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Contested territories, liminal polities, performative  
citizenship: A comparative analysis

Gëzim Krasniqi



European University Institute

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## **Abstract**

Through a comparative analysis of ten liminal polities - Abkhazia, Kosovo, Nagorno-Karabakh, Somaliland, South Ossetia, Palestine, Taiwan, the Turkish Republic of Northern Cyprus (TRNC), Transnistria and Western Sahara, the paper focuses on the ways in which such polities actively perform statehood and citizenship to compensate for their sovereignty deficit. The paper has a three-fold aim: a) to measure the impact of internal and/or external statehood contestation on the scope of citizenship rights in liminal polities; and b) to demonstrate how such atypical polities represent liminal spaces of citizenship, whose subjects are neither full citizens nor stateless; and c) to analyze the performative role of citizenship and struggles over rights claims in enabling these liminal polities and their citizens to constitute themselves as political subjects — as states and citizens, respectively. It argues that, although statehood contestation and lack of sovereignty have a direct bearing on the scope of citizens' rights, the level of impediment of rights and protection of individuals belonging to such atypical entities is determined by the degree of internal/external contestation as well as the very functionality of the citizenship regime in place.

## **Keywords**

Liminality, contested territories, sovereignty, performative citizenship, statehood





## 1. Introduction<sup>1</sup>

Citizenship, widely understood as a link between a political unit and its members, is one of the key concepts in socio-political and legal studies. According to T. H. Marshall's (1998) influential definition, citizenship is about "full and equal membership in a political community." However, although it is widely recognized that everyone should be entitled to the right of membership in a political community, according to Bauböck, it is not easy to determine "which communities have a claim to self-government and which individuals have a claim to citizenship in a particular self-governing community" (2009: 478). In particular, this applies to contested polities, also known as 'contested states,' 'unrecognized states,' 'quasi states' or 'de facto states,' which in many ways represent "functioning realities in a denied legitimacy" (Pegg 1998). The list includes Abkhazia, Kosovo, Nagorno-Karabakh, Somaliland, South Ossetia, Palestine, Taiwan, the Turkish Republic of Northern Cyprus (TRNC), Transnistria, Western Sahara, as well as the more recent cases of Luhansk and Donetsk in Ukraine and the so-called Islamic State (IS), which, in contrast to the rest, is territorially unbounded (Mylonas & Ahram 2015).

These entities exist in limbo for they are *de jure* part of one country but *de facto* controlled by a different (secessionist) political authority. Belonging to a grey zone of international and/or local contestation, they essentially embody diminished statehood due to their lack or limited internal and/or external sovereignty. Yet, this does not deter contested polities' elites from establishing institutional fixtures of statehood, such as border control, taxation, security apparatuses, representative offices/embassies, an education system and frameworks for political rights, social protection and identity documents. They are united by their main goals, which are generally to maintain their *de facto* independence and to gain international recognition (Caspersen 2009: 48). In other words, "[t]hey dispute particular state forms, but they also tend to adopt many of the normative aspects of statehood upon which the international community is based. As *de facto* states pursue equal standing and acceptance in international society, they mimic and reaffirm many of its basic premises" (Mylonas & Ahram 2015: 2).

While the phenomenon of contested polities has attracted increasing scholarly attention (Pegg 1998; Lynch 2004; Kolstø 2006; Geldenhuys 2009; Caspersen 2009; Caspersen & Stansfield 2011; Berg 2009; Pegg and Berg 2016; Florea 2014; Bahcheli, Bartmann & Srebrnik 2004; Riegl & Doboš 2017), the issue of citizenship in contested polities remains under-researched. Therefore, by taking an interdisciplinary approach that draws upon politics, law and sociology, this paper investigates the establishment of institutional fixtures of statehood, citizenship regimes, as well as political dynamics of inclusion and exclusion in contested polities. Through a comparative analysis of ten contested polities, which I define as liminal polities, I examine the ways in which such polities actively perform statehood and citizenship to compensate for their sovereignty deficit. The main focus will be on these entities' attempts to engage in foreign relations with other states and policies of citizenship.

