yugoslav/Serbian forces as Kosovo was again placed under martial law, and led to a purge of Albanian party officials at the regional political level (Dragović-Soso, 2002, 117; Pavlakovic & Ramet, 2004, 83).

These events served to further aggravate Serb-Albanian relations. To Serbs, the 1981 protests fitted their conviction that Kosovar Albanians were out to “purify” Kosovo from its Slavic elements (Clark, 2000, 13), while Kosovar Albanians, on the other hand, were more alienated within Serbia; social segregation in Kosovo intensified. Moreover, Tito’s death invoked a surge in Serbian nationalism. The Serbian nationalist movement had been dissidents before 1980, but had now lost their fear of the centralised communist state. They began to voice their dissatisfaction with what they perceived as the “anti-Serbian” 1974 constitution and the persecution of Serbs in Kosovo (Clark, 2000, 15; Judah, 2008, 61). As the Serbian population in Kosovo dropped to nearly 10 percent by the late 1980s, Serbian popular media actively turned to nationalist sensationalism, in which the declining Serbian population numbers in Kosovo were presented as the consequence an unrelenting Albanian campaign to expel them from the region (Clark, 2000, 16; Pavlakovic & Ramet, 2004, 84).

Yet it was not only the Serbian news media that became involved in such narratives. A grassroots movement of Serbs in Kosovo had emerged (Vladislavjević, 2002), and the Serbian national movement was in fact led by a group of prominent intellectuals of the Serbian Academy of Sciences and Arts. As Dragović-Soso (2002) asserts, these intellectuals, under the guidance of former Communist Party expellee Dobrica Ćosić, gradually became ‘a *de facto* political opposition, directly challenging [Communist] state policy and providing an alternative political platform to the Serbian public’ (p. 115). They addressed the “Kosovo question” by ‘[a]pplying explosive language and a one-dimensional historical interpretation proper to the new nationalist vision, exaggerating claims of Serbian mistreatment in Kosovo and portraying Albanians as collectively guilty of “genocide”’ (p. 116). Indeed, ‘[d]uring the rest of the 1980s a stream of books would pour from the printing presses of Belgrade... presenting the whole history of the Serbs in Kosovo as an unending chronicle of ethnic martyrdom’ (Malcolm, 1998, 338).

Most significant among these publications was an (unfinished) document called “The Memorandum”, snippets of which were published in a Serbian newspaper in 1986. Written by sixteen of the aforementioned intellectuals, this document has since be described as ‘explosive’ (Judah, 2008, 62) and ‘a bombshell’ (Dragović-Soso, 2002, 177); its ‘tone of shrill hysteria... was to light the fuse that led to the destruction of Yugoslavia’ (Judah, 1999, 9). It described the “Kosovo question” as an Albanian ‘physical, political, legal, and cultural genocide of the Serbian population in Kosovo’ (Mihailović & Krestić, 1995, 128), and called upon Serbs to mount ‘a resolute defence of their nation and their territory’ (p. 128). Condemning the 1974 constitution and Communist Yugoslavia’s (Tito’s) anti-nationalist policies, it warned that ‘[u]nless things change radically, in less than ten years’ time there will no longer be any Serbs left in Kosovo, and an “ethnically pure” Kosovo, that unambiguously stated goal of the Greater Albanian racists... will be achieved’ (pp. 129-130).

Given its contents and rhetoric, the Memorandum has become regarded as a ‘blueprint for war’ (Cohen, 1996, 39), as “Milošević’s *Mein Kampf*” (Soros, 1993, 15), and as an instigator of ethnic cleansing. However, Silber and Little (1995) find that ‘[t]he draft Memorandum did not create nationalism, it simply tapped sentiments that ran deep among the Serbs, but which were suppressed and, as a result, exacerbated by Communism’ (p. 31). Still, the Memorandum did demonstrate how politically potent the Serbian nationalist cause might be. Soon after its publication, Slobodan Milošević would prove very adept at embracing these nationalist sentiments in order to enhance his power. As Malcolm (1998) discerns, ‘[i]t was... the issue of Kosovo that brought about [Milošević’s] transformation from little-known Party *apparatchik* into demagogic political leader’ (p. 341).

By the end of 1987, Milošević had succeeded in taking over the presidency of the Serbian League of Communists, and immediately initiated a purge of the Kosovo Party Committee which forced Kosovar Albanians leaders Azem Vllasi and Kaqusha Jashari to leave their posts in Priština. In addition, thousands of Albanians in Kosovo were removed from their jobs and government positions, and replaced with more compliant people (Pavlakovic & Ramet, 2004, 85). In 1988, Milošević began his “anti-bureaucratic revolution”, organising mass rallies in Serbia and Kosovo (so-called “Meetings of Truth”) in which he masterfully presented himself as ‘the leader of Serbia reborn’ (Judah, 1999, 10) and as the guarantor of “the will of the Serbian people” (Dragović-Soso; 2002, 211-212). This enabled him to quell any opposition within Yugoslavia’s communist apparatus against his rise to power (Malcolm, 1998, 342).

Milošević became president of the Serbian Republic in 1989, and proceeded to amend the Yugoslav constitution in order to repeal Kosovo's (1974) autonomy and restore Serbia's power over the province. These amendments were accompanied by Serb emergency powers in Kosovo, the mobilisation of Serb military forces in the region, and police and legal repression by the Serbian state (for instance, of a hunger strike by Albanian miners in Trepča) (Judah, 2008, 67; Vickers, 1998, 234-235). At the end of the 1980s, Kosovo's security, judiciary, and social and economic affairs were again placed under direct control of Serbia, again degrading Kosovo's autonomy to 'a mere token' (Malcolm, 1998, 343-344).

While Milošević, thus, rode the wave of Serbian nationalism to extend his power and acquire *de facto* sovereignty over Serbia and Kosovo (and, briefly, Yugoslavia), to portray his ascendance merely as an outcome of those nationalist currents would be to ignore his deliberate strategies to exacerbate and sharpen the distinctions between Serbs and Albanians in the region. In one (very Hobbesian) sense, the rising ethnic tensions in Kosovo in the 1980s can be perceived as an inevitable retreat into a more natural state of human existence after the demise of a *de facto* sovereign (Josip Broz Tito). From this perspective, perhaps, the eventual outbreak of full-blown conflict in Kosovo could actually be presented as a "natural" and "primordial" state of being in the ethnically divided Balkans. On the other hand, these antagonisms were very much politicised by leaders of the national communities themselves (like Milošević), who utilised these friend/enemy distinctions to increase their power and win *de facto* sovereignty over their own polities.

To conclude, Julie Mertus (1999) argues that the "truths" that started the conflict in Kosovo are in some sense irrelevant, contending that '[t]ruths involve history as experience and myth rather than as fact' (p. 2). In the end, arguably, what actually occurred in Kosovo in the 1980s and before is less important than the narratives about those occurrences. Ethnic tensions in Kosovo were real and significant for the eventual outbreak of conflict, but perhaps more significant were the norms, myths, and "truths" about these tensions that were constructed by politicians who wanted to be(come) *de facto* sovereign over their own political entities.

The LDK and the Parallel State

However, just as Milošević and other political leaders in Yugoslavia may have propagated norms of "otherness" and strife, the Albanian leadership in Kosovo began to promote very different norms – ones of peacefulness and coexistence. Figures like Adem Demaçi and Ibrahim Rugova, respectively referred to as the *Nelson Mandela of Kosovo* (Erlanger, 1999) and the *Gandhi of the Balkans* (Peric-Zimonjic, 2006), proved particularly influential in urging Kosovar Albanians not to respond violently to their oppression and restrictions. After Kosovo's autonomy was revoked and Serbia continued its discriminatory practices against Albanians in Kosovo, these Albanian leaders reacted by declaring Kosovo as a Yugoslavian republic independent from Serbia on July 2nd 1990; a new constitution for Kosovo was adopted in the town of Kačanik on September 7th. As Serbia then proceeded to dissolve the Kosovo Assembly, and Yugoslavia began to disintegrate, Kosovar Albanians went even further by proclaiming the Republic of Kosovo to be a legally independent state on October 19th 1991. Still, these steps were taken without resorting to violence against Serbian armed forces which would have likely produced widespread bloodshed.

The non-violent nature and context of these actions actually seemed surprising at the time. According to Shkëlzen Maliqi, 'Albanians... could have hardly imagined themselves in that particular role' as they had 'never upheld such values as non-violence, patience, non-response to blows and insults... Warriors went out of fashion overnight' (as cited in Johnstone, 2002, 223). In fact, in those early days 'the feeling prevailing among the Albanians was... one of revenge: they waited for a moment of maximum mobilisation to start a massive armed uprising' (as cited in Judah, 2000a, 63). Clark (2000), therefore, has found that nobody really seems to know where the transition from potential armed rebellion to peaceful resistance exactly came from. Obviously, however, there are a few underlying factors – 'a series of formative experiences' – from which non-violence originated (p. 46).

Firstly, contemporary ideas about pacifist revolution proposed by Central and Eastern European intellectuals at the end of the Cold War provided a certain ideological premise, as did the desire among Kosovar Albanians to counter their portrayal by Serbia as uncivilised and primitive (Kubo, 2010, 1138). Furthermore, Albanian armed guerrilla groups had remained relatively small, weak, and few in number throughout the 1980s, as other forms of protest, such as strikes, sit-ins, and the occupation of public buildings, were more prevalent (Pula, 2004, 810). External factors were also important. There was no support from the Republic Albania itself for an open violent rebellion (Kubo, 2010, 1139), while other (former) Yugoslav republics, as well as Western policymakers, were expected to be more sympathetic to pacifist resistance strategies (Pula, 2004, 811). Most importantly, however, it seems that the Albanians' reluctance to use force was born out fear and pragmatism. As suggested in the epigraph at the beginning of this chapter, peacefulness appeared far from a "free choice", an issue I will address in more detail below.

The political vacuum that was left behind by the disintegration of the Yugoslav Communist Party and the weakening of Kosovo's provincial institutions opened up opportunities for new movements and initiatives to emerge. At the end of 1989, for instance, the Council for the Defence of Human Rights and Freedoms (CDHRF) was established by Kosovar Albanians, which would monitor and document human rights violations in Kosovo throughout the 1990s. Most prominent among these new organisations, however, would be the *Lidhja Demokratike e Kosovës* (LDK). Founded on December 23rd 1989, the roots of this movement did not lie in the functionaries of the old communist structures, but in groups of Albanian intellectuals. As Serbian members of the Kosovo Writers Association resigned in 1988, they in fact opened up the way for the association to begin expressing more Albanian aspirations. As such, the Association's president, Ibrahim Rugova, became one of the leading voices propagating more independence for Kosovar Albanians, and he was subsequently chosen as the president of the LDK (Clark, 2000, 55-56; Malcolm, 1998, 347-348).

Initially, however, the exact role and strategy of the LDK remained rather unclear even to its own leadership (Pula, 2004, 804), and its institutional structure remained very ill-defined (p. 822). Remarkably, Rugova was not even the Albanian academics' first choice as LDK leader. According to Migjen Kelmendi, 'Rugova was... a total loser who sat in the corner drinking too much coffee', and was 'a compromise candidate' after others had refused or were passed over (as cited in Judah, 2000a, 66-67). Furthermore, Maliqi (1994) suggests that both Rugova and "his" LDK became the leading motivators of Kosovar Albanian non-violent resistance only after the strategy had come into being almost spontaneously out of individual initiatives and practices from within the Kosovar Albanian population. Popular newspaper editor Veton Surroi described the LDK 'as not so much a

party as a product of the popular response to so many years of repression' (as cited in Magaš, 1993, 250).

At the same time, that meant that the LDK's size and influence as a political movement enhanced spectacularly. Its leadership was derived from the Kosovar Albanian academe, yet it managed to absorb much of the former Communist Party membership in Kosovo (Judah, 2000a, 67) and transformed the Socialist Alliance for Working People (SAWP) into its 'central mobilising structure' (Pula, 2004, 805). By the end of 1990, Maliqi (2012) contends, 'the political mood of the masses was controlled by a new centre of power, the LDK and its leader Rugova' (p. 46).

After the 1991 declaration of independence, the LDK organised parliamentary and presidential elections for the new republic on May 24th 1992. The purpose of these elections, aside from choosing Kosovar Albanian political leadership, was to consolidate the self-declared "republic" and to represent it to the international community as a legitimate and functioning polity (Vickers, 1998, 259-260). Surprisingly perhaps, although the Serbian government deemed these elections illegal, it did relatively little to stop them. Monitored by groups from Europe and the United States, the elections took place mostly in private dwellings with little conspicuous signage on Kosovo streets. They resulted in an overwhelming victory for the LDK, and Rugova, who ran unopposed, was elected Kosovo's president with 99.5 percent of the votes. After the elections, thus, the LDK and Rugova had ostensibly cemented their control over Kosovar Albanian resistance, institutionalising and consolidating their authority over the movement (Pula, 2004, 816-817). The elections seemed to signify the concretisation of the Albanians' parallel state in Kosovo, generating a situation in which 'the Kosovars' parallel institutional structure was completed' (Vickers, 1998, 261).

Yet, while '[i]n theory, Rugova now oversaw a government' (Judah, 2000a, 68), perhaps in reality the LDK merely remained a 'shadowy assembly', first among its equals (Malcolm, 1998, 348). For one, aside from the newly created political bodies, certain practical measures had to be taken to remedy the Serbian limitation and oppression of Albanian life in Kosovo. Given the crackdown by Serbian authorities on Albanian public facilities and services, Kosovar Albanians, led by the LDK, set up a parallel mechanism for collecting taxes, retained an active Albanian media apparatus, initiated and nourished a parallel private economy, and kept alive their cultural and sporting life. Most importantly, they also devised parallel Albanian health and education systems. All of these alternatives were mainly financed through external funding and remittances from Kosovar Albanians abroad, yet, at the same time, Kosovo's parallel state never really seemed to be able to foster substantial welfare development (Reitan, 2000, 90).

Moreover, throughout the 1990s the Kosovar Albanian existence remained subject to continuous or repeated acts of violence and repression by Serbian authorities and forces, who systematically denied basic human rights for Albanians, banned the use of Albanian language, discriminated in judicial and administrative areas, and arbitrarily and unfoundedly arrested Albanians (Human Rights Watch, 1993; UNCHR, 1993).

The question is, therefore, whether the existence of the LDK's peaceful resistance and parallel state in Kosovo could in fact truly be qualified as either peaceful or state-like. To elaborate, it seems clear that as a geopolitical anomaly, the Albanian community in Kosovo in the first half of the 1990s exercised many different forms of power, breaking down certain subjectivities in Serbian-Albanian relations and counter-producing new ones. However, those exercises of power were simultaneously obstructed and negated by Serb authorities (often violently) while the extent to which they were employed in actual *conflict* with Serbian decision-making is debatable. Indeed, as

will be argued, agency over the exception in Kosovo stayed in Serbian political hands, so that the LDK and the Kosovar Albanian parallel state may have displayed myriad forms of governmentality and biopolitics, but not *de facto* sovereignty.

Governmentality, Biopolitics and the LDK

According to Clark (2000), there were four central aims for the civil resistance organised by the LDK. They wanted to contest the legitimacy of the imposed Serbian institutions in Kosovo and replace them with parallel institutions for Albanians; to raise attention for the Serbian violence without themselves being provoked by that violence; to safeguard the life and survival of the Albanian community in Kosovo; and to garner international support for its cause of *de jure* independence (p. 71). As suggested above, at face value the LDK seemed actually quite successful in realising the majority of these objectives. As we will discover, the Kosovar Albanians' expectation that the "international community" would eventually come to their aid proved woefully misguided, but the putting in place of parallel facilities and political mechanisms by the LDK, and the apparent absence of violent conflict between Albanians and Serbs in Kosovo in the early 1990s, appear to indicate that the LDK was quite capable of maintaining an everyday life for the Albanian community in the region.

Indeed, the LDK seemed to have mastered a Foucauldian "art of government", engaging in a daily exercise of power by creating and maintaining a variety of socio-political networks. The 'impressive system of parallel schools, hospitals and other social service providers', which was 'highly pervasive [and] touching virtually all levels of... Albanian-speaking society' (Strazzari & Selenica, 2013, 120), signified the LDK's ability to tap into that variety of governmentalities that was no longer performed by the Serbian formal state institutions. As the LDK branched out into civil society organisations like the CDHRF and the Mother Teresa Society (Devic, 2006, 260) – the latter supplying food, medical services, and medicine for the Kosovar Albanians – it became involved in the micro-political activities and alternative governance technologies that governmentality is founded on. Similarly, the "institutional void" left behind by the exclusion of Albanians from Serb-controlled juridical state systems in Kosovo opened up space for the re-emergence of traditional mechanisms of Albanian customary law (*Kanun*) to encompass an increasingly wide sphere of Albanian social relations (Kostovicova, 2005, 116-118). As Clark (2000) observes, '[w]hat was emerging was a set of methods and organisational structures to... strengthen social solidarity while emboldening the population to use the limited space available to communicate their defiance' (p. 59).

Kosovar Albanians certainly took great pride in their parallel structures and their eschewal of violence. Rugova (1994) himself, for instance, asserted that 'in Kosovo only our system functions' (p. 139). As Igballe Rogova recollects, '[a]t that time there was great solidarity. All of Kosovo was doing some work in the parallel society, volunteering' (as cited in Lippman, 1999). The 'net of social security' created by the LDK represented a 'spirit of solidarity' among Kosovar Albanians (Krasniqi, 2010, 47), and according to Maliqi (2012), the Kosovar Albanian movement possessed a 'spiritual power... based on an almost fanatical belief in democracy and peaceful protest' (p. 45). Non-violence, in fact, became embraced by Kosovar Albanians as part of a "modern" Albanian identity, enhancing the 'self-worth' of Kosovo Albanians in dire circumstances (Clark, 2000, 67-68). It became a central element in Albanian considerations about the "justness" of their struggle, strengthening their moral position and reinvigorating their determination to continue their non-violent resistance against the Serbs (Salla, 1995, 431).

The LDK's non-violent parallel state also received acclaim from the world outside. Slavoj Žižek held the Albanian resistance in high esteem (Maliqi, 2001, 19), while some thinkers even wrote about the parallel state as 'the miracle of Kosovo' (Schwartz, 2000, 127) and as 'a counter-power unique in political history' (p. 131). In the words of a French lawyer at the time, '[t]he [Albanian] nation, which was, without any doubt, the most oppressed in former Yugoslavia, has created the most free man' (as cited in Rugova, 1994, 101).

Here, we see a reference to the biopolitics that the Kosovar Albanian community in the early 1990s appeared to be engaged in. By managing to sustain a daily Albanian life in spite of Serbian oppression, they had ostensibly stripped the Serbs of the absolute power over everyday Albanian existence. Merely by retaining its "life force", it seemed, the Albanian community in Kosovo produced and cultivated power that contested, contrasted, and rejected the Serbs' authority and repression. As Igballe Rogova asserted that '[t]he Serbs tried to kill our society, but we woke up instead' (as cited in Lippman, 1999, 9), Krasniqi (2010) argues that people involved in the parallel institutions and facilities were 'sacrificing their personal well-being and interests for a greater collective cause of the Albanian population in Kosovo' (p. 47). Reitan (2000) is similarly positive about the merits of the LDK's non-violent parallel system, assuring us that it 'successfully countered the intended totalitarian effect of Serbianisation' in Kosovo (p. 84), as 'the Albanians resisted disempowerment and depoliticisation in the face of Milošević's efforts to monopolise power' (p. 86).

Thus, in spite of the revocation of its autonomy, the large-scale dismissal of Albanians from political bodies and any form of employment, and the continued acts of arbitrary violence by Serbian police in the region, it seemed that the biopower practices of the LDK and its parallel organisations helped to transform it from a movement for the mere defence of autonomy into one for full *de jure* independence from Serbia (Clark, 2000, 2).

Especially the LDK's parallel educational system became heralded as *the* success story of Kosovar Albanian resilience in the early 1990s. Denisa Kostovicova (2000, 2001, 2002, 2005) has analysed this subject extensively, describing how the Kosovar Albanians saw their ability to set up the parallel education system as proof of the maturation of their parallel state as a whole. Epitomising the amalgamation of "state-like" political power and peaceful resistance, Albanian parallel education embodied the hallmark of challenge to Serbian rule. In Kostovicova's own words, 'it was equated with a very sense of nationhood and a freedom to nourish it' (Kostovicova, 2005, 95), and made the ideal of Kosovar Albanian "statehood" 'more real' (p. 120). Symbolising a 'unique life school of resistance' (Maliqi, 1998, 117), it was a sign of the 'internal liberation' of Albanians in Kosovo (Ibrahim Rugova, as cited in Kostovicova, 2001, 14). Paradoxically, Kostovicova (2005) contends, the Serbian activities to prohibit Albanian language education and reject Albanians from the physical spaces of education in Kosovo had the reverse effect, as the Serbs thereby actually lost any control over it (p. 96). By reinventing their education system in private homes, Albanians placed themselves in a position of strength and 'rendered futile the Serbian strategy of [Albanian] deinstitutionalisation' (pp. 120-121).

At the same time, the Kosovar Albanian strategy of non-violent resistance against the Serbian regime did not emerge out of a clear, coherent, and deliberate consideration. Rugova, in fact, never really articulated a "theory" or "philosophy" of non-violence, which therefore seemed more of an improvisation to deal with Serbian oppression than a well-thought-out strategy (Maliqi, 2012, 50). Rugova (1994) himself asserted that he was 'a realist and not a man of fantasy' (p. 176).

Likewise, according to Clark (2000), 'it is a misrepresentation to call him a pacifist. Above all, he was pragmatic' (p. 6).

Albanian non-violence, thus, was not carefully planned but rather the result of a range of 'disconnected actions' (Ađir, 2012, 115). As suggested earlier, the LDK and its parallel system 'drew on the traditional clan hierarchy of Albanian society, as well as on the structures and authority of the now-defunct Communist Party' (Llamazares & Reynolds-Levy, 2003, 3). Maliqi (2012) even contends that 'Kosovo's parallel institutions were in essence a continuation of the legal institutions of the autonomy era, and... the new leadership basically attached itself to them as a parasite' (p. 55). Others have similarly argued that the Kosovar Albanian parallel system had its foundations much more in the old institutions and former communist *nomenklatura* of Kosovo's years of autonomy (1974-1989) than in any purposeful mode of thought and action by the LDK (Pula, 2004).

In reality, then, as will be explored more thoroughly in the next chapter, the LDK's non-violent resistance seemed incapable of assuming any other strategy than to passively wait and hope for international engagement to come to their aid. In spite of continuous international praise for the Albanians' non-violence, however, no help would come. On the one hand, certainly, in many respects it was the international community who failed and abandoned the LDK's and Kosovar Albanians' plight in the early 1990s (Caplan, 1998, 746-748; Pula, 2004, 816), yet in other respects, the Albanians arguably brought international negligence onto themselves because 'not much that was newsworthy actually happened' (Judah, 2000a, 73). Given the more pragmatic rather than principled grounds of Kosovar Albanian peaceful resistance (Salla, 1995, 432), this was, according to Clark (2000), a 'narrow non-violence' wherein non-cooperation with "the enemy" was not combined with an "active" resistance or a Gandhian dialogue with the "Other" (p. 69).

Instead, the parallel system constituted a 'society *within* a society' (Krasniqi, 2010, 43; my emphasis): one that nourished relationships *within* the Albanian community but not *between* the Albanians and Serbs in Kosovo (Pula, 2004, 818). Clark (2000) even suggests that in identifying themselves so vehemently against an "Other" – Albanian peacefulness versus Serbian violence – the Kosovar Albanians actually cultivated and embraced an identity of powerless victimhood (pp. 193-196). Albanian self-understanding became increasingly derived from a 'matrix of antagonism', which only engendered 'a lack of flexibility [and] ultimately a Manichean worldview where one is always the victim or martyr, the "Other" always the villain' (p. 68). As one anthropologist observed in 1991, Albanians in Kosovo:

cope with marginality by cultivating their identity as oppressed and suffering "outsiders"...
[S]uffering, is considered a fact of life... They identify themselves as a backward, forgotten,
plundered people, characteristics which they feel make them special (Reineck, 1991,
193).

As such, instead of empowering Kosovar Albanian life against Serbian persecution, the parallel state gradually turned into a symbol of being "stuck in limbo". Rather than embodying a biopolitical power, it conversely became only practicable as a 'delicate art of becoming invisible' (Gessen, 1994, 32). The Kosovar Albanian parallel state (of being) became one of 'semi-resistance' (Clark, 2000, 57) and 'sullen stability' (Judah, 2000a, 91), a frozen status quo that was 'extremely tense, with a pervading sense of insecurity and fear of impending conflict' (Vickers, 1998, 265).

Rugova (1994) himself believed that for Albanians in Kosovo ‘the situation is worse than a state of war’ (p. 169), as they lived an existence rife with contradiction and ambiguity. The parallel state was ‘both dull and bizarre’ (Judah, 2000a, 73), ‘stable and explosive’ (De Vrieze, 1995), ‘neither war nor peace’ (Maliqi, 1998, 185). As Kostovicova (2001) points out, it formed ‘simultaneously a metaphor of prison and freedom’ (p. 11). The Kosovar Albanians possessed an unprecedented degree of liberty to run their affairs in a seemingly autonomous manner, but that liberty existed only within the limits established by continued Serbian repression (Kostovicova, 2000, 147). In this context, ‘the Albanians’ very use of alternative space... emerged as a daily reminder of the imperfection of such freedom’ (Kostovicova, 2005, 129). Rugova (1994) himself lamented how Kosovo had become ‘a big prison and concentration camp’ (p. 60), while for Adem Demaçi, ‘the biggest prison in the world [was] the prison of Kosovo’ (as cited in Kostovicova, 2005, 127).

Language such as this, uttered by two of the main motivators of the Albanian parallel state in Kosovo, reminds us of Agamben’s conceptualisations of the nature of biopolitics and its relation to *de facto* sovereignty. Albanians in Kosovo possessed ‘symbolic power and political leverage’ (Kostovicova, 2005, 121), were ‘partially able to circumvent the Serbian... crackdown’ (Reitan, 2000, 86), cherished a ‘psychological freedom’ (Rugova, 1994, 176), and had supposedly gained ‘moral authority’ and even a ‘moral victory’ (p. 55), but none of these qualities amounted to any material power over the Serbs.

Therefore, instead of *promoting* a certain change to Albanian life in Kosovo, the LDK and its parallel mechanisms turned out to be only capable of *resisting* change to it (Krasniqi, 2010, 46). To an extent, the LDK had devised a *modus vivendi* with the Serbs (Pula, 2004, 809), but this constituted a mode of living only reflecting prudence, patience, and endurance. For Maliqi (1998), Rugova ‘precisely [was] the man who was best suited for this situation of neither war nor peace, the politics of non-doing’ (p. 239). As living conditions grew increasingly intolerable (Vickers, 1998, 273-278), Kosovar Albanians even took on an attitude of ‘inglorious submission’ (Malcolm, 1998, 346) and became infected with ‘[a] general sense of depression’ (Kostovicova, 2005, 94). While Rugova, thus, may have believed that Albanians were ‘defining a new reality against Serb domination’ in Kosovo (Clark, 2000, 116), all the realities in Kosovo in the early 1990s seemed first and foremost defined by that Serbian domination.

To conclude, thus, Kosovar Albanian biopower manifested itself in the (perhaps logical) Albanian refusal to participate in Serbian socio-political life (Ağir, 2012, 111), yet this also essentially meant that in a sense they “resigned” themselves to Serbian oppression. As such, Salla (1995) may argue that the Albanians’ parallel state ‘[was] a blow to Serbian...claims of sovereign control’ (p. 431), Rexhep Osmani may describe Albanian parallel education as a ‘handicap’ to Serbian sovereignty in Kosovo (as cited in Kostovicova, 2005, 120), and Kostovicova herself may even go so far as to contend that ‘[t]he initial defence of Albanians’ educational autonomy turned into the realisation of their educational sovereignty’ (p. 121), but none of these invocations of the concept of sovereignty really seem to account for the fact that Serbs were the ones to decide on the exception in Kosovo. Alternatively, Kosovar Albanians may have rejected the *legitimacy* of Serbian rule over Kosovo (Ağir, 2012, 98), and may have *represented* themselves as the legal institutions of Kosovo, but such juridical or normative claims proved futile in the face of Serbian overwhelming effective power (Maliqi, 2012, 47). As Rugova (1994) himself admitted, ‘[t]hey have the power, we have the authority’ (p. 42).

De Facto Sovereignty and the LDK

Returning to Agamben, the LDK's parallel state did not create a "state of exception" or a "zone of indistinction" in Kosovo, but seemed to be its occupier after the Serbs had created it. The parallel structures may have resembled an 'anti-politics' model (Konrad, 1984) 'to the extent that they operated entirely outwith Serbian state institutions', but they did not themselves 'hollow out the space of [Serbian] influence' over Kosovar Albanian political existence (Devic, 2006, 259). Instead, in considering the LDK's biopower, it seems that this was actually life "laid bare" by a *de facto* sovereign entity. Belgrade created the conditions that condemned the Albanians in Kosovo to a subsistence-level *zoe*. As one education official put it, '[w]e did not want to set up parallel education but were forced to' (as cited in Kostovicova, 2005, 94). Ryan (2010) actually identifies the status of the Kosovar Albanians, throughout the twentieth century but in the early 1990s in particular, as *homo (or terra) sacer*. The Serbs not only attached a kind of "sacredness" to Kosovo, Kosovo thereby also became the subject of the Serbs' *de facto* sovereign capability of inclusive exclusion.

This situation simultaneously implied that Kosovo could not be relinquished from Serbia's legal and political community. Rugova (1994) found that 'the Serbs are aware that they cannot continue to keep Kosovo by force' (p. 94). Similarly, Vickers (1998) contends that the establishment of Albanian parallel mechanisms in Kosovo implied that the "peace" maintained by the Serbs in Kosovo was an illusory order, as the Serbs had in fact already lost Kosovo 'because they could only maintain control over the province by severe police repression and military force' (p. 263; my emphasis). On the face of it, perhaps, Kosovar Albanians may have even appeared to perform the *de facto* sovereign function of (inclusive) exclusion themselves. The customary legal mechanisms of the *Kanun*, for instance, administered not only the proliferation of Albanian nationhood in opposition and exclusion of the (Kosovar) Serbs, it actually also outlawed Albanians who were sympathetic to Serbian policies in Kosovo as *homines sacri* within the Kosovar Albanian community (Kostovicova, 2005, 115-119).

Furthermore, at the beginning at least, the LDK succeeded in mobilising almost all parts of Kosovar Albanian society behind its struggle for independence and its strategy of non-violence. Remarkable, also, were the efforts to settle the so-called "blood feuds" within the Albanian community in Kosovo. Between 1990 and 1992, up to 2000 of these long-standing communal conflicts between different families were mediated through the Albanian 'council of reconciliation' (Clark, 2000, 60-64; Johnstone, 2002, 223; Krasniqi, 2010, 49-50; Kubo, 2010, 1138). Ostensibly, the Albanians in Kosovo were capable of restoring a political order within their community.

That being said, as mentioned before, those apparently *de facto* sovereign efforts were mainly carried out by various social networks and movements like the Mother Teresa Association. Political mobilisation in the early 1990s was built along the lines of these networks or extended family alliances (Strazzari & Selenica, 2013, 121), and Albanian self-restraint and non-violence was created in practice mainly by a plurality of activists, youth organisations, and volunteers (Clark, 2000, 56-59). The parallel state was more of a loose conglomeration of institutions and services, over which the LDK and Rugova possessed only nominal control (Maliqi, 2012, 55; Pula, 2004, 797-798). As Bekaj (2008) has found, 'the delineating line between the political movement and civil society was often blurred' (p. 36).

The question remains, indeed, to what extent the LDK and Rugova were actually capable of resolving a crisis of any nature in Kosovo. Over the course of the parallel state's existence, a growing amount of criticism emerged aimed at Rugova's policies, and the LDK seemed unable to reconcile the widening divisions within the Kosovar Albanian community about the to-be-taken road towards *de jure* state independence (Maliqi, 2012, 61-64). In addition, the leader of the campaign to settle blood feuds himself admitted that '[w]e cannot force reconciliation' (Anton Çetta, as cited in Clark, 2000, 63), and in instances of Serbian police terrorisation of Kosovar Albanians, all the LDK could do was '[n]ot to calm the people... but to make an act of solidarity, to witness' (Rugova, 1994, 134-135). The LDK could ensure peacefulness neither *within* the Kosovar Albanian community nor *by* the Kosovar Albanians.

In apparent contrast to Rugova's absence of decision-making capacity, the LDK leader in fact gradually appeared to assume a more authoritarian or monopolised attitude of governance (Maliqi, 2012, 57-59).

Although his speeches gave the impression of a modest and gentle politician, in essence he created a system of authoritarian personal power, based on a variant of a personality cult... Rugova became a self-contained figure of the movement, almost completely ignoring the LDK leadership when making (or blocking) decisions. Rugova blocked all political initiatives that could possibly endanger his own position within the movement (p. 58).

Paradoxically, it seemed, as Rugova and the LDK proved more and more incapable of devising a central and coherent strategy in order to find a resolution for the Kosovo Albanian situation, they increasingly began to search for that decisional unity (Clark, 2000, 117-119; Reitan, 2000, 78). As Strazzari and Selenica (2013) observe, 'LDK leaders used simultaneously the hat of a resistance movement, of civil society, and of one-party state bureaucracy' (p. 121). Particularly after the 1992 parallel presidential elections, 'a tight circle around Rugova took a firm grip on decisions that mattered'. For Rugova and the LDK, 'the necessity for self-restraint and refusal to be provoked offered some rationale for this concentration of control' (Clark, 2000, 118). In a description apparently elucidating a (Hobbesian) *de facto* sovereign's relationship with its subjects, Maliqi (2012) explains how '[b]etween the collective and the leader there was a relationship similar to that between a shepherd and his flock, in which the leader/shepherd not only represented but also articulated the collective will' (p. 59).

At the beginning, certainly, while Rugova became increasingly remote and isolated from his own Albanian community, for a long period their faith in him did not waiver. As Clark (2000) observes, '[s]omehow the more Rugova refused to answer his critics, the more presidential his aura became' (p. 199), and 'the population esteemed him for being "above" the hurly burly of political debate' (p. 118). Conversely, however, while any expectation among the Kosovar Albanians for democratic, transparent, and non-authoritarian leadership remained unfulfilled, their confidence that instead such leadership could at least be effective, coherent, and purposeful proved to be equally ill-judged.

It appears that Rugova had to face the problem of his position as Kosovar Albanian leader. He tried to wield absolute power and decisive control over Albanian lives in Kosovo, but not only did he thereby become the subject of accusations of despotism by the Albanian public and other Albanian political figures, his power was also exposed to be meaningless in the face of another entity that actually exercised *de facto* sovereignty over Kosovo.

From one perspective, perhaps, Kosovo seemed to be a battleground between two *de facto* sovereign actors (Albanian and Serbian) vying for control over the region (Pula, 2004, 807), as the Kosovar Albanians may have felt as if they were uniting and homogenising to delineate a *de facto* sovereign political community in distinction to the Serbian “enemy” (Kostovicova, 2001, 13-14; Kostovicova, 2005, 115; Krasniqi, 2010, 49-52). At one time, the Kosovar Albanian leadership even admitted that they did not actually want to remove Milošević, because that would leave them without their profoundly evil constitutive “Other” (Vickers, 1998, 268). Also, again, the total spatial segregation of Albanians from the Serbs in Kosovo compelled other minorities in the region to align themselves with one of those two conflicting communities (Kostovicova, 2005, 95). ‘Fluid’ group boundaries and ‘ambiguous’ identities that tend(ed) to characterise social reality in Kosovo were solidified by apparently *de facto* sovereign actions, so that any ‘ethnic and religious anomalies’ who lived ‘betwixt and between’ and did not ‘fit into the neat system of the dominant Serbian-Albanian opposition’ were either absorbed into one of those dominant groups or expelled or eliminated by them (Duijzings, 2000, 24-27).

Those practices of inclusion and exclusion, however, seemed to have been decided on by Serbs instead of Kosovar Albanians. It was actually a misconception to think that the Albanians could decide whether to pursue any *de facto* sovereign strategies of inclusion/exclusion (Serbian or otherwise) when it was the Kosovar Albanian community itself that was ostracised by Serbian *de facto* sovereignty. Kosovar Albanian life formed the exception to Serbian rule, not the other way around. As Maliqi (1998) wrote, ‘ethnic conflict in Kosovo ha[d] turned into a kind of intense war of nerves, in which one side stop[ped] at nothing... while the other side bottle[d] up its humiliation, despair, fury, rage, and hatred’ (p. 24). In a later work, he reiterates this representation of Kosovo as an apparent clash between two *de facto* sovereigns, which in reality could be resolved by only one of them:

Two communities looked up to their leaders as gods, and their relation to the crisis determined the character of inter-ethnic relations... whereby the Serbian leader controlled through coercion, while the Albanian leader asked his community to remain passive, patient and non-violent. Such an anomalous status quo certainly suited the privileged side more than the other side which was objectively losing (Maliqi, 2012, 58).

Not only did the LDK and the parallel state seem unable to decide on any Serbian exception in Kosovo, it would also be misleading to represent the parallel state as a *de facto* sovereign entity “overlapping” with that of the Serbs. The exceptional nature of *de facto* sovereignty itself actually precludes such fluid conceptualisations. For instance, Clark (2000) portrays “social empowerment” as “power-to” rather than “power-over” (p. 131), implying that Albanian non-violent resistance could have been powerful without thereby limiting Serbian power in Kosovo – in a form of an integrated power dynamic. In terms of *de facto* sovereignty, however, such understandings are misconceived.

Rather, while the Albanians in Kosovo could perhaps have tried to establish convergences between themselves and the Serbian government (Salla, 1995, 423-433), they seemed incapable of, more than uninterested in, doing so as the 'wholesale denial of rights' by the Serbs forced them to accept a life 'under Serbia' (Clark, 2000, 92). The term "parallel state" itself implies that these were non-converging communities 'living in an apartheid situation' (Vickers, 1998, 263), and only one of these entities had the capacity to decide to break down this separation. The idea that the Serbian displays of overwhelming force and the Albanian parallel state in Kosovo could be understood as a compromise between two coinciding expressions of *de facto* sovereignty seemed nothing more than an 'idealisation... based on a sort of blind illusion of ostensible stability in Kosovo... motivated by [Albanian] political pragmatism' (Maliqi, 2012, 48).