This paper has a three-fold aim: a) to measure the impact of internal and/or external statehood contestation on the scope of citizenship rights in liminal polities; b) to demonstrate how such atypical polities represent liminal spaces of citizenship, whose subjects are neither full citizens nor stateless; and c) to analyze the performative role of citizenship and struggles over rights claims in enabling these liminal polities and their citizens to constitute themselves as political subjects — as states and citizens, respectively. It argues that, although statehood contestation and lack of sovereignty have a direct bearing on the scope of citizens' rights, the level of impediment of rights and protection of individuals belonging to such atypical entities is determined by the degree of internal/external contestation as well as the very functionality of the citizenship regime in place. Likewise, the analysis demonstrates the

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<sup>1</sup> I would like to thank Prof Rainer Bauböck for his valuable and insightful comments and suggestions on the earlier drafts of this text.

ways in which the negative impact of state contestation is mitigated by the liminal polities' use of various novel and creative, formal or non-formal performative practices, such as closer engagement without recognition, digital and public diplomacy campaigns aimed at increasing external presence and document recognition.

The paper is divided into three main parts. The following part two provides a critical overview of scholarship on the relationship between (lack) of sovereignty and citizenship in contested polities and then presents the theoretical framework of the study. The third part offers a detailed analysis of performative citizenship and statehood in each of the ten liminal polities. The final part discusses the main findings in a wider comparative context and considers other potential or half-way cases of liminal polities.

## 2. Sovereignty and Contested Statehood

The formation of the modern state in Europe began with the “territorialization of space” (Benhabib 2007: 251). State sovereignty – meaning a state’s ability to control its border and assert jurisdictional authority within those borders – became the main determinant of statehood. In the era of the ‘Westphalian state’, the ability of a political community to exercise full sovereignty became crucial for the existence of a state. A widely cited definition of sovereignty refers to “a normative conception that links authority, territory (population, society) and recognition” (Biersteker & Weber 1996, 3). According to this definition, in addition to population, territory and the “monopoly of legitimate physical violence” (Weber 1968: 56) within the territory, external recognition of state sovereignty is essential for a polity to function. Bull (1977), argues that sovereignty as a key attribute of statehood is a right that has to be (i) claimed; (ii) recognized; and (iii) exercised.

Typically, scholars distinguish between internal and external sovereignty where the former refers to the existence of structured and symbolic attributes of statehood and the latter refers to relations with other countries and international organizations. Robert H. Jackson (1993) distinguishes between ‘negative sovereignty’ that is upheld by the existing international normative framework (typical for Third World countries) and ‘positive sovereignty’ that emerged in Europe along with the modern state. Stephen Krasner, on the other hand, argues that the term ‘sovereignty’ has been used in four different ways, meaning: international legal (mutual recognition), Westphalian (non-interference of external actors in a state), domestic (the ability to exercise effective control within a polity) and interdependence sovereignty (ability of the authorities to regulate flows of goods and people across the borders of their state) (1999: 4-5). From the point of view of international law, however, the Montevideo Convention (1933, article 1) sets the following qualifications that a state should possess as a person of international law: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.

In general, the question about the sovereignty of states and other, state-like entities has been addressed by two separate bodies of theoretical writing. The first body comprises those that have a *legal* conception of sovereignty as their common denominator, presuming that the term merely denotes a juridical status. For them, it is possible to distinguish entities that are sovereign from those that are not on the basis of different sources of state sovereignty: constitutional independence, empirical attributes of statehood, and recognition as a state (Kurtulus 2005: 51). The second body of literature, on the other hand, emphasizes the *actual* condition; “whether or not an entity is sovereign according to some juridical standard has to be complemented with the question of to which extent—or whether or not—that entity exercises sovereignty in practice” (ibid.). The focus on empirical attributes of statehood thus reveals sovereignty exercises in practice and refers to situations existing in a matter of degree.