Instead, the LDK and its parallel state were placed in a position of permanent crisis by Serbian *de facto* sovereignty. They were not necessarily powerless in absolute terms, but they were subordinated to the political entity that had the capacity to decide on their exceptional circumstances. Due to the sustained Serbian policy of Albanian disarmament in Kosovo while arming and mobilising Serbs in the region, the Kosovar Albanians lacked any kind of police or defense force that could form a more militant resistance movement (Salla, 1995, 432). Thus, because the LDK lacked the means to counter Serbia's overwhelming and aggressive power over Kosovar Albanian political life (Pula, 2004, 811-812), 'the strategy of nonviolence was... self-imposed' (Maliqi, 1998, 101). Rugova (1994) similarly asserted that '[s]elf-control was imposed on us because of the terror' (p. 41), while Clark (2000) actually translates this as non-violence *imposing itself* on the Kosovar Albanians (p. 66).

As such, rather than a symbol of freedom and independence, the parallel state came to embody the failure of peaceful resistance and the irremovability of Serbian *de facto* sovereignty (Kostovicova, 2001, 17; Kostovicova, 2005, 182). As Judah (2000a) finds, the parallel state was 'a state of virtual reality' (p. 65). Kosovar Albanians opted for a 'simulation' of statehood instead of an unfeasible push for independence as 'the Yugoslav army and Serbian police remained very much in control' (p. 66). Engaging in actual warfare in an attempt to resolve the crisis was a discussed possibility within both Serbian and Albanian circles, but their reasons for not pursuing it were widely divergent (p. 73).

In fact, the non-violent nature of Albanian resistance in Kosovo in a sense helped Milošević to stay in power (Judah, 2008, 70). The peaceful separation by the Kosovar Albanian community actually benefited both the local Kosovar Serbs and the Serbian government in their desires and strategies to "Serbianise" political and workplace positions in Kosovo (Salla, 1995, 430). Again, however, such assertions should not be confused with a suggestion that the Kosovar Albanians deliberately and decidedly "allowed" the Serbs to "keep the peace" in Kosovo. Rugova and the LDK 'effectively pacified the province, which was exactly what the [Serbian] authorities wanted', but the Serbs were the ones with the capacity to calculate (and decide) that such passive Albanian resistance was preferable to violent conflict (Judah, 2000a, 84); they did not depend on Albanian cooperation and non-violence in Kosovo (Ağır, 2012, 112). Hence, 'the temporary pacification of Kosovo suited Belgrade well', because the Serbs were simultaneously dealing with many other crises elsewhere in dissolving Yugoslavia, but it was Serbia that had the ability to decide to leave the parallel state to its own devices (Maliqi, 2012, 47).

The Serbs demonstrated this possession of *de facto* sovereign ability in numerous ways. The dissolution of Kosovo's government in July 1990, for instance, was basically forced upon the Albanians through Serbian police and military coercion. Furthermore, Serbia was able to invoke a combination of legal emergency measures in order to dismiss, demote, and sack many thousands of Kosovar Albanian employees and officials and replace them with Serbian ones. In fact, the Serbs were capable of establishing and shaping the nature of Kosovar law in general (Vickers, 1998, 274). Thus, 'the expulsion of Albanians from their jobs was', for example, 'chiefly a political act without a sound legal basis' (Pula, 2004, 812-813). Also, there was a constant stream of violence, harassment, surveillance, and arbitrary arrests against the Kosovar Albanian community by Serbian police and paramilitary troops, Albanian protests were forcefully repressed, and Albanian mobility was limited by widespread Serbian blockades (Ağır, 2012, 104-105; Malcolm, 1998, 349-350; Reitan, 2000, 84-88; Salla, 1995, 430-431). The Kosovar Albanians, thus, did suffer from severe human rights abuses at the hands of the Serbian regime, and the legitimacy and morality of Serbian *de facto* sovereignty at the time can certainly be questioned, but it would be much harder to dispute its existence or substantiveness (Judah, 2000a, 84).

Remarkably, some thinkers seem to do just that. According to Ağır (2012), for instance, 'Serbian political domination in Kosovo in the 1990s did not translate into an ability to control over [Kosovar] Albanians', as the LDK's efforts gave them 'a *de facto* freedom' that 'fundamentally altered' power relationships in the region (pp. 117-118). Reitan (2000) similarly rejoices how 'Rugova and the LDK navigated the nonviolent movement towards numerous successes in achieving greater democratic freedoms' (p. 76) that broke Milošević's 'monopoly on leadership' (p. 84). She even contends that the non-violent Albanians asserted 'their sovereignty as a republic and eventually an independent state', as Belgrade 'could not prevent legitimate political will from expressing itself' (p. 85).

Both of these authors, however, seem to overlook or misinterpret the significance of the exception and the crisis in the nature of *de facto* sovereignty. In a manner comparable to Rugova and the LDK, they appear to perceive the tentative stability in Kosovo in the early 1990s as an environment in which democracy, legitimacy, legality, and morality could flourish and prevail over material power and violence, whereas *fundamentally* – in the essential, decisive spaces and moments of (Kosovar) social life – the Serbian capacity for military force 'was still very much in control' (Judah, 2000a, 67). In Rugova's own words:

All our weapons have been taken away by the Serbian police. We are not certain how strong the Serbian military presence in the province actually is, but we do know that it is overwhelming and that we have nothing to set against the tanks and other modern weaponry in Serbian hands. We would have no chance of successfully resisting the army (as cited in Vickers, 1998, 264).

As such, it seems that throughout the early 1990s it was Serbia that maintained ownership over the crisis and the exception in Kosovo. In some sense, the Serbian authorities even 'viewed the parallel system as non-existent' (Ağır, 2012, 117). The parallel Albanian institutions were 'irrelevant from the Serbian government's perspective that "real" power – repressive institutional capabilities – continue[d] to be held by Belgrade' (Salla, 1995, 430).

Again, Clark (2000), on the one hand, may contend that the Serbian strategy in Kosovo was guided by 'inertia', as the Serbs, 'as much as the LDK, seemed to be incapable of initiative', but he immediately thereafter argues how Milošević had the luxury to be able to "let the conflict simmer". This justified the presence of the large Serbian police force in Kosovo, which 'was permanently available if he needed a "crisis" to distract attention from problems elsewhere or if he had a "grievance" to invoke' (p. 188). Indeed, regardless of the extent to which clashes between Serbs and Albanians were possible or actually did occur, it was the Serb forces and authorities who could "decide on the exception" and restore "order" in Kosovo. The LDK's strategy of peaceful parallel statehood implied that the Kosovo Albanian community could survive and defend itself in a context of systematic Serbian repression, but they could neither prevent nor stop it, nor could they overpower the Serbs whenever any kind of conflictual situation – extreme or less so – did present itself (Ağır, 2012, 112; Clark, 2000, 95). As Pavlakovic and Ramet (2004) thus confirm, 'the Serbs' monopoly of force meant that effective sovereignty continued to reside in Belgrade' (p. 86).

Chapter Six

Kosovo's Future: Legal Padding or *De Facto* Sovereignty?

Such declarations are no more than foam on the tide of time; they cannot allow the past to be forgotten nor a future to be built on fragments of the present. (Bennouna, 2010, 13)

Both of the previous chapters have discussed the limitations of juridical and non-sovereign arrangements of power, emphasising the importance of *de facto* sovereignty for the nature of different geopolitical anomalies. This was not to suggest that those legal and everyday power relationships were of no relevance to these entities, but the existence of geopolitical anomalies remains more fundamentally definable by their *de facto* sovereignty or the lack thereof. Furthermore, both chapters revealed that while peaceful and orderly constellations of politics possess many virtues, they should not be confused with an expression of *de facto* sovereignty. Particularly in the foregoing chapter, the argument has been made that norms and practices of peaceful coexistence remain essentially ineffective in the face of *de facto* sovereign power.

That being said, however, while Kosovo's parallel state in first half of the 1990s thus supposedly represented a subordinated space of exception to Serbia's *de facto* sovereignty, it appears that Kosovo has now in fact secured its own *de facto* sovereign capacity, becoming one of the most mature geopolitical anomalies in today's world. This chapter, therefore, will proceed from its discussion of the LDK onto an investigation of the means through which Kosovo did ostensibly obtain that *de facto* sovereignty, and draw a link between those means of acquiring *de facto* sovereignty and Kosovo's present legal and political status.

As will be explained, although the LDK's efforts received widespread praise for its peacefulness, it was never legally recognised by the international community. This led to growing frustration among many Kosovar Albanians, who consequently resorted to violence through the Kosovo Liberation Army (KLA) (*Ushtria Çlirimtare e Kosovës, UÇK*). Thereafter, intensifying clashes between the KLA and Serbian forces eventually provoked international action in the form of NATO airstrikes and a UN peacekeeping mission. As such, in a continuation of some of the issues brought up in the previous chapter, the *political* independence of Kosovo – its apparent *de facto* sovereignty – seems to owe a lot not only to violence in itself, but also to international forceful action.

Secondly, that leaves us with the question how to assess those violent and forceful exercises in reference to Kosovo's unilateral declaration of *legal* independence (*de jure* sovereignty) on February 17th 2008. This declaration was (juridically) evaluated in the ICJ's Advisory Opinion in July 2010, yet this legal evaluation did in almost no way alleviate or resolve tensions between Kosovo's burgeoning status as a *de jure* state and the specific ways in which it acquired and upholds material power. As Judge Bennouna poetically phrased it in his dissenting opinion presented above, the Kosovo declaration of independence and the subsequent Advisory Opinion by the ICJ appear to be capable of concealing neither NATO's use of force, nor the forceful means necessary to effectuate *de facto* sovereign independence thereafter.

This chapter, indeed, raises the question whether Kosovo, whose road to full *de jure* recognition by now seems to be on a rather irreversible trajectory, would have actually existed as an independent polity without the violent (*de facto* sovereign) actions of both the KLA and NATO in the late-1990s. Furthermore, this geopolitical anomaly may form an example of the possible (international) legal ways through which the “international community” is able to “handle” and “approach” these entities, yet simultaneously brings up certain issues concerning the nature of *de facto* sovereignty in such situations. Certainly, given the seemingly intractable differences and antagonisms between Serb and Albanian communities in Kosovo, this rudimentary *de jure* state’s integrity will ostensibly remain reliant primarily on some (political) body’s *de facto* sovereign capacity to retain political order. Accordingly, Kosovo may embody the possibility of encapsulating, cushioning, or even effacing that potential for inter-communal violence in a collection of domestic and international legal arrangements, perhaps only insofar those legal arrangements are sustained by an (internationally cultivated) *de facto* sovereign for a sufficient period of time.

Kosovo and Violence

By the mid-1990s, the Albanian population in Kosovo had grown increasingly frustrated with the strategy of non-violent resistance, not least because of the absence of the expected and anticipated international assistance towards Kosovar legal independence. The international approach towards Kosovo and the LDK’s objectives was marked by inconsistency, ambiguity, complacency, and insincerity. As Weller (1999) describes, the international attitude towards Kosovo was ‘schizophrenic’, as there were continuous acknowledgements of Kosovo’s dismal situation and its potential for conflict, but never any action taken to remedy the Albanian ordeal or to prevent that conflict from happening (p. 33). For the international community, ‘Kosovo was always just an afterthought. It was the place that the diplomats knew they should do something about, but were not sure what and anyway had more important things to do’ (Judah, 2000a, 92).

Conferences and committees led by Lord Carrington and Robert Badinter, organised by the European Community in 1991 and 1992 to deal with the legal ramifications of the dissolution of Yugoslavia, exemplified this. Because of Kosovo’s non-republican juridical status in former Yugoslavia, its claims to *de jure* state independence were not recognised, and while Rugova was invited to attend these international meetings, his Kosovar Albanian delegation was only allowed to sit on the sidelines and ‘watch the fate of almost everyone else in former Yugoslavia being discussed, except their own’ (Judah, 2000a, 93).

Moreover, the so-called “Helsinki criteria”, pertaining to human rights and minority rights, were stipulated for the legal recognition of the new Balkan states, which for Serbia meant that Kosovo’s autonomy within the republic would have to be restored. Remarkably, however, such stipulations were eliminated or overridden at the last moment to gain Milošević’s acceptance of the outcomes of these international conventions (Caplan, 1998, 747). Not long after these conferences, in December 1992, then outgoing US president George H.W. Bush stated his “Christmas warning”, which represented the Kosovar Albanians’ ‘greatest success’ internationally as well as its ‘most damaging delusion’ (Clark, 2000, 89): ‘In the event of conflict in Kosovo caused by Serbian actions’, Bush said, ‘the US will be prepared to employ military force against Serbians in Kosovo and Serbia Proper’ (Binder, 1992).

As the years went on, this statement became a growing embarrassment as international inaction prevailed (Hehir, 2010b, 6). Time and time again, the Kosovo issue was internationally portrayed – by the UN, the OSCE, the Council of Europe, and the “Contact Group” formed by Russia, the United States, France, Great Britain, and Italy – as an “internal” Serbian affair that should be resolved through human rights mechanisms and self-determination arrangements within Serbia itself (Gardner, 2008, 541). It seemed that one thought that resolving the Kosovo question depended on the democratisation of Serbia, rather than the other way around (Maliqi, 2012, 49).

The most severe blow to Kosovar Albanian confidence in Rugova’s non-violent resistance came with the Dayton Agreements at the end of the Bosnian war in November 1995. While they had counted on an international acknowledgement of the fact that a lasting peace in Former Yugoslavia would require a resolution to the Kosovo issue (preferably through legal state independence) their plight never made it on the Dayton Agenda in any substantial way. The international actors involved appeared to feel that there was simply too much to address already, and they did not want to antagonise Milošević who had so magnanimously made peace with the Bosnian Muslims (Ağir, 2012, 130; Caplan, 1998, 750). When in 1996 the European Union decided to recognise the new Federal Republic of Yugoslavia (FRY), and lift international sanctions against it, they merely demanded a ‘constructive approach’ by Serbia to minority rights and autonomy rights for Kosovo within the FRY (European Commission, 1996, 58).

Indeed, as suggested earlier, the international community’s stance on Rugova and the LDK can be characterised by widespread praise, plaudits, and sympathy for their non-violence concomitant with a refusal to take real action in support of their striving for legal independence. Somehow, Clark (2000) observes, ‘[t]he Kosovo Albanians were more successful in securing statements of concern from bodies with moral authority than in influencing states’ to exert their power to the benefit of Albanians in the region (p. 89). Arguably, the eventual ineffectiveness of Rugova’s non-violent strategy for obtaining Kosovar (Albanian) independence can be partially explained by the misleading claims and repeatedly spurious assurances of the international community that his struggle was taken very seriously (Reitan, 2000, 77-78; Maliqi, 2012, 49).

However, perhaps Rugova and the LDK were also paying “the price of peace”. Because Kosovo had not plummeted into violent conflict, there seemed no urgent necessity to address the issue (Caplan, 1998, 751). Rugova (1994) professed a near ‘unlimited belief in... international institutions’ (p. 58), and had put all his hopes in “the international factor” – ‘Western magic bringing a happy ending to the fairy tale, a latter-day *deus ex machina* resolving the tragedy’ (Clark, 2000, 116). In doing so, however, he ignored, perhaps deliberately, the many signs and messages that the international community would actually not support Kosovo’s claim to legal independence (pp. 91-92). As ‘the political institution which declared itself the representative of... Kosovo’s citizens did not possess coercive capacities’, the parallel state’s lack of *de facto* sovereignty apparently became a significant impediment for international players to boost Kosovo’s struggle towards juridical statehood recognition (Salla, 1995, 434). By the mid-1990s, as a consequence, Kosovar Albanians had become more and more divided on the effectiveness of peaceful resistance for the attainment of (legal) independence from Serbia, and a growing amount of more radical elements in the Albanian community and the LDK began to see an appealing alternative in more violent action.

The Kosovo Liberation Army

In the years after Dayton, the incapacity of Rugova and the LDK to mitigate the Kosovar Albanians' newfound confidence in violence and conflict as a tool towards *de jure* independence became increasingly clear. As they slowly grew tired of peaceful resistance, the disillusioned Albanians in Kosovo first resorted to more "active" and confrontational forms of protest (Clark, 2000, 122-157), and eventually to forming actual armed militias. The Kosovo Liberation Army (KLA – UÇK in Albanian) in particular gained popularity. Founded in 1993, but with roots in other radical organisations that popped up in the early 1980s, the KLA actually remained rather marginal at least until 1996 (Bekaj, 2010, 16-17; Kubo, 2010, 1139-1142). From that point onwards, until early 1998, sporadic attacks against Serb police and military forces signified the presence – albeit a rather feeble or undefined one – of the KLA as a more militant Albanian independence movement.

Thereafter, violent conflict exacerbated between the Albanians in Kosovo and Serb forces, leading to severe Albanian humanitarian and refugee crises in early 1999, which in turn prompted international action in the form of NATO airstrikes against Serbia (Bekaj, 2010, 18-26; Pavlakovic & Ramet, 2004, 86-88; Vickers, 1998, 289-313). While I will not go into full detail about the emergence of the KLA or the lead-up to the NATO intervention, I do aim to present some general observations about these developments.

First of all, aside from the growing doubts among Kosovar Albanians about the advantages of non-violent resistance and about the international willingness to assist, there are a few other factors that made more violent action attractive and possible. The most noted of these factors is the outbreak of civil unrest in Albania in spring 1997, which led to the collapse of central government control and the widespread looting of a large number of weapon depots. From this point, the Kosovar Albanians could use the Northern-Albanian territory 'as a safe rear' (Lani, 1999, 30-31), and found it much easier to arm themselves for a violent struggle, as they were now able to buy a massive quantity of firearms from their neighbouring country (Judah, 2000a, 126-129). Also, the harsh crackdown by Serbian forces on Kosovar Albanian guerrilla warfare later on in the conflict (from early 1998 onwards) only provoked further radicalisation among the Kosovar Albanians (Judah, 2000a, 140-143; Kubo, 2010, 1146).

The most significant causes for the Albanian recourse to violence, however, remained with the limitations of non-violent resistance and "parallelism" itself (Kubo, 2010, 1143). The Serbian capacity for terror against the Albanians – its capacity to act "beyond" the law – was not mitigated by passive resistance, the legitimacy – domestic or international – of Serbian *de facto* sovereignty was not eroded by the Albanian "withdrawal of consent", and the parallel system began to show signs of exhaustion after years of operating without a clear strategic purpose under very difficult conditions (Reitan, 2000, 94). In a clear endorsement of the KLA's strategies, Vetton Surroi declared that 'anyone willing to show some kind of leadership, including military leadership, is welcome' (as cited in Judah, 2000a, 147). Adem Demaçi, in an inversion of his previous beliefs, similarly stated that he would 'not condemn the tactics of the Kosovo Liberation Army because the path of nonviolence has gotten us nowhere' (as cited in Hedges, 1998). As Albanian activist Luljeta Pula-Beqiri found in 1997:

[t]here is nothing unexpected, wondrous, or surprising in the emergence of the UÇK. At a time when the seven-year-old Kosovar movement can be pronounced a failure without any concrete results... when the international community has been underestimating and seriously ignoring the Albanian factor... when Serbia's only way of communicating with Albanians is violence and crime, one should not be amazed if part of the people decide to end this agony and take the fate of Kosovo and its people in its own hands (as cited in Vickers, 1998, 313).