In reality, as Kurtulus points out, one of the most controversial aspects of sovereignty is related to the question of whether the concept refers to an absolute (and thus qualitative) feature that a territorial

entity may or may not have or whether it refers to a limited (and hence a quantitative) property that an entity may possess in varying degrees (ibid.: 66). Sovereignty is absolute only if one takes full international recognition (normally manifested in the form of United Nations (UN) membership) as the sole criterion of evaluation. Otherwise, both internationally recognized states and liminal polities display different degrees of internal and/or external sovereignty or ‘negative’ and/or ‘positive’ sovereignty. Only by considering both aspects of sovereignty one can have a better picture of a given polity and be able to identify degrees of sovereignty and levels of contestation.

Considering modern sovereignty as a symbiosis of power and symbols as well as of indivisible and distributive attributes, Berg and Kuusk (2010) have developed a typology of *de facto* states. This approach measures a set of variables depicting internal sovereignty (symbolic attributes, governance institutions, monetary system, territorial integrity and permanent population) and external sovereignty (the extent of actorness, the existence of security structures, diplomatic relations with other countries and membership in international organizations). This makes it possible to distinguish among contested or *de facto* states in terms of the extent of their sovereignty. The authors identify four main types: a) *de facto* states, which lack international recognition and are largely ignored by international society (Somaliland); b) marionette *de facto* states without international recognition but with strong external patron support (TRNC, Transnistria, Nagorno-Karabakh); c) *de facto* states with partial international recognition (Abkhazia, South Ossetia, Palestine, Taiwan, Kosovo); d) governments-in-exile (Western Sahara and Tibet) (Berg & Kuusk 2010: 46).

So, while all liminal polities are denied partial or full conventional international recognition – typically lacking UN membership (Geldenhuis 2009: 7) – they differ both in terms of the level of international (non)recognition and possession of internal sovereignty attributes or internal contestation by minorities. They differ also in terms of the strategies for overcoming international contestation. While some painstakingly emulate sovereign state institutions and services, others, such as Abkhazia, South Ossetia and Transnistria, have ‘outsourced’ some or all of the key statehood prerogatives, including citizenship (‘passportization’), to a third party – Russia. Nagorno-Karabakh and TRNC rely exclusively on their respective kin-states Armenia and Turkey. On the other hand, Kosovo and Taiwan rely heavily on the European Union (EU) and the United States (US) in advancing their statehood agenda.

### **2.1 (Lack of) Sovereignty and Citizenship**

As mentioned above, there is a growing literature that examines various key aspects of these entities ranging from the nature and level of contestation (Berg & Kuusk 2010; Geldenhuis 2009), via international engagement (Pegg & Berg 2016; Caspersen 2009; Lynch 2004) to democratization and legitimacy (Caspersen 2011). However, the issue of citizenship has been largely neglected. Artman (2013) and Popescu (2006) have touched upon the question but their analysis is limited to Russia’s policy of distributing passports to the residents of liminal polities in its neighborhood (Abkhazia, South Ossetia and Transnistria). Likewise, Berg and Kuusk (2010: 46) mention citizenship policy as a feature only for stronger contested states and problems related to the partial international recognition of documents, but do not engage with it further. More recently, Friedman (2017) has been analyzing the emergence of a distinct border-crossing regime between China and Taiwan. Her work demonstrates how exceptional and unusual documentation and travel regimes used in such cases may advance efforts to produce sovereign legitimacy in the face of categorical ambiguity, but may also undermine the very armature of citizenship and sovereign recognition used to contain and manage cross-border mobility.