By late 1997-early 1998, non-violence in Kosovo experienced its demise and failure, as it became clear that the Albanian leadership's objectives to gain *de jure* statehood for Kosovo could not be reconciled with its 'strategy of... waiting and doing nothing' (Maliqi, 2012, 67). As Kostovicova (2000) observes, '[t]he walls of separation between the two ethnic communities in Kosovo were torn down not by an agreement but by shell and arson attacks' (p. 148). Also, again, Dayton taught the Kosovar Albanians that 'if you want international attention you must generate a conflict' (Hehir, 2010b, 6). As Hodge (2000) put it, 'the metal in Kosovo was not hot enough to bring about political change [so] [t]he KLA decided to make it glow' (p. 26).

That being said, particularly in the early stages of the KLA's existence, it remained a rather small organisation, and the intensity of violence it could muster remained relatively low. Judah (2000a) argues that 'as late as the autumn of 1997, few foresaw the threat of an imminent and major guerrilla-led uprising in Kosovo', and 'few in Belgrade... took the slightest bit of notice of what was happening in Kosovo' (pp. 117-119). The KLA found great difficulty in attracting large amounts of public support, let alone recruiting combatants, for its violent strategy, and remained a very loose and decentralised organisation, which came into being without any clearly defined leadership. It expanded in a chaotic and haphazard way without much sophisticated deliberation (Bekaj, 2010, 18-20; Kubo, 2010, 1142-1147). Not unlike the LDK, in fact, the KLA initially consisted predominantly of 'village groups knitted together by clan connections and fear' (Judah, 2000a, 147), and 'although there was a theoretical high command, much of the KLA's organisation came... from the grassroots' (Judah, 2000b, 113).

Pettifer (2001), therefore, contends that because of the KLA's military and organisational weaknesses, its real power lay in the symbolism and imagery it provoked and represented. Its mysterious and undefined nature only added to its appeal. Pettifer firmly believes that 'the mythical and secretive nature of the organisation assisted the KLA considerably in the early phases of its struggle'. According to him, 'the time demanded a blanket organisation that any Kosovo Albanian could join, and the single common denominator was a belief that military struggle was a legitimate means of liberating Kosovo from Serbian rule' (pp. 26-28). Bekaj (2010) makes a similar argument, finding that 'every armed resistance cell had an identical political goal', so that 'a synergy and understanding existed across the board' (p. 18).

That simultaneously meant, however, that any consideration of the KLA's violent strategy as an immediate reconfiguration of *de facto* sovereignty in Kosovo should seriously be questioned. For instance, while these local militias now took on the moniker of the KLA/UÇK, the rudimentary organisation itself was actually quite shocked and overwhelmed by this growing enthusiasm for violence. As the KLA spokesperson in Britain later confided, certain events 'found us unprepared for a big war because it led to a big influx of volunteers...we just couldn't [*sic*] stop it' (Pleurat Sejdiu, as cited in Judah, 2000a, 140-141). It seems, therefore, that the large-scale Albanian guerrilla warfare

that erupted in 1998 did not come about out of a unitary, top-down, active decision. In addition, it was not immediately obvious that the LDK began to lose its power in Kosovo (Judah, 2000a, 124), and people appeared to initially see no contradiction in supporting both Rugova as well as the KLA. When Rugova organised new elections in March 1998, outraging the KLA, the large majority of Kosovar Albanians voted overwhelmingly for him and his party, apparently proclaiming that 'the KLA is our army... but Rugova is our president' (p. 146).

This is not to suggest that after 1998 the LDK could seriously claim to have any coercive control over the region, as the KLA – or at least the Albanians' conviction of the necessity of violence – did grow substantially stronger. While Rugova believed that the LDK's electoral victory signified its legitimacy as the political representation of the Kosovar Albanians, and had initially even maintained that the KLA was merely a Serbian conspiracy, it became increasingly obvious that this was not actually some easily negligible force. Especially after the Serbian execution of one of the KLA's founders (Adem Jashari) and his family in March 1998, the KLA gained popular support in increasing waves. It came to represent the Kosovar Albanians' "will of the people", an organisation one could identify with, whereas the LDK became even more regarded as above and separated from the Albanian community (Bekaj, 2010, 20-22; Judah, 2000a, 131-134; Pettifer, 2001, 28).

In a sense, thus, the KLA formed a rebellion not only against Serbian oppression in Kosovo, but also against the "internal regime" of Rugova's parallel government, and it even targeted and killed Albanians who allegedly "collaborated" with Serbia (Maliqi, 2012, 66). As the KLA finally "emerged from the shadows" and began to express an increasingly fanatical belief that they would 'have to shoot their way out of Serbia' (Vickers, 1998, 312-313), Rugova just seemed incapable of interfering or mediating in any way, as he 'appeared to have gone into a form of political paralysis' (Judah, 2000a, 137-138).

The main issue for both the LDK and the KLA, then, remained that *de facto* sovereignty in Kosovo continued to be exercised by Serbia. Particularly in the Drenica valley, the KLA seemed to grow more powerful, as in the first half of 1998 it 'made a series of lightning advances' into other parts of Kosovo (Judah, 2000b, 112); by mid-1998, it claimed to control about a third of the province (Pavlakovic & Ramet, 2004, 87-88). However, as Clark (2000) asserts, '[t]his was largely a piece of theatre' (p. 172). While ostensibly 'a rag-tag armed group had achieved more in a couple of months than Rugova and the LDK had in seven years', and Serbian power in the region had seemed to have faded away (Judah, 2000a, 145), the KLA's efforts merely amounted to a 'soft control' of Kosovo (Caplan, 1998, 752).

That is, the KLA had mainly advanced into already Albanian-populated areas of Kosovo with very little Serbian resistance – not because the Serbs *could* not stop them, but because they did not yet seem to have an immediate strategy prescribing whether and how to do so. The KLA's armed insurgency, thus, remained 'a phoney war full of bizarre contradictions and oddities' (Judah, 2000a, 146), and in most of Kosovo, Albanian insecurity prevailed while the Kosovar Serbs waited for their government to step in (p. 149). The KLA's false sense of optimism about their ability to take hold of Kosovo, in fact, was soon crushed by Serbian counteroffensives in July and August 1998. Milošević demonstrated that his indecision did not mean that he did not have the capacity to decide, and the KLA subsequently retreated – it 'simply melted into the woods' (Judah, 2001, 23). It had been capable of provoking conflict with Serbia, but could then not protect the Albanian population it claimed to have control over (Clark, 2000, 176-177).

Towards Independence?

However, the brutal crackdown on the Kosovar Albanian rebellion, which led to the displacement of enormous numbers of Kosovar Albanians, did finally provoke the international community into action. Remarkably, major international actors, such as US State Secretary Madeleine Albright, had initially condoned and perhaps even legitimated Milošević's actions by labelling the KLA as a "terrorist group", but in October 1998 they forced him to accept the presence of an unarmed OSCE "verification" mission to monitor the withdrawal of Serbian troops from Kosovo. This only instigated new conflict, however, as the KLA was thereby enabled to "fill the vacuum" left behind by the Serbs, and in response, Serbia only intensified its brutality against the Kosovar Albanians in 1999.

The Contact Group, therefore, called the Serbs and the Kosovar Albanians to a conference in Rambouillet, France. In a clear indication that Rugova's power and influence had dissolved significantly, the Albanian delegation was led not by him but by KLA leader Hashim Thaçi (Judah, 2000b, 113-114). While full juridical independence for Kosovo from Serbia was not actually on the table, debate remains about to what extent the Western powers designed the proposed solution for Kosovo to the advantage of the Kosovar Albanians (Clark, 2000, 182-183; Hehir, 2010b, 7-8; Judah, 2008, 85-87; Lani, 1999, 31-32). In any case, after Milošević had refused to sign the accords at Rambouillet, on March 24th 1999 NATO initiated its 78-day campaign of airstrikes against Serbia, which was eventually forced to withdraw from Kosovo in early June 1999.

Looking back on Rugova's LDK as a peaceful geopolitical anomaly, then, some still highlight its virtues. In 1997, Judah (1997) was very positive about the LDK's nonviolence, arguing that:

[o]f all the leaders of former Yugoslavia, Rugova has perhaps played the shrewdest game... He has avoided giving the Serbs an excuse to use force to try to ethnically cleanse Kosovo. His policy is one of waiting until... somehow the province falls to his people like a ripe fruit... [D]espite discontent aroused by the belief that so far it has achieved nothing, in fact it has achieved much. It has saved lives and... kept Kosovo's Albanian population... in their homes (p. 307).

Clark (2000) equally emphasises how the Albanian non-violence averted war and Serbian aggression, maintained social cohesion and functioning social structures (he even claims that in many respects the parallel institutions functioned better than the Serbian administration in Kosovo), and provoked international condemnation for Serbian human rights violations (pp. 128-129). Non-violent resistance did not bring about the eventual NATO intervention, but it did supposedly provide the international community with the moral justifications for intervention and placed it, when it came, on the side of the Kosovar Albanians (Clark, 2000, 186; Maliqi, 2012, 67).

Veton Surroi, therefore, finds that Rugova's non-violent approach was 'necessary', as it 'prevented [Kosovo] from flaring up earlier when it was totally unprepared [and] prepared the world to deal with this issue' (as cited in Borden, 1999a). Furthermore, LDK vice-president Fehmi Agani, before his assassination by Serbian forces in May 1999, not only questioned whether the eruption of large-scale violence in the late 1990s was a worthwhile cost for Kosovo's goal of independence, but also argued that:

The real defeat of Serbia was a political defeat, and this was achieved by the LDK. It was not enough, but the KLA emerged at a time when Serbia had already become a strange presence in Kosovo. The ground was prepared for them... Serbia has been reduced in Kosovo to the police and army and force. Politically, it has been totally isolated in Kosovo, and has no support in any stratum of Albanian society (as cited in Borden, 1999b).

Maliqi (2012) equally finds that the keeping under control of the silent and peaceful Kosovar Albanians cost Serbia not only economically, but even more so in terms of its legitimacy and credibility as a modern formal state. In another celebration of the LDK's biopower, he even maintains that the Albanian non-violent parallel state 'clearly showed the limits of [Serbian] sovereignty' as it demonstrated and affirmed that 'there is no power that can subdue [Kosovar Albanian] will' to live (pp. 68-69). Clark (2000), finally, extensively discusses the qualities of a more "active" non-violence – more engaged and confrontational with the Serbs – that may hypothetically have been a more successful alternative to the LDK's peaceful resistance. For Clark, non-violence in itself was not an unviable tool for Kosovar Albanians to attain their objectives (pp. 132-151).

However, claims such as these, underscoring the LDK's "waiting game", its postponement of ethnic conflict, its gaining of the "international moral high ground", and its biopower, do not account for the fact that all of these merits of non-violence were essentially insufficient for achieving that ultimate Kosovar Albanian goal: liberation from Serbia. Kosovo was allegedly already lost by Milošević before his violent crackdown on the KLA. Either he would "let the KLA win and take Kosovo", or his lack of (international) legitimacy, induced by his excessive violence, would eventually expel the Serbs from Kosovo anyway.

There is an assumption here, however, that a lack of legitimacy is an objectively discernable status in international politics, and more importantly, that those with power in international politics will always act upon a *de jure* state's presumed lack of legitimacy. These assertions that the non-violent Kosovar Albanians "had time on their side" (Clark, 2000, 187; Maliqi, 2012, 69) – that the Serbian expulsion from Kosovo by the international community was in the end inevitable due to Serbia's "bad behaviour" – thus not only still rely on the use of some form of force, they also place an unrealistically high confidence in the moral consistency and normative character of the international community. Kosovo gained *de facto* sovereignty because NATO had at that moment the willingness and sufficient power to (violently) take it "on their behalf", not because Kosovo automatically "deserved" it after years of patient non-violence.

Furthermore, in a rather bizarre attempt to place the responsibility and agency over Serbia's eventual downfall in Kosovo in 1999 back into the hands of Albanian peaceful resistance, Reitan (2000) actually portrays the hundreds of thousands of Kosovar Albanian refugees that fled Serbian violent oppression in the second half of the 1990s as a continuation of non-violent (bio)power:

[C]hoosing to leave rather than fight is rooted in a strong conviction that political power is based in mutual consent. Using a last ditch mechanism of massive flight, Albanians were visibly withdrawing this consent with the hope that the [Serbian] regime could not survive the blow... [T]he impact of this action was more lethal to Milosevic's war machine than any violent weapon the Albanians could have mustered among themselves, forcing those with military means to act on behalf of this largely peaceful populace whose non-violent arsenal had been thoroughly exhausted (pp. 96-97).

Yet representing the massive stream of Albanian refugees moving out of Kosovo as a strategic “decision” to evade and undermine Serbian absolute power, and thereby as a supposed example of the Albanian capacity to overthrow that power, seems to depend on a misunderstanding of the relationship between biopolitics and *de facto* sovereignty. According to Reitan herself, this exodus was ‘spontaneous and haphazard, only half chosen’ (p. 96), and ‘performed under great duress’ with ‘no strategic leadership’ (p. 97). Moreover, apparently the “non-violent” Kosovar Albanians still relied on “those with military means” to actually liberate them. Again, she admits a few pages earlier that ‘it would take... an international occupation force to remove the yoke of Serbian terror from the neck of ethnic Albanians’ (p. 89).

Thus, for less powerful geopolitical anomalies like the Albanian community in Kosovo, a pacifist strategy may be a prime option for survival, but the only way in which such geopolitical anomalies can attain *de facto* sovereignty still seems to be through a resolution of a violent crisis. As Kosovar Albanian academic and novelist Mehmet Kraja has observed:

however harsh and not humane this might sound, Kosovo was in need of a war also for internal reasons. Kosovo had to get rid not only of Serbia, but also dispose of the idea of subordination... Kosovo needed a war to help her understand that there were other political alternatives, apart from that capital deception that dictated one could live in occupation, whilst dreaming of their freedom (Kraja, 2003, 36; as cited in Bekaj, 2010, 16).

Duijzings (2000) outlines lucidly the crucial position of violence in the creation and consolidation of political communities in the Balkans (pp. 32-36). Throughout the region, nations, identities, and ethnicities may have remained mixed and ambiguous, but through the use of force *de facto* sovereigns have maintained the capacity ‘to erase the elements of mixture... and ambiguity’ (to create friend/enemy distinctions) in order to establish and bolster (new) political communities (p. 32). As such, ‘violence in former Yugoslavia is in the end not only the *result* of opposite and incompatible identities, it is perhaps even more so the *means* to achieve them’. Violence denotes that moment of crisis being resolved by the construction of ‘solid and impenetrable boundaries’, so that the *de facto* sovereign resolution of a crisis through violence ‘creates purity out of impurity’ – order out of disorder (p. 33).

As Sorabji (1995) says, ‘[v]iolence may achieve results that cannot otherwise be achieved’ (p. 81) – it achieves a reconstitution of political order. It creates ‘new realities on the ground’, finds ‘blank spaces’, and constructs ‘a new type of situation, new consciousness, statuses, loyalties and identities’. Additionally, not only does it ‘engineer new situations’, it also ‘makes reality resemble the ideological constructs that underpin the violence’ (Duijzings, 2000, 33). In other words, the nature of any (new) political order will resemble the decision(s) of he/she who in the moment of violent crisis proves to be the most powerful – the *de facto* sovereign (p. 36).

In a sense, then, the KLA’s efforts to draw the Kosovo issue into violent conflict proved more successful as a strategy towards achieving Kosovar Albanian independence. According to Hehir (2010b), it actively sought to provoke the Belgrade regime into excessive violence in order to force a hitherto reluctant and indecisive international community into a more substantive engagement with Kosovo (p. 7). And indeed, as Pettifer (2001) argues, ‘it can be stated with certainty that NATO would not have intervened in Yugoslavia without the emergence of the KLA’ (p. 25). More importantly,

Judah (2001) points out that the successfulness of the KLA is especially remarkable given that it never actually won a battle itself (p. 20). As he states a year earlier:

[i]t is hardly an exaggeration to say that the... KLA must rank as the most successful guerrilla organisation in modern history... having managed to subcontract the world's most powerful military alliance to do most of its fighting for it. After all, it hardly matters how the Serbs were ejected from Kosovo; what matters is that they have been – and had it not been for the existence of the KLA, they would still be there (Judah, 2000b, 108).

In the first weeks of the NATO campaign, in fact, the KLA came close to being trampled by Serbia's overwhelming force, and the fact that it survived can be ascribed not to its own strength but to NATO's persistence (p. 114). Clark (2000) is very critical of the nature of the NATO campaign, arguing that it did not actually attempt to protect Kosovar Albanians, but to instead defeat and punish Serbia in a final showdown. Yet, while NATO thus seemed to do very little against Serbia's almost genocidal efforts in 1999 to rid Kosovo from its Albanian majority (pp. 183-184), in the end 'Milošević was presented with a *fait accompli*' (Judah, 2008, 90). At Rambouillet, Milošević had already decried to US Special Envoy Richard Holbrooke that 'you will bomb us... there is nothing we can do about it' (as cited in Judah, 2000a, 227), and during the NATO airstrikes US National Security Advisor Sandy Berger confirmed the 'irreducible facts' of NATO's capacity to decide on the exception in Kosovo: 'One, we will win. Period. Full stop. There is no alternative. Second, winning means what we [say] it means' (as cited in Judah, 2000a, 271).

Thus, while Hashim Thaçi (2000) himself maintains that '[t]he KLA brought NATO into Kosovo' and that 'Kosovo was liberated by the KLA with the help of NATO' (p. 287), it was actually NATO that exerted its *de facto* sovereignty over Kosovo and took it from the Serbs. Through an act of overwhelming force, it was NATO that proved itself able to resolve the crisis between warring parties, and establish a new kind of political order in Kosovo.

Kosovo and *De Facto* Sovereignty

As such, a lot of questions actually remain about the viability of Kosovo as a political entity after NATO's exclusion of Serbia in 1999. Indeed, issues of *de facto* sovereignty and violence are *in themselves* not the most important discussions of this chapter. Rather, it is their vital relationship with the sustainability of Kosovo as an independent state (*de facto* or *de jure*) that we must assess. After the 1999 intervention, UNSC Resolution 1244 (1999) established the United Nations Mission in Kosovo (UNMIK) which would be assisted by the NATO-led Kosovo Force (KFOR). The KLA, in the meantime, set up a provisional government led by Hashim Thaçi. Rugova and the LDK, on the other hand, secured a landslide victory in October 2000 elections, and Rugova actually again became President of Kosovo until his death in January 2006. Regardless of all these developments, however, as Lani (1999) wrote in the aftermath of the NATO airstrikes, '[a]ny political power in Kosovo... whether headed by Rugova, Thaçi, or someone else, will to some extent be no more than "a parallel system" or shadow government to the international administration' (p. 40).

To be sure, Resolution 1244, which created UNMIK, not only seemingly paradoxically stated that it demanded full account to be taken of "the will of the Kosovar people" while simultaneously reaffirming Serbia's sovereignty over it (Judah, 2008, 93-95), *de facto* sovereignty over Kosovo actually also ostensibly remained to be exercised by UNMIK itself. Neither Serbia nor the Kosovar

Albanians were able to grasp any decisive control over the region, because there was a more powerful entity that exercised such control. In 2001, the new Provisional Institutions of Self-Government were established, yet these remained firmly subject to the authority and executive rule of UNMIK (Moses, 2014, 122-126). Therefore, while UNMIK has now been formally dissolved and replaced by the European Union Rule of Law Mission to Kosovo (EULEX), and Kosovo's and Serbia's governments have moved toward gradual "normalisation" of their relationship, it still remains to this day altogether unclear who – Serbs or Albanians – would resolve an eruption of violence were it to occur in Kosovo.

Converging Communities?

This is crucial, because the possibility for such violence continues to be potent. Similar to the LDK period, in fact, Kosovo post-1999 has been characterised by the spatial separation of ethnic communities – only they have exchanged places (Kostovicova, 2005, 182-213). Particularly those areas with a Serbian majority not at all seem to identify either with an overarching Kosovar governing authority or with the international supervisory regime, and Serb communities have repeatedly been subjected to Albanian violence, even with the substantial presence of international security forces (Van Der Borgh & Lasance, 2013; Vladislavjevic, 2012). According to Dahlman and Williams (2010), these processes of "ethnic enclavisation" have the potential for prolonging conflict in Kosovo. Currently, the KFOR mission 'creates *de facto* security perimeters' along rather vague enclave boundaries, but without such international presence, strategies of mutual exclusion and border solidification within Kosovo's nominal boundaries could violently erupt (p. 423).

Many, therefore, envisage the creation of an inclusive civil society as a pathway towards sustainable post-conflict reconstruction and democratic peace in Kosovo (Sörensen, 2009, 256; Strazzari & Selenica, 2013, 117). Supposedly, civil society in Kosovo could be an 'arena of voluntary collective action around shared interests, purposes, and values' (Haskuka, 2008, 18) that would function as 'significant leverage against the dominance of ethno-nationalist divisions in Kosovo' (Devic, 2006, 257). Moreover, given the Kosovar Albanian spell of peaceful resistance in the early 1990s, grounds for such a vibrant and integrated civil society are presumed to be already there.

As we have seen in the previous chapter, however, civil society in the LDK-years did not consist of anti-nationalist organisations, but rather formed a parallel national community excluded by another (pp. 258-260). As a result, to this day it is nationalism – Serb or Albanian – that has formed the element of social convergence, the ideology of mobilisation, and the promise of emancipation in Kosovo (Strazzari & Selenica, 2013, 119-122). In other words:

far from being disconnected from nationalism, Kosovo's civil society has been consistently and intimately linked with it... To the extent that nationalism can be considered "part of the problem", expectations concerning the role of civil society as "part of the solution" need to be revised (p. 117).

As Kostovicova (2013) confirms:

civil society in the Western Balkans is, by and large, a fragmented sphere, characterised both by ethnic segmentation and by prioritising national over transnational modes of activism. Therefore, the relative vibrancy of civil society activism as evidence of democratisation is offset by its ethnic nature (p. 106).

As such, in another reminder of the limitations of two political communities peacefully sharing *de facto* sovereignty, “civil society” in Kosovo – understood as a community of *bios* without *zoe*, as an apolitical contrast to a political friend/enemy distinction, as a society in which the exception is somehow “included”, in which the potential for conflict with an “Other” has been eliminated – still simply does not (yet) appear to exist. While the future of Kosovar Serbs may be portrayed as a minority rights issue within the wider political framework of the Republic of Kosovo, the reality seems to be that ‘those living in the [Serbian] enclaves... deal almost entirely with *de facto* Serbian rule’, as ‘the Serb enclaves are not minority communities in an undifferentiated space but an attempt to create localised majority territories that invert Kosovar Albanian rule’ (Dahlman & Williams, 2010, 407-408). Jarstad (2007) makes similar observations, even predicting that ‘[a]fter Kosovo’s [legal] status is settled, Serbia... is likely to retain control over these areas’ (p. 235).

Coming back, then, to issues of violence, *de facto* sovereignty, and Kosovo’s future, it almost seems as if Kosovo owes its existence as a singular political unit primarily to NATO’s ability to resolve the violent crisis between Serbs and Albanians in 1999, and to the ability of international actors to thereafter continue to prevent the outbreak of violent conflict within the polity. Kosovo does possess its own multi-ethnic security forces which are intended to independently maintain order (eventually in the new *de jure* state) but for now these forces remain firmly controlled by Kosovo’s international military presence (Bekaj, 2010, 33-36). Moreover, Ryan (2010) contends that those multi-ethnic security forces may represent an international ideal of peaceful coexistence between the two Kosovar communities, but these communities simply view those security forces as tools for mutual *de facto* sovereign exclusion (pp. 122-128). More broadly, Ryan (2010) reaffirms that any “peaceful coexistence” of the two Kosovar communities seems to be mostly realisable through the use of exceptional force. The international community aims to make Kosovo a multi-ethnic liberal democracy governed by the rule of law, but it seems that Kosovo can only be sustained by *de facto* sovereignty – by the capacity to act beyond those laws.

Indeed, King and Mason (2006) have contended that “the world failed Kosovo”, lamenting the manner in which UNMIK and Kosovo’s international administration succeeded in grasping and withholding *de facto* sovereignty from Serbia, yet thereby were merely capable of maintaining “peace at any price” – of upholding a “securocratic” political order without engaging in the creation of a more sustainable political coexistence on the ground. However, the question then emerges how UNMIK could have forced ‘contrition from the Serbs and acceptance from the Albanians’ (p. 114), or ‘compelled’ people in Kosovo ‘to adhere to the rules and norms of a peaceful, pluralist society’ (p. 262), and simultaneously itself maintain a semblance of contributing to the creation of such a democratic and inclusive society (Tansey, 2007, 719). As King and Mason (2006) admit, ‘if such a transformation was to happen, it would have to happen spontaneously’ (p. 247) – a prospect that has so far remained rather unlikely.

As such, any supposed “failure” of UNMIK (or any other international actor) to create a liberal multi-ethnic democracy in Kosovo seems not so much derived from alleged incompetencies among these international institutions, but from a more fundamental discrepancy between the aims of converging opposed political communities through purely (international) legal means, and the nature of *de facto* sovereignty.

A Legal Padding?

This is a discrepancy, Ryan (2010) discerns, which the international community, and especially its liberal internationalist proponents, has failed to understand. The example of Kosovo exactly exposes the liberal contradiction that the establishment and maintenance of a legal and peaceful order fundamentally rests on non-legal and violent means. As Gheciu (2005) concurs, there is a ‘tension between the norms around which the international administration defined its role, and its actual governance of Kosovo’ (p. 122). The liberal internationalist struggle to come to terms with this tension is particularly uncovered in the international legal arena. The Independent International Commission on Kosovo (IICK) (2004), for instance, famously assessed the NATO intervention as ‘illegal but legitimate’ (p. 4) – a quintessential description of a *de facto* sovereign act. Some normative thinkers maintain that the NATO intervention was both juridically and morally just, but simultaneously do not deny that NATO “took the law into its own hands” (Biggar, 2000).

The incapacity of international law to regulate the exception came to the fore even more clearly after Kosovo’s unilateral declaration of independence (UDI) in February 2008, a declaration that was evaluated by an Advisory Opinion (AO) from the ICJ in 2010. While the AO asserted that ‘the [Kosovar] declaration of independence... did not violate general international law’ (ICJ, 2010a, 8) the majority judges only came to that conclusion by narrowing the issue down to a simple “speech act” of declaring independence:

[T]he task which the Court is called upon to perform is to determine whether or not the declaration of independence was adopted in violation of international law. The Court is not required by the question it has been asked to take a position on whether international law conferred a positive entitlement on Kosovo unilaterally to declare its independence or, *a fortiori*, on whether international law generally confers an entitlement on entities situated within a State unilaterally to break away from it (ICJ, 2010b, 26-27).

Thus, as Sterio (2013) finds, ‘[i]n an almost unbelievable twist of legal reasoning’ and ‘an incredibly narrow formulation of the legal issue’ (p. 81), ‘[t]he world court seemed to embrace a vision of declarations of independence as formalistic acts, or pieces of paper, completely separate from the act of separation’ (p. 82). The Court seemingly portrayed Kosovo’s UDI as ‘nothing more than ink on parchment: a sheet of paper, signed by a group of people, and about which international law could not care less’ (Kohen & Del Mar, 2011, 109). In an implicit acknowledgement of its inherent subordination to “realities on the ground” pertaining to Kosovo, the AO provided no perspective on the legal or material ramifications of the declaration – on whether it would have consequences for the recognition of Kosovo’s *de jure* sovereignty or the exercise of its *de facto* sovereignty (Ker-Lindsay, 2012, 158-163; Moses, 2014, 127-128).

Furthermore, it did not incorporate in its judgment the *de facto* means through which independence was, or could be, decided. Given the fact that the AO did not wish to make any statements regarding a general international rule legitimating acts of secession, it explicitly argued that other individual UDI's could still be found illegal insofar they 'stemmed... from the fact they were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law' (ICJ, 2010a, 7). In an apparent contradiction to this argument, however, the AO then made again no mention of the NATO intervention as a potential extra-legal (or rather, illegal) act violently establishing Kosovo as an independent political entity (Moses, 2014, 132-136). This omission has been rather dubiously defended by arguing that the NATO campaign was 'too remote' from the declaration to be of any legal relevance for it (Christakis, 2011, 83; Peters, 2011, 107).

The AO was also able to come to this conclusion, however, through a remarkable contention that any institutional and legal provisions set up under Resolution 1244 and UNMIK from 1999 onwards did not pertain to the individuals declaring independence. The majority judges defined the authors of the declaration of independence as 'persons who acted together... outside the framework of the interim administration' established in Kosovo by the international presence (ICJ, 2010b, 48-49). In doing so, the AO not only allowed itself to circumvent issues relating to the *lex specialis* established in Resolution 1244, which explicitly reaffirmed Serbia's territorial integrity (Moses, 2014, 128-129), it also served to conceal the fact that *de facto* sovereignty in Kosovo was actually held by international actors.

Supposedly, Resolution 1244 did establish 'a temporary, exceptional legal regime which... superseded the Serbian legal order and which aimed at the stabilisation of Kosovo' (ICJ, 2010a, 10-11); a *de facto* sovereign international presence was created. Contradictorily, however, the AO then pursued to argue that '[t]here is no indication, in the text of Security Council Resolution 1244... that the Security Council intended to impose... a specific obligation to act or a prohibition from acting' on any person in Kosovo (p. 13), implying that the people of Kosovo – such as those declaring independence – were able to legitimately take their fate into their own hands (Sterio, 2013, 82-83). In an apparently tautological reasoning, the AO found that:

[t]he authors of the declaration did not seek to act within the standard framework of interim self-administration of Kosovo, but aimed at establishing Kosovo as an independent and sovereign state... The declaration of independence, therefore, was not intended by those who adopted it to take effect within the legal order created for the interim phase, nor was it capable of doing so. On the contrary... the authors of that declaration did not act, or intend to act, in the capacity of an institution created by and empowered to act within that legal order but, rather, set out to adopt a measure the significance and effects of which would lie outside that order (ICJ, 2010b, 47).

As the ICJ, thus, maintained that the declarers of independence did not act 'in their role as provisional institutions deriving their powers from Resolution 1244, but as revolutionaries, in normative discontinuity to the pre-existing legal framework' (Peters, 2011, 100), it was implying that these persons were acting beyond any existing international or local juridical order (Moses, 2014, 136-138). Jacobs and Radi (2011) concur with this conclusion, confirming that as the AO 'established that the authors of the declaration were a group of random individuals, it found, in essence, that international law had nothing to say about it' (p. 332). In Pippan's (2010) words:

If, as the Court affirms, neither the legal regime created by the UN nor the legal order of Serbia applied to those who adopted the declaration, then – to paraphrase Judge Bennouna – which legal order governed the authors of the UDI at the moment of its adoption? Apparently, the answer given by the Court is: “None” (p. 164).

Whereas Moses (2014) presented this moment as ‘a non-legal moment – a point at which law is silent’, and as an occasion ‘where will and power are uncontained by any pre-given norm or legal rule’ (p. 137), it does not appear that those declaring Kosovar *de jure* independence were at that moment in fact deciding on the material *de facto* exception. Given the more “oral” nature of such declarations, it would be hard to surmise that the authors of the declaration possessed material *de facto* sovereign power. Rather, it seems that the *de facto* sovereign international actors of Kosovo, as well as the ICJ itself, simply decided that this *de jure* declaration did not constitute a real crisis. Somehow, the international presence in Kosovo did not see the declaration of independence as a challenge to its *de facto* sovereignty, nor did the AO equate the extra-legality of the declaration with a violation of international law.

Such legal reasoning has been lambasted by the AO’s dissenting judges, who dismissed it as ‘nothing more than a *post hoc* intellectual construct’ (Tomka, 2010, 57) and ‘a kind of judicial sleight-of-hand’ (Koroma, 2010, 75). Others have expressed more general criticism of the AO’s judgment, describing it as ‘an exercise in the art of silence’ (Pippan, 2010). However, the fact that ICJ remained silent on Kosovo’s *de facto* existence as an independent state, on the manner in which *de facto* independence was created, and on the political and legal status of those declaring independence, should perhaps more accurately be interpreted as a tacit acknowledgement of the fact that international law just *did not have any capacity* to make a meaningful judgment on these issues.

The Kosovo AO ‘may ultimately be remembered more for what it did not say than for what it did’ (Mills, 2011, 4), because its silence lucidly exposes the nature of the relationship between (international) law and *de facto* sovereignty. The outcomes of the Kosovo AO may be perceived as relatively insignificant, but this insignificance does provide a crucial insight into any international expectation of “ruling out” geopolitical anomalies in general – an insight which will be discussed in further detail in the conclusion of this thesis.

The Future of Kosovo

For Kosovo, certainly, the effective repercussions of the ICJ’s opinion could not have been anything other than minimal. As Peters (2011) wonders, ‘[w]hat could have realistically happened if the Court had qualified the declaration of independence as unlawful?’ (p. 108). Wilde (2011) responds to this rather rhetorical question as follows: in that case, ‘Kosovo would still be *de facto* independent from Serbia, and other non-state groups around the world... would still see that the prospects for their aspirations lie chiefly in the realm of international politics rather than international law’ (p. 307).

Given the nature of respectively *de facto* sovereignty and international law, ‘any determination that the court made was destined to have no impact on the situation in question’ (Moses, 2014, 144). Kosovo appears to be sustained as a political entity primarily by the grace of an externally maintained and supported *de facto* sovereign that cannot be captured in any international or domestic juridical arrangements. Aside from the substantial international presence formally mandated by the UN, NATO, and the EU, from the creation of an extensive domestic juridical and

institutional framework, and from the unilateral declaration of independence that did allegedly not violate the rules of the international legal order, Kosovo remains an entity that is in essence governed by the extra-legal *de facto* sovereign power to forcefully maintain stability.

Some argue, as such, that in the years after the 1999 intervention Kosovo has become an 'international protectorate' more than a political entity (Jarstad, 2007), an international legal 'exception' that produced (*could* only produce) no more than a 'transitional state' lacking locally controlled *de facto* sovereignty (Gow, 2009). Ryan (2010) equally finds that the international exercise of *de facto* sovereignty over Kosovo has actually kept Kosovo in its state of exception – in its state of unresolved conflict between two entities hoping to grasp that *de facto* sovereignty. As Maliqi (2012) contends, the international presence in Kosovo 'certainly creates more possibilities for controlling the crisis than the situation of one side's ethnic domination against another... which led to war', but 'we cannot expect the UN mission in Kosovo to simply eliminate the essential matrix of inter-ethnic conflict' (p. 70).

Attempts to mitigate this fundamental potentiality for intercommunal crisis on the one hand aim to legally dissolve Kosovo's central governmental authority altogether in favour of peacefully integrated ethno-spatial communities (Stroschein, 2008), but on the other hand, cannot actually eliminate the possibility of violent conflict that exactly highlights Serb-Albanian intercommunal boundaries and power relations. The two (main) ethno-national groups in Kosovo have apparently hitherto remained polarised regardless of any externally imposed legal frameworks for multi-ethnicity and power-sharing (Jarstad, 2007).

Conversely, therefore, Vladislavljevic (2012) actually argues that a formal partition of Kosovo, implying the accession of Serb majority areas to Serbia proper, 'stands more chance of putting an end to the conflict than do the solutions put forth by the international community' (p. 40), because '[a]ny attempt at the reversal of *de facto* partition and the forced remixing of Albanians and Serbs in a "multi-ethnic society" is virtually certain to increase hostilities' (p. 38). For him, the international legal affirmation of boundaries between two *de jure* states – between two supposedly *de facto* sovereign entities – would throw up a sufficiently effective impediment to Serb-Albanian conflict in the Balkans. Whether this is indeed true will again be further considered in the conclusion.

For now, the question remains whether Kosovo will obtain *de facto* sovereignty through the violent resolution of the ongoing crisis between Serbs and Albanians, or through the peaceful transition from one ("international") *de facto* sovereign to another (Kosovar) one. The international presence in Kosovo wants to maintain a unitary political community, which certainly seems to be a noble pursuit, but at the moment it thereby merely appears to function as the *de facto* sovereign who prevents the violent crisis (or the likelihood thereof) that would establish such a unitary political community. As long as the two Kosovar political communities remain ostensibly opposed, the international actors in Kosovo appear to merely mask the potential for conflict that would eventually establish Kosovo as a *de facto* sovereign entity ruled either by Serbs or Albanians. The international presence in Kosovo, indeed, will have to come to terms with the fact that there cannot be a *de facto* sovereign over Kosovo which simultaneously aims to establish another *de facto* sovereign for the *de jure* state-to-be.

Therefore, unless the notions of unavoidable and fundamental ethnic hatreds in Kosovo are definitively proven to be wrong, and the supposedly contingent ethnic animosities are irreversibly reconstructed into an integrated Kosovar political identity, an international departure from Kosovo will risk the outbreak of renewed violence. Kosovo's political existence, whether as a geopolitical anomaly or as a *de jure* state, will fundamentally depend not on the rule of law – international or domestic – but on the rule of decisive political power.

Conclusion

Borges's World Map

...In that Empire, the Art of Cartography reached such Perfection that the map of one Province alone took up the whole of a City, and the map of the empire, the whole of a province. In time, those Unconscionable Maps did not satisfy and the Colleges of Cartographers set up a Map of the Empire which had the size of the Empire itself and coincided with it point by point. Less Addicted to the Study of Cartography, Succeeding Generations understood that this Widespread Map was Useless and not without Impiety they abandoned it to the Inclemencies of the Sun and of the Winters.

(Excerpt from Jorge Luis Borges's *On Rigor in Science*; Borges, 1964, 90)

The short story displayed here paints an image of a universally knowable world – a world of which no component has remained unexplored or unaccounted for. Borges describes a realm in which only exactitude suffices, and in which the comprehension of social and physical space has extended so far that any element of surprise has been eliminated from it. At the same time, however, Borges's story concludes that such an expectation would not only be unfeasible, but even undesirable; apparently, any wish to completely understand and do justice to (geographical) reality runs into certain inevitable problems (see also, Lewis Carroll's *Sylvie and Bruno Concluded*, Carroll, 1982, 727).