A rare instance is Grossman’s (2001) study, which looks at the relationship between recognition of nationality and recognition of sovereignty. Using different individual cases from contested polities and other territories and dependencies, it suggests that “lack of sovereignty in or recognition of a particular territory will impede some, but not all, rights and obligations of individuals belonging to it” (Ibid.: 871). However, the study does not inquire into citizenship regimes of individual polities. In fact, in

most cases, citizenship status and rights of individuals in territories and polities that are denied international recognition are dealt with in legal studies on statelessness and ‘sans papiers’. However, I take the view that citizenship is a much broader concept and can’t be reduced to the issue of documentation and legal status of nationality. Elizabeth F. Cohen (2009) introduced the concept of ‘semi-citizenship’ as a means of advancing debates about individuals who hold some but not all rights of full democratic citizenship. There are groups of individuals, including refugees, documented and undocumented migrants, minorities etc., in modern democratic states that do not have all citizenship rights. Expanding on Cohen’s concept, Kingston (2014) contends that membership in a political entity exists along a spectrum and requires not only the granting of formal citizenship, but also attention to the functionality of that relationship. So, similar to the issue of sovereignty, political membership is not absolute – one is a citizen, or stateless – but, rather, is a matter of degree and functionality.

Citizenship, as a key organizing principle of modern political life, is, above all, a status that creates a legal bond between individuals and a polity/state and endows these individuals with certain rights and obligations. Citizenship is a multidimensional concept encompassing status (membership in a political entity), rights (individual or group-differentiated rights) and identity (Joppke 2007). Citizenship as a concept aims to provide formal equality between members of a polity. However, despite the promise of equality, citizenship is essentially exclusive, differentiated and “uneven” (Krasniqi & Stjepanovic 2015). As regards exclusion, both citizenship and the nation-state are characterized by a dual capacity to include and exclude. While, on the one hand, the modern principles of democracy, citizenship and popular sovereignty (on the basis of which the idea of the nation-state developed) allowed for the inclusion of large sections of the population, on the other hand, new forms of exclusion based on ethnic or national criteria developed simultaneously (Wimmer 2002: 1).

For understanding the specific context of citizenship in contested territories, the concept of liminality is particularly useful. According to Victor Turner, “Liminal entities are neither here nor there; they are betwixt and between the positions assigned and arrayed by law, custom, convention, and ceremony” (Turner 1969: 95). I argue in favor of using the term liminal polity to describe such atypical polities for they are neither fully-fledged states, recognized universally, nor functioning parts of a respective sovereign state (parent state). Equally, individuals in liminal polities are neither citizens nor stateless. Depending on the nature of the particular polity, citizens of liminal polities mostly find themselves in a position of legal indeterminacy and ambiguity that nevertheless may last indefinitely. Similar to Turner, who regarded liminality as a temporary state between the stages of separation and re-assimilation, liminal polities, often seen as a half-way state to full sovereignty and recognition or re-integration within the parent state, are stranded in a state of in-betweenness, which becomes part of the everyday. To borrow Peter Nyers’ (2003: 1079) terminology, liminal polities are “the mezzanine spaces of sovereignty located in-between the inside and the outside of the state.” More often than not, citizens of these liminal polities are ‘invisible’ when it comes to international law.

The concept of liminality has already been applied to a number of categories of citizenship including, but not limited to, women (Roy 2010; Boutkhal 2016) and undocumented migrants and refugees (Skeiker 2010; Swerts 2017). Thomas Swerts develops a theory of ‘liminal politics’ that utilizes both liminality and performance. “‘Liminal politics’ refers to the process whereby precarious populations like the undocumented constitute themselves as political subjects by creating, using, and appropriating in-between spaces” (Swerts 2017: 382). Drawing on Rancière, Swerts conceives of politics as an aesthetic activity whereby subjects who are rendered invisible in the existing distribution of places try to gain visibility by making a place for themselves. Both liminal polities and their citizens strive to gain visibility by challenging prevalent international conceptions and definitions of citizenship and statehood.