This thesis has similarly taken the form of an analysis of the inherent incomprehensibility of global social and political space. Its purpose has been to present an alternative to certain predominant geopolitical views of the world by presenting and analysing geopolitical anomalies as significant inconsistencies with such worldviews. Through an examination of how these geopolitical anomalies manifest themselves in the international political framework, I have tried to demonstrate how the practice, discourse and nature of international relations will have to come to terms with certain intrinsic limitations.

To return to Borges's story, then, whereas it speaks to our desire to regulate and understand rather than to leave things unclear or uncertain, geopolitical anomalies are material manifestations of the fact that in international relations such a desire is unattainable. Accordingly, as I will maintain in this conclusion, Borges's story actually forms a useful allegory for the ways in which geopolitical anomalies disrupt any conception of international politics as neat and orderly, and perhaps provide us with new possibilities for understanding and researching geopolitical anomalies and, thus, international politics in itself.

As I argue, the map described above implies an infallible representation of reality, seemingly even to the extent that representation becomes reality in itself. In doing so, they remind us of the fallacious conceptualisations of international politics solely dominated by legal states. As geopolitical anomalies challenge such conceptualisations, they expose problems with representing the world as nicely compartmentalised into legal state territories. Indeed, at a time in which the various "indexes" devised and used in international political scholarship and practice, such as the *Fragile State Index* (Messner, 2015), the *Good Country Index* (Anholt & Govers, 2014), and the *Global Peace Index* (IEP, 2015), may continued to be criticised for glossing over the complicatedness of actual global socio-

political processes and circumstances, we can perhaps consider the world map in itself as an index of global politics – as something of a simplification of the enormously complex realities and spatialities of international political life.

On the other hand, as is again suggested by Borges, perhaps global social life simply does not lend itself very well to completely accurate representation. Assuming that the international political world remains an ever-evolving and unfixed landscape, dissecting (and thus perhaps “simplifying”) that landscape into intelligible concepts and geographies might actually be necessary to make sense of it. The view espoused in this thesis, however, is not that we should refrain from trying to make the nature of international politics more understandable, but that we should come up with an understanding that more closely reflects international political realities – one that will inescapably have to pay heed to geopolitical anomalies. If there is anything that geopolitical anomalies expose about international political practice and scholarship, it is that it is compelled to grapple with a world full of ambiguity and irregularity, while simultaneously taking into account certain irrefutable rules and realities of global socio-political life. In fact, as I have tried to argue in this thesis, we cannot “map the exception”, “chart the crisis”, or “delineate the emergency” – we cannot draw up a universally truthful image of international relations – precisely *because* there are certain insurmountable truths in international politics.

In the conclusion to this thesis, as such, I will explain that the study and conduct of international politics will best be capable of dealing with geopolitical anomalies by beginning to acknowledge the fact that it will actually never be capable of ruling out the exception. In other words, I conclude that exceptionality *is* the regularity of international politics. That not only means that it will remain impossible to “regulate” or “know” everything about global social life, but more importantly, that any attempt to completely “solve” the “problem” of geopolitical anomalousness is doomed to be unsuccessful.

On Geopolitical Anomalies Again

The starting premise of this research has been the persistent difficulties of “conventional” and “traditional” discourses and practices of international politics to understand, come to terms with, and/or accommodate political entities outside of those discourses and practices. As I contended, this difficulty can, at least partly, be explained by an overemphasis on normative and legalistic perspectives within studies on these political entities. More specifically, as international law and legally recognised states have been generally taken as the primary structures and actors of international politics, polities without those legal rights and privileges have been subordinated as rather insignificant in international relations.

This thesis, therefore, has adopted a classical realist approach to international relations in order to counter these “legalised” notions of international political life, contending that political communities existing externally to these (international) legal arrangements may teach us quite a few important lessons about the nature of international political practice and scholarship. It has employed the term “geopolitical anomalies” – political entities without the recognised rights and privileges of legal states, but with state-like structures and manifestations nonetheless – to call for a more serious consideration of these “actual” political exercises in international relations. This concept of geopolitical anomalies, thus, has been utilised as a signifier of the physical and spatial manifestations of a wide array of political communities that demonstrate the irregularity of the international legal and political system.

I have maintained, furthermore, that the (over)emphasis of traditional international relations scholarship on legal state practices, and its concomitant disregard for geopolitical anomalies, can be related back to its diverse but thereby also confusing application of the principle of sovereignty. In particular, while geopolitical anomalies uncover the fundamental differences between sovereignty as recognised in international law (*de jure* sovereignty), and sovereignty as exercised in acts of material decisional power (*de facto* sovereignty), these differences appear to often remain overlooked in international political thought.

In the first chapter of this thesis, therefore, I have attempted to unravel some of these primary confusions about sovereignty in international political discourse. By contrasting the “myth” or “ideal” of Westphalian sovereignty, in which legal state sovereignty is assumed to be intrinsically accompanied by absolute *de facto* sovereignty over territory, with the “real life” manifestations of geopolitical anomalies, I have tried to expose the functioning of this “Westphalian myth” in international politics. However, in spite of the clear challenges to Westphalian sovereignty by geopolitical anomalies, many traditional international relations theories (neorealism, liberal internationalism, constructivism) maintain a fundamentally Westphalian view of sovereignty, and remain rather unclear as to how they would distinguish between the legal sovereignty statuses of *de jure* states and *de facto* sovereign acts. This tenacity of the notions of Westphalian state sovereignty in studies of international relations forms a significant impediment to a reevaluation of the effective power and *de facto* sovereignty manifestations of geopolitical anomalies existing without *de jure* state sovereignty.

Chapter Two has served to provide a deeper insight into the juridical connotations of sovereignty as found in international law and *de jure* statehood. Importantly, in the international legal framework, (*de jure*) sovereignty embodies a normative principle and arrangement, rather than an objectively discernable act of supreme political power. *De jure* state sovereignty, therefore, comes about through its recognition by other *de jure* states in international law, which denotes an acknowledgement of “state criteria” in a certain political entity as well as a consequent conferring of international law’s rights and privileges upon that entity.

However, while geopolitical anomalies, insofar as they are able to demonstrate these “state qualities”, may thus seemingly have a right to international legal recognition, in practice they face tremendous resistance from the international legal-political framework against their integration within this framework. Geopolitical anomalies could try and find a “resolution” to their secondary international political status by appealing to their international legal right of self-determination, but in the majority of cases that (principally universal) right is trumped by the overwhelming propensity of international law and politics to keep *de jure* state borders intact. Alternatively, a geopolitical anomaly could seek autonomy and/or power-sharing arrangements within their *de jure* state, but such juridical arrangements cannot guarantee that geopolitical anomaly’s survival in moments of crisis or conflict with the *de jure* state.

As I have suggested, therefore, perhaps alterations in international political discourse, which would (re-)emphasise the nature and implications of *de facto* sovereign decisions in crisis situations, would help to make geopolitical anomalies more significant members of international political society. Chapter Three, as such, has been dedicated to these questions of *de facto* sovereignty. Utilising classical realist perspectives based in the ideas of Thomas Hobbes, Carl Schmitt, and Hans Morgenthau, I have demonstrated that a *de facto* sovereign act specifically constitutes the

decisionist act of supreme and absolute power in an exceptional situation, resolving a crisis or conflict in a political community.

Remarkably, however, whereas classical realism thus represents *de facto* sovereignty as related to moments of chaos and conflict, scholars cultivating a “critical theory” of international politics portray it in the exact opposite manner – as emerging in moments of peacefulness and regularity. Grounding their ideas of *de facto* sovereignty in concepts like *governmentality* (the dispersed everyday practices of politics in a “network” of governance) and *biopower* (the power of human life to resist absolute sovereign power), as outlined by thinkers such as Michel Foucault and Giorgio Agamben, critical theorists consider *de facto* sovereignty as shared and overlapping modalities of power.

On the contrary, in my contention, whereas these critical theories might helpfully uncover the various power manifestations other than *de jure* sovereignty that characterise (some) geopolitical anomalies’ everyday existence, classical realism forms a more useful approach if we want to find out to what extent geopolitical anomalies actually possess *de facto* sovereignty. A geopolitical anomaly, Chapter Three concludes, might then either take the form of a *de facto* sovereign political entity deciding on its own exception from *de jure* state law, or of a manifestation of (bio)power and governmentality attempting to challenge or resist the *de facto* sovereignty retained by a *de jure* state.

The examples in this thesis have served to highlight and make clearer these theoretical contentions. Chapter Four has focused on the geopolitical anomaly of Somaliland, which has succeeded in creating a relatively peaceful and well-functioning *de facto* sovereign (effectively independent) political entity within the nominally legal boundaries of Somalia. This geopolitical anomaly, thus, first of all demonstrates the enduring nature of *de facto* sovereignty, which dissolved at the Somali state level in the early 1990s but was coincidentally gained by the different individuals in the country who were able to restore their kind of political order over their particular clan communities.

In Somaliland, different clan leaders initially referred to a mix of state-based ideals and clan-based norms and political processes to proclaim their independence as a state. Soon, however, these normative foundations of *de facto* statehood proved insufficient to prevent conflict between different clans within Somaliland, exemplifying geopolitical anomalies’ dependence on *de facto* sovereign power to decide on the exception and resolve political crises in a political community. Somaliland not only came into being through different clan militias’ *de facto* sovereign manifestations of military force, but subsequently managed to survive as a political entity by relying fundamentally on certain people’s *de facto* sovereign capacity to uphold political order on the (*de facto*) state level. In doing so, to this day Somaliland decides on its own exception from the legal order of Somalia.

With regard to its international legal recognition as a *de jure* state, then, it may be argued that Somaliland actually does not need it in order to survive. Not only does this geopolitical anomaly expose how the concept of international legal recognition signifies contingent political privileges and international political power relationships more than international legal representations of universal norms and identical material circumstances, it also simultaneously demonstrates that geopolitical anomalies with *de facto* sovereignty essentially do not rely on international norms of Westphalian sovereignty and/or *de jure* state recognition.

My second exemplary discussion was aimed at clarifying another aspect about the nature of geopolitical anomalies (and *de facto* sovereignty). Analysing the Democratic League of Kosovo, which (under the leadership of Ibrahim Rugova) organised a so-called “parallel state” and a peaceful resistance movement against Serbian oppression in the early 1990s, I sought to discuss the informal everyday power processes of governmentality, and the expressions of resistant biopower countering authoritarian and abusive sovereign power.

However, while the LDK engaged in such daily and non-violent exercises of governmentality and biopower by creating and maintaining a semblance of everyday public life for Kosovar Albanians, this was not actually peacefulness by choice. The LDK’s strategy of peaceful parallel statehood implied that the Kosovo Albanian community could survive and defend itself in a context of systematic Serbian repression, but they could not overthrow Serbian *de facto* sovereignty. As a consequence, the LDK’s strategy of non-violence had many positive qualities, but it fundamentally did not give the Kosovar Albanians the ability to decide on their own exception – it proved essentially ineffective as a means to obtain (factual) independence. Geopolitical anomalies, thus, might exist without *de facto* sovereignty, even for a substantial period of time, but eventually require the *de facto* sovereign capacity to decide on the exception in order to establish themselves (more) permanently.

As such, the final chapter of this thesis, which again involved the example of Kosovo, proceeded to argue that Kosovo has become a (politically) independent entity only after the decisive force of NATO airstrikes and UN missions took that *de facto* sovereignty from Serbia. As the Kosovar Albanians resorted to violence through the Kosovar Liberation Army, eventually provoking the “international community” into military intervention, the apparent *de facto* sovereignty of present-day Kosovo seems to owe a lot to extremely violent action. In this light, Kosovo’s unilateral declaration of independence in February 2008, and particularly the subsequent Advisory Opinion by the ICJ in July 2010, provided some fascinating insights. As the ICJ’s Advisory Opinion remained silent on Kosovo’s *de facto* existence as an independent state, on the violent manner in which *de facto* independence was created, and on the political and legal status of those declaring independence, it tacitly – or in fact explicitly – acknowledged that international law simply does not have the capacity to make a meaningful judgment on these issues. Geopolitical anomalies like Kosovo, once again, epitomise the inability of international legal declarations, opinions, or norms to capture or regulate issues and manifestations of *de facto* sovereignty.

Kosovo, then, may embody the possibility of encapsulating, cushioning, or even effacing any potential for inter-communal violence in a collection of domestic and international legal arrangements, but such juridical arrangements cannot resolve the question as to who would restore order in a situation of exceptional crisis. As long as the international presence in Kosovo essentially still functions as this geopolitical anomaly’s *de facto* sovereign, it will remain unable to establish a new *de facto* sovereign capable of sustaining Kosovo as a political entity. Attempts by the international (legal) community to “handle” or “regulate” geopolitical anomalies, therefore, will inevitably run into the problem that geopolitical anomalies’ political existence fundamentally relies not on the rule of law – international or domestic – but on *de facto* sovereignty as decisive political power.

In sum, while such attempts continue to be grounded in certain assumptions about the (trans)formative and regulatory capacity of norms and legalities, precisely these assumptions are rebuked by geopolitical anomalies, signifying that any possible future vision for the dissolution of geopolitical anomalies from international politics will have to come to terms with its own exception(s). In this thesis, the question has recurred whether, and particularly how, geopolitical anomalies could be integrated into the international political framework. It is still unclear, however, how such an alternative way of (re)structuring and (re-)imagining international politics and geopolitical anomalies could take root and come into being. In the remainder of this conclusion I will elaborate on this issue.

Generally, then, there seem to be two possible ways of envisioning a world devoid of geopolitical anomalies: one involving the establishment of a single global state, the other implying a vast plurality of individual *de jure* (micro-)states for every political community on the planet. Both of these visions somehow endeavour towards a global elimination of the exception, but do so in opposite ways.

The Proliferation of International Law?

To begin with the latter, in the sense that geopolitical anomalies form exceptions to legal statehood, a world that would countenance the continual proliferation of *de jure* states may in theory eventually become legally and politically all-inclusive. Exceptions to this expansive international politico-legal order may still occur, but they would immediately and without question be incorporated into this order. Again, as many individual geopolitical anomalies have already strongly considered and actively strived towards *de jure* statehood, can we start to entertain the idea of a more dramatic alteration of global political society into one in which each group possesses its own small state or micro-state?

Intuitively, it seems that any desire to universally rule out the international legal exception by universally legitimating and allowing it seems rather contradictory. Indeed, objections have been widely raised about a political world in which all geopolitical anomalies could find territorial “resolutions” through the juridical recognition of independent mini-statehood. Former US President Bill Clinton commented in 1999 that ‘[i]f every major racial and ethnic and religious group won independence, we might have 800 countries in the world and have a very difficult time having a functioning economy. Maybe we would have 8,000 – how low can you go?’ (Brooke, 1999). According to Gottlieb (1993), therefore, ‘the fragmentation of international society into hundreds of independent territorial entities is a recipe for an even more dangerous and anarchic world’ (p. 2). This sentiment has been reiterated within the UN as well, as former Secretary-General Boutros-Ghali warned that ‘if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well-being for all would become ever more difficult to achieve’ (Boutros-Ghali, 1992, 4). As Bartmann (2004), thus, summarises:

[f]or many sceptics, universality in this extreme would extend the normal understandings of a state to the limits of absurdity, and undermine the tacit assumption that there [are] normal dimensions of statehood rooted in the intuitive but common-sense practices of international diplomacy (p. 18).

My view, however, is that establishing a world of legal micro-states does not necessarily pose a moral problem, implying supposedly “normal” or “ideal” dimensions of statehood, but a practical one. In the arguments made above, we are reminded of the often expressed fear foreseeing a Pandora’s Box of secessionist struggles as a consequence of any individual legal recognition of a geopolitical anomaly. As one of the dissenting judges of the Kosovo Advisory Opinion complained:

to allow any ethnic, linguistic or religious group to declare independence and break away from the territory of the State of which it forms part... creates a very dangerous precedent. Indeed, it amounts to nothing less than announcing to any and all dissident groups around the world that they are free to circumvent international law simply by acting in a certain way and crafting a unilateral declaration of independence, using certain terms (Koroma, 2010, 69-70).

James Ker-Lindsay (2012), in this vein, actually devoted an entire book towards the question of how to ‘prevent breakaway territories from being recognised after an act of unilateral secession’ (p. 2) – a question, thus, not in terms of effectively maintaining such territories within nominal borders, but in terms of convincing other (legal) actors in world politics not to recognise them. In doing so, he clearly demonstrates that legal recognition constitutes a political decision by individual (legal) actors, instead of a universal legal rule.

A first issue with a micro-state world, then, is not that every geopolitical anomaly could theoretically gain *de jure* statehood – *prima facie* they have that international legal right already. Rather, as has been discussed in Chapter Four on Somaliland, legal recognition a geopolitical anomaly remains a political decision. As James Crawford commented about Kosovo’s unilateral declaration of independence, ‘[a] declaration issued by persons within a State is a collection of words writ in water; it is the sound of one hand clapping. What matters is what is done subsequently, especially the reaction of the international community’ (as cited in Ker-Lindsay, 2012, 1-2).

More importantly, however, such observations still do not seem to address the “politics” of a *de facto* sovereign decision on the exception. The issue is not that a Pandora’s Box of secessions may or may not be a likely consequence of one (or more) legal recognition(s). Rather, from the perspective of the inevitability of the exception in international politics, that box is already wide open. The above-made projections of global instability appear to be founded precisely on the fact that *de jure* statehood in itself remains incapable of eliminating violent struggles over *de facto* sovereignty. Again, as has been laid out in Chapter Four, *de facto* sovereignty is actually not reliant on *de jure* recognition for it to exist. To put it conversely, therefore, disallowing or vetoing geopolitical anomalies’ legal rights to self-determination or statehood does not actually suppress the Pandora’s Box phenomenon, because the issue of a group’s will and capacity to separate from a legal/political community is primarily a political, not a legal, one.

In other words, a micro-state solution to geopolitical anomalies would not negate the fact that legal sovereignty arrangements are frequently trumped by *de facto* sovereignty. While such a world would ostensibly eliminate all questions of legal recognition, and thus presumably eliminate the relationships of (imperialist) power that accompany such questions, *politically* and effectively such power relationships would not be eliminated. The problem is that a world of automatic *de jure*

statehood for any geopolitical anomaly would seemingly merely perpetuate the territorial state-based rules and regulations of the current international legal framework. Otherwise, this solution would already destabilise the very foundational regularities on which it is grounded. A proposed micro-state order for geopolitical anomalies, thus, brings us back, for one last time, to questions around the nature of international law and the way it intersects with international politics. A universal rule of gaining legal statehood as soon as factual statehood has come into being implies an overarching “*de facto* sovereign” authority granting that legality – presumably international law – yet as has been demonstrated many times in this thesis, international law in fact does not possess such a *de facto* sovereign capacity.

Importantly, this is not to suggest that the purpose of this thesis has been to completely dismiss the value of the international legal order. For instance, many legal states appear to successfully retain *de facto* sovereignty – the capacity to decide on the exception over their full territory. Moreover, those (Westphalian) ideals of universal *de facto* sovereignty over *de jure* state territory also remain very powerful in themselves. International law possesses a normative power that is very hard to ignore, representing at least an aspiration towards justice and peace. As such, international law undeniably represents and fosters some semblance of an international order, although – oxymoronically – it is an unstable and insecure one. While Anne Orford (2012a) readily acknowledges the controversy of any notion of international law as a guarantor or even an embodiment of a constituted international order (p. 271), she also demonstrates that the norms and rules it promotes do garner a more substantive international communal regularity, even if this is only a product of the consent of international political actors (p. 287).

If we want to talk about an international political *structure*, then surely *de jure* sovereignty boundaries serve as more than merely the decorative walls of that structure. Chapter Six already briefly touched on the question whether legally circumscribed territories somehow restrain more powerful entities from exerting their *de facto* sovereignty over those territories – in short, whether legalising boundaries creates a more formidable bulwark impeding a “transnational” *de facto* sovereign decision. And certainly, insofar as the legal equality of *de jure* states is safeguarded under international law, *de jure* sovereignty may function as a precaution against the dangers of a world dominated by warfare over *de facto* sovereignty. *De jure* sovereignty, indeed, may imply both a normative attenuation for the potential of interstate conflict, and an actual strengthening of the governing capacity of a (former) geopolitical anomaly.

In spite of all of this, however, international legal provisions ultimately lack the capacity to rule out the exception, even if they could be developed into a regulatory framework of micro-states. Revisiting the ICJ’s Advisory Opinion (AO) on Kosovo’s declaration of independence, we learn how international law is inherently compelled to remain speechless, not just about Kosovo, but about all geopolitical anomalies. Indeed, Moses (2014) insightfully directs our attention to the question whether the ICJ should have actually taken on the question of the legality of Kosovo’s declaration in the first place (pp. 129-130) – an issue on which the AO’s dissenting judges were particularly scornful.

As they made clear, the ICJ’s very decision to take on the *Kosovo Question* was problematic, as the Court was destined to thereby demonstrate international law’s ultimate impotence in the face of international political power (Moses, 2014, 145). The Kosovo AO merely ‘revealed the continuing truth... that the law cannot regulate the factual power that gives rise to the emergence of new states’, regardless of the ICJ’s ‘clunky and ultimately futile attempts’ to somehow conceal this fact

(p. 138). Inevitably, therefore, 'the Advisory Opinion... had a rather marginal effect in terms of how processes of secession and recognition are understood in international affairs' (Ker-Lindsay, 2012, 162). The AO did not actually clarify the question whether Kosovo was "allowed" to be legitimately independent, fully realising that it was in no position to "allow" or "legitimise" anything.

An alternative view of legal recognition of statehood can be found in the notion of *earned sovereignty* – already briefly discussed in Chapter Two. While this would certainly not be a principle leading to the endless proliferation of micro-states, it is proposed as a universal – albeit conditional – right for geopolitical anomalies under international law. As Williams and Pecci (2004) present it, earned sovereignty 'entails the conditional and progressive devolution of sovereign powers and authority from a state to a substate entity under international supervision' (p. 350). The earned sovereignty principle, thus, could be considered as an international legal attempt to encapsulate existing crises between *de jure* states and geopolitical anomalies.

Yet, once more, the glaring limitations of such attempts cannot be ignored. As is exemplified in the case of Kosovo, an imminent political problem with the notion of earned sovereignty is that the question of "deserving" sovereignty cannot be decided by international law as such. Proponents of the earned sovereignty approach do 'not perceive "sovereignty" to be a unitary right, but rather a bundle of authority and functions which may at times be shared by the state and sub-state entities as well as international institutions' (Hooper & Williams, 2003, 357). As such, while these proponents happily espouse notions of 'phased', 'accumulated', 'conditional', and 'constrained' sovereignty, such notions are completely antithetical to the nature of effective (*de facto*) sovereignty, which is always instantaneous, absolute, unconditional, and unrestricted.

The assumption that *de facto* sovereignty can be voluntarily "handed over" – placed upon one entity by another – remains problematic, because of the inherent power inequality that such a transfer would imply. Ostensibly, such a transition would lead to an endless vortex of questions about who "receives" *de facto* sovereignty and who does the handing over. Williams, Scharf, and Hooper (2003) concede that, in cases where two entities in question cannot come to mutual agreements, 'the international community may... initiate one or more of the elements of earned sovereignty against the interests of the state or sub-state entity' (p. 353), but such a solution brings up a variety of different problems. In order to fully rule out the exception in international politics, such an international intervening power would ultimately have to take on the form of a world state, rather than of an international legal framework (I will come to this issue in a moment).

Proposals for sovereignty to be 'shared' or 'negotiated' between a *de jure* state and a sub-state entity (Williams, Scharf & Hooper, 2003, 352-353), thus, can only be interpreted as legal idealisations that in themselves cannot form any guarantee of preventing conflict between these two entities. The fact that Hooper and Williams (2003) emphasise that earned sovereignty is not 'a panacea that can be applied to resolve all international problems involving disputes over rival territorial claims' (p. 357) constitutes a direct acknowledgement of international law's inability to form a universal remedy against international or domestic crises over political power.

Reisman and Willard (1988), therefore, argued that international law should assume international "incidents" or "conflicts" as its new "epistemic units". As Orford (2004) concurs, '[i]nternational law understands itself as responding to crises, but is itself also perpetually in crisis' (p. 443). Orford's work, here, is particularly insightful, beginning from the premise that '[t]here is no... ultimate sovereign that can act as "guarantor of a right" and thus do away with the uneasiness or anxiety caused by an inability to ground international law' (p. 466). While she understands this

inability as ‘a condition of late modernity’ rather than an inevitable characteristic of international relations, and somewhat paradoxically maintains that ‘international law is... a continuing source of extremely productive responses to that crisis of authority’ (p. 443), Orford’s proposal not to ‘appropriate the anxiety this crisis engenders’ (p. 476) fits in nicely with the wider argument of this conclusion.

Orford (2004) calls for international law to *embrace* its limits, instead of resorting to ‘the desire for a unitary authority’ (p. 469), reiterating Koskenniemi’s contention that for international law ‘the inner anxiety of the Prince is less a problem to resolve than an objective to achieve’ (Koskenniemi, 2002, 175). Other legal scholars have found that this emphasis on the international legal crisis ‘shackles international law to a static and unproductive rhetoric’ (Charlesworth, 2002, 377). Charlesworth, therefore, proposes a ‘refocus... on issues of structural justice that underpin everyday life’ as a way to escape this cycle (p. 391), but thereby overlooks the fact that everyday life is in many ways premised on the *de facto* sovereign decision on the exception. As Orford (2004) repeats:

[b]eyond the certainty of a sovereign law-maker is the unknown. This is the condition of possibility and the source of the productivity of international law... International law can, and at times has, involved the performance of another way of living with... uncertainty, anxiety, [and] instability. It may be that this sense of always occupying the place beyond what is known is the destiny, if not the destination, of international law (p. 476).

Thus, as a resolution for geopolitical anomalies and international political exceptions, a world of minute *de jure* states – let alone a less extensive proliferation of international legal recognition – would remain woefully ineffective. Geopolitical anomalies are “stuck in limbo” between their *de facto* existence and their lack of *de jure* recognition, and between their incapacity to decide on the exception and others’ capacity to do just that, and it remains very doubtful whether a resolution of one will also resolve the other. Therefore, international law now has to finally come to terms with the international political realities represented by geopolitical anomalies.

For instance, Milena Sterio’s observation of a “great powers’ rule” of legal recognition in international relations and international law (2013) should be a starting point, not a conclusion, of an investigation into the issue of geopolitical anomalies. This “rule” does not constitute ‘a [new] *de facto* norm of external self-determination’, nor does it mean that ‘we have returned to a medieval conception of power’ in international relations (p. 183), but rather forms the obvious and inescapable limitation that international law has to live with. As one prominent legal scholar summarised it, ‘[t]he elephant in the room is the concept of power’ (Valerie C. Epps, as cited in Sterio, 2013, 175). Once again, ‘any thought on the possibilities for reform of international or global order must come to terms with the ineradicable prospect of crisis and the decision that it calls forth’ (Moses, 2014, 168).

A World State?

Another general response to the question of how to rule out the exception in international politics, and thus how to rule out geopolitical anomalies, can be found in contemplations about the establishment of a world state – a global governing entity capable of maintaining order and peace

around the world. Whereas the previously discussed world of micro-states ostensibly entails the multiplication of exceptions into (legal) regularity, this alternative creates a super-sovereign world entity that would apparently end all exceptions. In other words, one signifies the proliferation of international relations and international law, the other its end. Hans Morgenthau, who (perhaps surprisingly) extensively addressed and entertained this possibility, suggested that a world state would imply 'the abolition of international relations itself through the merger of all national sovereignties into one world state which could have a monopoly on the most destructive instruments of violence' (as cited in Craig, 2003, 109). Accordingly, two fundamental issues about such a world state need to be addressed here: its desirability, on the one hand, and on the other hand, its feasibility.

Concerning the former, it appears that the nature of a world state, and that of its relationship with notions of *de facto* sovereignty and crisis, makes the potential coming into being of such a "state" a rather daunting prospect. As Hannah Arendt (1958) maintained, '[s]uch a world government is indeed within the realm of possibility, but... in reality it might differ considerably from the version promoted by idealist-minded organisations' (p. 298). Given the world state's presumed purpose to uphold global order, its 'attachment to a *de facto* definition of sovereignty darkens the image of what might otherwise be presented as the best hope for a peaceful future for all of humanity' (Moses, 2014, 150). According to Morgenthau (2006), any expectation of spontaneous and universal popular support for such a state remained an illusion (pp. 514-516), as 'a brutal and bloody global war of conquest would be necessary' to establish it (Moses, 2014, 158).

The subsequent "end of all wars" would denote the replacement of armies with an omnipotent and totalitarian police force from which it would have to remain impossible to find refuge (Arendt, 1968, 93-94). As both Arendt and Morgenthau, thus, forebode:

[n]o matter what form a world government with centralised power over the whole globe might assume, the very notion of one sovereign force ruling the earth, holding the monopoly of all means of violence, unchecked and uncontrolled by other sovereign powers, is... a forbidding nightmare of tyranny (Arendt, 1968, 81).

[A] world state created by conquest and lacking the support of a world community has a chance to maintain peace within its borders only if it can create and maintain complete discipline and loyalty among the millions of soldiers and policemen needed to enforce its rule over an unwilling humanity. Such a world state would be a totalitarian monster resting on feet of clay, the very thought of which startles the imagination (Morgenthau, 2006, 518).

More importantly, however, these disconcerting projections are made based on the hypothetical character of such a world state – a character that, in fact, appears highly unfeasible. Reiterating Schmitt's concept of the political, Arendt (1968) argues that '[p]olitical concepts are based on plurality, diversity, and mutual limitations' (p. 81), so that '[t]he establishment of one sovereign world state... would not be the climax of world politics, but quite literally its end' (p. 82). Schmitt (2007) makes a similar case, arguing that:

Were a world state to embrace the entire globe and humanity, then it would be no political entity and could only be loosely called a state... It would know neither state nor kingdom, nor empire, neither republic nor monarchy, neither aristocracy nor democracy, neither protection nor obedience, and would altogether lose its political character (p. 57).

However, any belief that such a “post-political” world would signify humanity’s freedom from (*de facto* sovereign) power remains nonsensical.

Returning to the functionality of *de facto* sovereignty capable of upholding a political unity in spite of inevitable crises, the Hobbesian relationship of protection and obedience is of relevance here. On the one hand, the point has to be restated that given the inherently pluralist nature of human societies, and, thus, the inherently singular and undisputable nature of a *de facto* sovereign decision, ‘the people, as such, cannot act’ (Morgenthau, 1973, 323). Put another way, ‘[t]here does not exist a supranational society that comprises all individual members of all nations and, hence, is identical with humanity politically organised’, and that, consequently, ‘few men would act on behalf of a world government if the interests of their own [political community], as they understand them, required a different course of action’ (Morgenthau, 2006, 514). Again, therefore, a world state would have to take on the form of a ‘centralisation of decisive power’ that was capable of keeping at peace the different societies within global humanity (Moses, 2014, 150). Schmitt (2007), as such, revisits ‘[t]he acute question... upon whom will fall the frightening power implied in a world-embracing... technical organisation’ (p. 57).

Aside from this (again rather normative) question, however, as Morgenthau (2006) points out, ‘the power of the [*de facto* sovereign] is essential, but not sufficient, to keep the peace of... societies’ (p. 511). In this sense, certainly, *de facto* sovereignty should not be seen as a possession, but as an exercise in a perpetual relation of struggle; Hobbes himself, for example, had set up *de facto* sovereignty as a *relationship* of power, cultivating protection and obedience. Thus, whereas Chapter Five (on Kosovo’s LDK) might have been interpreted as a demonstration of the pointlessness of resistance against *de facto* sovereignty, any particular *de facto* sovereign could of course be challenged, and replaced, by an actor formerly subordinated in the political community.

Because of the pertinent non-existence of global ‘supra-sectional loyalties’ (pp. 506-508), then, a world state would not actually eliminate the potential for crisis and conflict. Instead, ‘challenges to the sovereignty of a world state could not be ruled out *a priori*’, but would rather ‘take the form of civil war, sedition or revolution’ that would ‘generate the same questions of [*de facto*] sovereignty that we find within states today’ (Moses, 2014, 151). In such a situation, Schmitt (1996) demonstrates, a world state ‘would have to assert its own interests’, instead of the interests of global humanity, or risk losing its *de facto* sovereignty (p. 31). Given the truism of an intrinsically differentiated global society, thus, any semblance of a world state would be destined to revert back into mere expressions of power by a particular – and certainly not universal – political community (Moses, 2014, 157).

Furthermore, the irresolvable potential for global crises means that a world state or world unity could not assume the form of an “alliance” or a “division” of global governing powers (Moses, 2014, 150-152; Schmitt, 2007, 57-58). Such alternative “federal” visions of global statehood remain popular ideals in international political thought, embedded in cosmopolitan views about overlapping, coexisting, and “non-sovereign” global structures of authority that would interdependently create “peace on earth” (Paul, 1999; Ruggie, 1983; Ruggie, 1993). Daniel Deudney

(2007), for instance, argued that material power could be “bound” in a global “republican” security framework. According to Deudney, “republics”, founded on popular sovereignty and distributed power arrangements, ‘entail the simultaneous negation of anarchy and hierarchy’, combining authoritative government with anti-hierarchical modalities (p. 31). For Deudney, republican ‘structures of mutual restraint constitute a distinctive ordering principle with a long and distinguished record of practical success’, so that, with regard to a world government, ‘it is the narrow conceptual vocabulary of Realism, not the actual range of real possibilities, that darkens the shadow of [global] hierarchical threat’ (p. 276).

William Scheuerman (2007, 2011), on similar grounds, calls for a global reform “beyond Realism”, contending that ‘Morgenthau’s hostility to alternative forms of relatively decentralised supranational organisation rests on sand’, because ‘effective state action is by no means inconsistent with any of a host of complex forms of complex or differentiated sovereignty potentially realisable at the transnational level’ (Scheuerman, 2007, 85). Held (2002) conceptualises this globally differentiated sovereignty as ‘cosmopolitan law’; this cosmopolitan law would demand ‘the subordination of regional, national, and local “sovereignities” to an overarching legal framework, but within this framework associations may be self-governing at diverse levels’. According to Held, thus, cosmopolitan sovereignty denotes sovereignty ‘stripped away from the idea of fixed borders and territories’, and would instead comprise ‘frameworks of political regulatory relations and activities, shaped and formed by an overarching cosmopolitan legal framework’ (p. 32).

Yet, once more, certain stubborn misconceptions about the nature of (*de facto*) sovereignty (and geopolitical anomalies) pervade these projections of global governance. Held’s cosmopolitan sovereignty as “political regulatory frameworks” beneath a global legal structure merely seems to be another description of the present international legal system overarching *de jure* states – the limitations of which have already been made clear in this thesis. Deudney’s claim of a longstanding tradition of republican “practical success” ignores the fundamental *de facto* sovereign decisions that lie at the heart of such political communities. According to him, a world state would possess no “external” threat – it would have no “enemy” – and thus would not need to “securitise” its population in a *de facto* sovereign order (Deudney, 2007, 276-277), but he thereby overlooks the incontrovertible potential for crisis within the global political community itself.

Therefore, in spite of Scheuerman’s belief that a world state could be constituted from ‘the power-dispersing qualities of democracy and popular sovereignty’ (Moses, 2014, 164), he himself actually conceded that ‘when push comes to shove, federal institutions will have to be able to unleash preponderant power – if necessary, in opposition to powerful social groups or member states – in order to ensure the binding character of their decisions’ (Scheuerman, 2011, 153). Here, surely, Scheuerman is talking about an unlimited and unitary *de facto* sovereign deciding on the exception within the global political community. In an earlier statement, he finds it ‘difficult to fathom the possibility of global institutions exercising an effective monopoly over legitimate force... without them in fact gaining a preponderant power status in relation to their national institutional rivals’ (p. 120). Scheuerman, thus, despite his claims that any trepidation or criticism about the necessarily authoritarian nature of a world state is ‘conceptually dogmatic and ahistorical’ (p. 155), not only seems to return to a conception of a world state inherently resting on absolute and indivisible *de facto* sovereignty, in doing so he also appears very much aware of the inevitability of exceptions to the global political order.

Geopolitical Anomalies and Exceptionality

Returning to the world state's supposed purpose to resolve, and dissolve, any international political exceptions, it appears that such a "resolution" would be no more likely to be able to regulate or incorporate geopolitical anomalies than a legally constructed world of micro-states. This actually brings us back to questions about what geopolitical anomalies look like, and how they organise and establish themselves outside any legally recognised international structure. As has been maintained throughout this thesis, certain specific geopolitical anomalies can be labelled as *de facto* sovereign entities deciding on their own exception from *de jure* states. Other geopolitical anomalies, however, like the Kosovo parallel state in the early 1990s, have been presented as stuck in a "critical regularity", or conversely, in an "orderly crisis".

However, while these latter kinds of geopolitical anomalies might thus not appear "exceptional", they have instead been incorporated in a political order maintained by a legal state. In other words, while some geopolitical anomalies may be understood through the informal, normative, and juridical arrangements permeating their everyday existence, these aspects of geopolitical anomalies' existence do not actually contradict the presence of *de facto* sovereign decisions on manifestations of exceptional conflict. Some geopolitical anomalies may remain impeded from acquiring *de facto* sovereignty by "their" *de jure* state, yet the significance of exceptional (violent) *de facto* sovereign decisions for international law does not thereby diminish. Geopolitical anomalies can still only be "regulated" by *de facto* sovereign acts, rather than by international law or a world state.

Some critical theorists and critical geographers wonder, still, whether we may question the intensity of crises, the revolutionary nature of *de facto* sovereign decisions, and the conflictiveness of the political, by focusing on realms of locality, closeness, and integrated lives – in short, in everyday space (Allen, 2003; Rose-Redwood, 2006). These perspectives not only entertain the idea of small-scale interactions as numerous *de facto* sovereign decisions on everyday exceptions, but also of personal and small group relationships potentially pre-empting international violent conflict at the local scale.