Analyzing Russia’s policy in Abkhazia and South Ossetia, Artman (2013: 685) argues that the latter were “effectively ‘spaces of exception,’ liminal zones vis-à-vis international law, neither part of Russia nor Georgia nor external to them, where Russia assumed direct management of the biological lives of populations.” Belonging to a grey area of international sovereignty, liminal polities represent

liminal spaces of citizenship. Thus, this paper seeks to capture and analyze the different degrees of liminality and in-betweenness of citizenship. Fiona McConnell (2017) uses liminality as a paradigm for understanding stability and change in institutionalized orders and geopolitics; hence, “liminal geopolitics”. Through the lens of the Unrepresented Nations and Peoples Organization (UNPO), a coalition of almost 50 stateless nations, indigenous communities and national minorities that currently are denied statehood and international representation, she analyses the mechanisms by which these liminal geopolitical actors have been excluded from the modern diplomatic order, but also “how they have sought to carve out subject positions, repertoires of practice and alternative spaces of diplomacy that embrace inbetweenness, processuality and ambivalence” (McConnell 2017: 140). Despite limitations and drawbacks stemming from their ambiguous legal and political status, inbetweenness and ‘out-of-placeness’ offers liminal actors various opportunities of international engagement thus turning them into ‘liminal geopolitical actors’.

In addition to liminality, this study also uses the concept ‘citizenship constellations’ (Bauböck 2010) to analyze the wider regional and international context of citizenship rights in these polities. As will be demonstrated below, residents/citizens of these states more often than not are legally tied to more than one polity. The relevant citizenship constellation involves in any case a contested and a confirmed state and in many also an external patron or kin state. In particular, I draw on the concept of ‘performative citizenship.’ Citizenship is performative in the sense of constituting the identity that it purports to be (Sheller 2014). According to Isin (2017: 500), “citizenship as a legal institution governs who may and may not *act* as a subject of rights within any given polity.” Since the right to act as a subject can be denied, “performative citizenship signifies both a struggle (making rights claims) and what that struggle performatively brings into being (the right to claim rights)” (Ibid., 506). It is about acting as a political subject and exercising rights that one may have and claiming rights that one may not have. Performative citizenship involves thus both *exercising* an individual or collective right and *claiming* such rights (Ibid., 517). It also involves political struggles that open the space for collective or individual acts of citizenship. What I propose is to expand the concept to include not only individuals and groups, but also states or other polities as agents that engage in performative actions.

For liminal polities, citizenship means therefore actively and continuously performing the (internationally denied) status and rights of states. For both liminal polities and their citizens, performing citizenship is a way of securing their formal recognition as subjects and claiming rights that they don’t have. The analysis of performative citizenship in liminal polities requires investigation of performativity and of various novel and creative citizenship practices utilized by institutions to overcome the sovereignty deficit by securing forms of membership rights/services for ‘citizens’ internally, as well as asserting state-like features externally. In addition to securing *de facto* control of the claimed territory, one of the most urgent and demanding task in designing and running a new state is to determine and constitute the initial body of citizens. It is about inclusion of those considered to belong to the new polity and exclusion of others considered alien.

Apart from mimicking universally recognized states’ institutions and performing citizenship, liminal polities have also sought alternative ways of engaging among themselves. For instance, the four Eurasian ones – Transnistria, Nagorno-Karabakh, Abkhazia and South Ossetia – have, since 2001, joined forces and institutionalized cooperation through the establishment of the “Commonwealth of Unrecognized States”, renamed “Community for Democracy and Rights of Nations” (CDRN) in 2006 (Jacobs 2012; Popescu 2006: 5, footnote 22). These polities do not only recognize each other, but use such forum also to cooperate institutionally (through an inter-parliamentary assembly), facilitate free travel of their respective citizens and support each other’s statehood claims. This is a clear example of liminal geopolitics with liminal polities struggling to establish alternative spaces of diplomacy and interaction.

The focus of this study is mostly on legal documents (constitutions, citizenship laws and naturalization procedures), but also on consular services and digital diplomacy materials. The ‘documental’ aspect of citizenship – identification cards, passports, visas and other authorized ‘proofs’

of our identity – is inherently linked to the actions of state authorities, to mechanisms of control and registration of population, to state and international policies controlling population movements. Regulation of movement and passports constitutes and conveys the very ‘state-ness of states (Torpey 2000: 6). As Friedman argues, documents are the evidentiary signs of citizenship, statehood, and sovereignty: “Whether passports, national ID cards, travel passes, visas, or entry permits, official documents ostensibly sanctify both the identity of their bearers and the standing of the body that issued them” (2017: 81).