However, first of all, such perspectives have to be careful not to (again) conflate any type of power relationship with a *de facto* sovereign decision, nor to ignore the hierarchies that signify the relationship of *de facto* sovereignty with those other subordinate forms of power. Those conjectures about quotidian and "local" *de facto* sovereign decisions only make sense if such decisions truly originate from the supreme entity or figure within a (political) community. Hobbes (1994) actually clarified this issue in *The Elements of Law*, discussing the possibility of perceiving a "family" as a *de facto* sovereign unit. For Hobbes, if a "family" were to expand 'to be so great and numerous, as in probability it may protect itself' from any superior power, then that family could be called *de facto* sovereign (p. 133).

The crux of the matter, thus, again lies in the way in which groups and individuals exist in and interact with a clearly definable exclusive space. Arguably, however, everyday spaces and practices are actually inherently part of a wider geographical context, instead of private or independent (*de facto* sovereign) phenomena. As Lefebvre (1991) writes, in a line of reasoning reminiscent of notions of *de facto* sovereignty as a unique event or a theological miracle (see Chapter Three):

in practical [everyday] life... magic only signifies the illusions men have about themselves, and their lack of power. And everyday life is defined by contradictions: illusion and truth, power and helplessness, the intersection of the sector man controls and the sector he does not control (p. 21).

What this means for geopolitical anomalies, is that those who are primarily based on everyday arrangements and coexistences in fact remain essentially undecided, which means that they remain subordinated to *de facto* sovereign decisions on more intense crises, and integrated into more distinctive and superseding spatialities. As Chapter Five has demonstrated, non-sovereign geopolitical anomalies are unequivocally unable to decide on the exception or constitute a political order, but are instead part of exceptional spaces and circumstances created and sustained by overpowering *de facto* sovereign actions. Geopolitical anomalies might exist without *de facto* sovereignty, but *de facto* sovereignty is enormously important for their viability and survival. Whereas Somaliland's existence "in limbo" has endured because it has been capable of exercising *de facto* sovereignty, Kosovar Albanians in Rugova's parallel state suffered under their incapacity to do just that.

Moreover, geopolitical anomalies that are in a state of "constant crisis" may not experience much violence for an extended period of time, but their "limbo" existence will most likely be resolved by an act of violence one way or another. Recent work by Chenoweth and Lewis (2013), and Chenoweth and Stephan (2011), has appealingly tried to emphasise the efficacy of nonviolent political movements over violent ones, but concede to 'the exception... that non-violent resistance leads to successful secession less often than violent insurgency' (p. 18). Such unsuccessfulness may be ascribed, first of all, to secessionist movements' dependency on international legal and political determinants – 'factors largely out of the campaigns' control' (p. 67). More importantly, however, 'campaigns with goals that are perceived as... *fundamentally altering the political order* may be less likely to succeed than goals perceived as more limited in nature' (p. 66; my emphasis). As such, the catalysts for a particular political transformation – either violent or non-violent action – are intricately imbued with the profoundness of such a transformation.

Here, we may re-invoke the truism that a true separation of a political community from another can only occur through a *de facto* sovereign act, which, through its own violence, is capable of rigidly distinguishing between what constitutes political order/peace and political crisis/violence. In addition, as is exemplified in Chapter Five and Six, non-violent campaigns may be more accessible and morally attractive to a lot of people, but that in itself does not lead to political change. Chenoweth places a lot of confidence in "people power" (which may be translatable, perhaps, as biopower), as non-violent campaigns may be able to engage more people than violent ones. As we have seen, however, the actual foundation of a (new kind of) political community is inherently coupled with violence.

As a consequence, my argument in this thesis that geopolitical anomalies may help us broaden the way we talk about international politics and '[open] up theoretical spaces for the study of alternative geopolitical futures' (McConnell, 2009a, 1911) should be forwarded with some trepidation. As has been suggested in Chapter One, *de jure* states are generally ascribed the same qualities as *de facto* sovereigns, which has led to an absolute perspective on legal statehood. Commonly, this fallacious amalgamation of these divergent concepts has been blamed upon realist thought in international politics. McConnell (2009b) herself exemplifies this, not only by

paradoxically claiming that *de jure* recognition constitutes ‘the apogee of realist interpretations of sovereignty’ (p. 345), but also by more generally complaining that:

[r]ealist approaches perceive and theorise non-state entities in particular ways. Most simply, geopolitical “anomalies” are generally overlooked by realist IR theorists... Therefore, even though such non-state entities seek to operate within the international system, they are perceived by realist approaches as residing outside the territorial logic of sovereignty and operating in the “gaps” between and across territorially bounded sovereign states (p. 344).

As I have demonstrated in this thesis, however, such accusations are largely unfounded and unfair. For this thesis, critical perspectives on international relations and geopolitics have formed helpful theoretical pathways towards emphasising the non-absoluteness of *de jure* statehood in international politics, and thus towards ascribing more significance to geopolitical anomalies as meaningful exceptions to a formal state rule. However, as I have maintained, such hypotheses cannot be appropriately addressed without an understanding of classical realist conceptions of sovereignty and international politics, in which *de facto* sovereignty (and, thus, *effective* statehood) *is* absolute. Classical realism, I have argued, helps us to more clearly understand in what way geopolitical anomalies may be considered as crucial manifestations of international politics; they uncover how the central position of *de jure* statehood in international relations rests on questions of *de facto* sovereignty, which means that *de facto* sovereignty, embodied by some geopolitical anomalies, becomes the core element of international politics.

A discussion of the contingency of the current (Westphalian) interstate system, therefore, should keep in mind that *de facto* sovereign “statehood” in itself is unlikely to disappear. As I have contended in this thesis that we cannot do away with *de facto* sovereignty in international politics, I have been very sceptical towards any cosmopolitan assumptions about globalisation, and instead deduce that borders are in fact unlikely to end. Even if we could regard “peaceful” and loosely arranged geopolitical anomalies as spaces in which any crisis can be mitigated and resolved interpersonally, that in itself would not rule out the potential for violent conflict between larger polities – nor the capacity of those polities to resolve it. Again, therefore, even for geopolitical anomalies embodying the management of low-intensity and parochial altercations, the (international) exception, and its derivative *de facto* sovereignty, does not disappear.

A Disciplinary Transformation?

As a result, we have returned to a final consideration of any possibility of resolving the phenomenon of geopolitical anomalies – one that has been discussed in this thesis already. As was suggested in the introduction and in Chapter Two, an integration of the concept of geopolitical anomalies into mainstream international political discourse, and thus a transformation of international relations as a scholarly discipline itself, could perhaps help us to better understand, take more seriously, and thus de-marginalise, geopolitical anomalies in international politics. As geopolitical anomalies remain perceived as the outcasts of international political civilisation, could a more inclusive international political mindset form a way to extend a helping hand and “let them in”? However, given the arguments brought forth in this conclusion, and in this thesis as a whole, perhaps already it has become clear that such a hypothesis must likely be disclaimed. As Moses (2013) rhetorically asks

in relation to the normative international project of the R2P, ‘does “speaking differently” about sovereignty change sovereignty in any useful way?’ (p. 118).

Here, the question (re-)surfaces whether *de facto* sovereignty actually derives at least some of its power from pre-existing laws and discourses, or, conversely, whether a *de facto* sovereign can actually act in complete independence from such norms established *ex ante*. The most fundamental prerequisite for a *de facto* sovereign continues to be material power, through which the *de facto* sovereign is able to establish certain norms within a political community, but from such an observation may perhaps also be deduced that these norms and discourses equally function to “give” power to *de facto* sovereignty. In the (Foucauldian) sense that ‘[n]orms... to the degree that they exert a discipline, represent a form of oppression’, presumably *de facto* sovereignty itself could be subjected to codes of behaviour that instruct and inform it to act in certain ways (Belsey, 2002, 54). For instance, this thesis itself has devoted quite some effort in explaining the functionalities of a Westphalian myth from which *de jure* states ostensibly derive legitimacy and authority in international politics. On the one hand, thus, norms and myths do seem to contribute to *de jure* states’ paramount position in the international political framework.

On the other hand, however, as geopolitical anomalies make clear, international myths, norms, and laws of conduct do not unequivocally grant *de jure* states with *de facto* sovereignty. Alternatively, while some may argue that dominant assumptions about Westphalian sovereignty originate from the power of *de jure* states being *de facto* sovereign over their complete territory – implying it has in fact a very real and unmythical character – geopolitical anomalies also show us the fallacies of such an argument. International norms cannot give absolute material power, nor can they give it to all *de jure* states. While this thesis’s argument, indeed, has not been to wholly reject the value and significance of norms and discourses in international relations, it has been to explain why international legal and normative arrangements are intrinsically incapable of securing a universal international political order that will hold all humanity together. In international politics, norms cannot rule out crises or the exception, which is why a supreme act of effective power (*de facto* sovereignty) remains necessary to create political order(s).

A useful concept, in this regard, is Derrida’s *undecidability*, wherein he explains that there cannot be any social norm or reality on which no factual decision will have to be made. While this concept has been mistakenly criticised as denoting an apolitical moral relativism, Derrida was actually adamant to differentiate it from any notion of *indeterminacy* (Campbell, 1998, 184). Instead, he argues, ‘undecidability is always a *determinate* oscillation between possibilities (for example of meaning, but also of acts). These possibilities are themselves highly *determined* in strictly *defined* situations’ (Derrida, 1988, 184). Undecidability, thus, in fact:

opens the field of decision or of decidability. It calls for decision in the order of ethical-political responsibility... A decision can only come into being in a space that exceeds the calculable program that would destroy all responsibility by transforming it into a programmable effect of determinate causes (p. 116).

What Derrida demonstrates, here, is that ‘[i]f the realm of thought was preordained such that there were no options, no competing alternatives, and no difficult choices to make, there would be no need for a decision’ (Campbell, 1998, 184). In other words, ‘without the condition of undecidability, human decisions would be nothing but “programmed”, predetermined already by

some rule or principle; they would be no decisions at all' (Bates, 2005, 6). Undecidability, thus, is in fact a highly political concept 'in that it form[s] part of a wider... discourse on the nature of unprecedented decisions in situations characterised by crisis and the failure of all kinds of norms and formal systems defining order and organisation' (p. 3). As Campbell (1998) concludes, 'the very notion of undecidability is the condition of possibility for a decision' (p. 184). Derrida's undecidability, therefore, can be equated with a rejection of a Kelsenian *grundnorm* for international law and politics, and, thus, with a confirmation of the inevitable necessity of *de facto* sovereign decisions on normative and material crises.

As such, any hope that geopolitical anomalies may be integrated in a new and more cosmopolitan normative order or school of international relations once again runs into inevitable disappointments. This conclusion has already outlined why both world state and micro-state "solutions" to this issue are practically problematic, yet that has not mitigated cosmopolitan thinkers' resolve in conceptualising a "world society" 'in accordance with the ideologies that bring individuals together into different types of non-state social relationships' (Pella, 2013, 66). Such scholars (Baker, 2011; Beardsworth, 2011; Held, 2002) argue that contemporary cosmopolitan theories 'have increasing purchase on empirical reality' (Beardsworth, 2011, 2), as the successful "juridification" of international political antagonisms (Habermas, 1997) now means that 'the line separating the "is" and the "ought" of world politics can no longer be sustained' (Ranford-Robinson, 2013, 251). Held (2002) similarly finds that cosmopolitanism is already enshrined in many international legal arrangements, and thus not 'made up of political ideals for another age but embedded in rule systems and institutions that have already transformed state sovereignty in many ways' (pp. 23-24).

Again, however, these cosmopolitan ideas thus essentially seem to build upon current international legal provisions, and thereby do very little to overcome the limitations of international law. These cosmopolitan "rule systems", indeed, actually have as much (or as little) sway over international political questions as present-day international law, as they again take "universalisable" norms as the fundamental point of departure for international political interactions. Beardsworth (2011), therefore, argues that 'the cosmopolitan universalism that responds best to IR theory must be either fairly *weak* and/or expressly *differentiated*' (p. 10). For him, '[t]he political game will go on regardless', and attempts to devise a fully non-political cosmopolitanism without "mastery" risk exactly to reproduce the power structures they wish to dissolve (p. 221). As Baker (2011) aptly confirms, any endeavour towards a truly cosmopolitan "civil society" able to amalgamate international particularity with global universality should be met with scepticism, as it would have to efface particular identities into universal identities. Because personal identities cannot exist without a constitutive "other", he argues, attempts to transcend societal differences in the direction of identical sameness are fundamentally flawed (pp. 90-100).

Perhaps, then, in order to progress towards a truly cosmopolitan order in which geopolitical anomalies and *de facto* sovereigns would no longer have to decide on exceptions, a 'pluralisation of space' would have to be 'matched by a deconstruction of identity' itself (Campbell, 1998, 238). On this, Žižek (1993) has argued that:

today the concept of utopia has made an about-face turn – utopian energy is no longer directed towards a stateless community, but towards a state without nation, a state which would no longer be founded on an ethnic community and its territory, therefore simultaneously towards a state without territory, towards a purely artificial structure of principles and authority which will have severed the umbilical cords of ethnic origin, indigenesness, and rootedness.

Nonetheless, it (obviously) remains for a very good reason that Žižek refers to such a community as a utopia. Hannah Arendt (1968), in accordance with her critique on the world state, candidly dismisses such utopian thinking in unequivocal terms, claiming that ‘the danger inherent in [a] new reality of mankind seems to be that his unity... breaks all national traditions and buries the authentic origins of all human existence... Its result would be a shallowness that would transform man... beyond recognition’ (p. 87). She restates that:

[t]he solidarity of mankind may well turn out to be an unbearable burden, and it is not surprising that the common reactions to it are political apathy, isolationist nationalism, or desperate rebellion against all powers that be rather than enthusiasm or a desire for... humanism. The idealism of the humanist tradition... and its concept of mankind look like reckless optimism in the light of present realities (pp. 83-84).

What Arendt alludes to, here, is that normative structures cultivating a singular cosmopolitan humankind will inevitably be nullified by the intrinsic global potential for conflict among different political communities.

Alternatively, then, as Ranford-Robinson (2013) discusses the ‘political feasibility of cosmopolitanism’, he argues that ‘IR must come down from its lofty perch to see globalisation from the bottom up’, or in other words, ‘must step outside the ivory tower to see cosmopolitanism for what it really is’ (p. 259). Here, thus, we may think of a scholarly shift away from the formal state, not so much in conceptualisations of some cosmopolitan world order, but perhaps more so through an increased focus on the level of the small(er) community. Space on the ground, locally based, would then actually start to play a bigger role in international relations thinking than the intangible and fuzzy understandings of *de jure* sovereignty.

However, such scholarly transitions notwithstanding, the practice of establishing and fostering political communities will not fundamentally be altered by such new perspectives. Geopolitical anomalies, regardless of the level at which they are analysed, remain manifestations of (un)resolved crises – either by themselves or by another political entity. They manifest themselves in the interstate framework, either as prolonged exceptions to the *de facto* sovereignty of legal states, or as separate political communities sustained by their own *de facto* sovereignty. They are, thus, not only exceptions to a rule, but also rules to an exception. As such, geopolitical anomalies tell us that the nature and practice of international politics is fundamentally constituted by *de facto* sovereign decisions on unforeseeable and inevitable exceptions.

I would argue, therefore, that the study and discourse of international relations should become much more aware of this irresolvable “insecurity” of global political life. No theory, conduct, or model of international politics will be able to fully overcome certain inherent limitations and uncontainable uncertainties of international society. Even a classical realist theory able to maintain

“the thought of the exception” will not be capable ‘to anchor it or eliminate it in philosophical theory, for the exception must always, by definition, represent a radical departure from (or breach of) a predictable and stable norm’ (Moses, 2014, 166). In Derrida’s (2009) words, ‘a theory of the exception, especially a juridical or political theory of the exception, is impossible qua philosophical theory, even if the thought of exception is necessary’ (p. 49).

Anne Orford (2004), once again, reminds us of the imminent necessity, particularly for international legal thinking, to control ‘the anxiety produced by our inability to master our field of knowledge’ (p. 471) and fully acknowledge the “others” and limitations of the international legal-political order (see also Orford, 2006). To reiterate Derrida (1990), the fact that international law’s ‘ultimate foundation is by definition unfounded... is not bad news’, because ‘[w]e may even see this as a stroke of luck for politics, for all historical progress’ (pp. 943-945). In a statement that is apparently similarly supportive of geopolitical anomalies, Orford (2004) argues that:

at those moments when international law manages to live with this unresolved – and unresolvable – crisis of authority, it may be best able to avoid the temptation to secure the grounds of law through a final solution in which those who are believed to threaten the health, security, emotional wellbeing, or morality of the international community are violently sacrificed for the good of the whole (p. 476).

The same issues can be discerned in broader liberal internationalist aspirations towards an all-inclusive international community, which fail to offer the conceptual or strategic means to understand and deal with the modes of power and *de facto* sovereignty involved in resolving international exceptions. As Orford (2007) phrases it, ‘[a]s scholars, we may become part of the problem if we make politics seem programmed and predictable’ (p. 223).

Here, we may turn to Morgenthau’s classic text on the *Scientific Man* in international politics (1947), in which he established classical realism as the “limit doctrine” of international political thought. Morgenthau exposed the ‘unbridgeable chasm’ between liberal internationalist idealism and international political realities, whereby the former ‘in its perfectionist manifestation at least, does not recognise the permanency and inevitability of this chasm’ (p. 148). Therefore, Morgenthau was especially critical of the liberal internationalists’ non-acceptance of the irresolvability of this issue, as, paradoxically, they simultaneously espoused ‘confidence in the power of reason... to solve the social problems of our age and despair at the ever renewed failure of... reason to solve them’ (p. 9). Instead of coming to terms with this intrinsic limitation, Morgenthau argued that such thinkers propose simple and rational “magic formulas” to deal with complicated, irrational, and incalculable issues, which compels them ‘to simplify the reality of international politics and to develop what one might call the “method of the single cause”’ (p. 86).

International political scholarship and practice, as such, should relinquish its urge to find silver bullets to conclusively solve international exceptionality. This is not to suggest that we should become complacent or apathetic about international crises, but that highly contingent and contextualised approaches will prove more helpful in addressing them. Instead of “recreating” a Borgean map of international affairs, in which all international political processes and circumstances are accounted for and controllable, the study and conduct of international politics should embrace and adopt its own exceptional “unknown unknowns”. That way, perhaps we can avoid the pitfalls of liberal internationalist projects to “solve” the “problem” of geopolitical

anomalies, which often risk becoming trapped in an intellectual *cul-de-sac* of simultaneously wishing to integrate geopolitical anomalies into an international legal/political regularity – for instance, by suggesting their legal recognition or their accommodation into a cosmopolitan humanity – while failing to acknowledge the exceptionalities presented precisely by the things (geopolitical anomalies) they try to incorporate.

As geopolitical anomalies manifest themselves as abundant exceptions in/to international politics, they warrant more of our attention concomitant with an acceptance of the unpredictability and impossibility of a legal, normative, or discursive encapsulation of international political life. Geopolitical anomalies repeatedly exemplify that an “unestablished” and “exceptional” status in international law and politics may be preferable over an “included” and “regulated” existence, and therefore, we appear to have no choice but to accept the fact that our international political environment will remain to be characterised by irregularities and crises to be decided on.

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