In what follows, I discuss the issue of citizenship in ten cases of liminal polities, with a focus on the impact of contested statehood and limited sovereignty on citizenship rights of their respective citizens. As regards case selection, the ten cases were chosen to provide for wide geographical dispersion, different political contexts and different degrees of internal and/or external contestation. I do not consider the more recent cases of Luhansk and Donetsk in Ukraine due to the fact that they present on-going conflicts more than liminal polities. I will discuss citizenship in liminal polities in a sequence that orders them according to the criterion of international recognition, starting with the most widely recognized one.

### 3. Citizenship in Liminal Polities

#### 3.1 Palestine: the Most Internationalized Case

While Palestine has been recognized internationally since 1988, its *de facto* statehood emerged only after the 1993 Oslo Accords. Like Kosovo, Palestine has been very successful in gaining international recognition – it currently enjoys bilateral recognition from 137 states and as of 2012 gained the status of a ‘non-member observer state’ at the UN. Palestine’s current problems in many ways stem from the creation of the British mandate for Palestine in 1922, a mandate which placed two contradictory obligations on Britain: “On the one hand the mandatory power was responsible for developing self-governing institutions and safeguarding the civil and religious rights of all inhabitants of Palestine, and on the other Britain had to create the political, administrative and economic conditions necessary for ‘the establishment of the Jewish National Home’ in Palestine” (Geldenhuis 2009: 148). In November 1947, in the wake of the British withdrawal and nationalist agitation in the territory, the UN General Assembly recommended Palestine’s partition into Arab and Jewish states. Far from easing tensions and solving the conflict, soon after the publication of the plan, the territory descended into warfare. Britain’s withdrawal and the declaration of independence of Israel in May 1948 led to the first Arab-Israeli War.

By the end of the conflict, Jewish forces had conquered nearly 78 (instead of 51, as designated by the UN plan) percent of Palestine while the Hashemite Kingdom of Jordan (formerly Transjordan) took control of the West Bank and Egypt did the same in the Gaza Strip; as a result, an estimated 750,000-850,000 Arab Palestinian became refugees ending up in camps in Arab-controlled areas along Israel’s borders (Robinson 2013: 27; Tschirgi 2004: 194; Geldenhuis 2009: 150). Thus, within a year of partition, “Palestine had been wiped off the map, and the designated Arab state fell into virtual oblivion” (Robinson 2013: 27).

While for a long time the issue of Palestine was considered within the wider Pan-Arab framework, following the creation of the Palestinian Liberation Organization (PLO) in 1964, the latter emerged as the organizational embodiment of Palestinian nationalism that sought to materialize the idea of Palestinian self-determination. According to the Palestinian National Charter of 1964, which served as a precursor to a future constitution, “Palestine with its boundaries at the time of the British Mandate is a regional indivisible unit” (PLO 1964). This way, the PLO denounced the 1947 partition of Palestine and the establishment of the state of Israel as ‘entirely illegal, regardless of the passage of time’ and committed Arabs to ‘purge the Zionist presence from Palestine’ (Geldenhuis 2009: 150). However,

“the 1967 Arab–Israeli War marked both the end of Palestinian reliance on Pan-Arabism and the beginning of the emergence of a solid movement based solely on the drive for a Palestinian Arab state” (Tschirgi 2004: 196). This meant that for some 30 years of PLO’s existence, its leadership was based in exile and unable to exert effective control in Palestine. In many ways, it acted as a government-in-exile. Nonetheless, in 1974, the General Assembly, through resolution 3210, recognized the PLO as the representative of the Palestinian people and invited the movement to participate in Assembly deliberations during plenary meetings (Geldenhuis 2009: 151). The following years, the PLO’s presence was extended to a wide range of UN organs and the UN adopted a number of resolutions supporting the rights of the Palestinian people (Tschirgi 2004: 200). By 1980, the PLO had offices in over 80 states, achieving “unprecedented international recognition for an exiled liberation movement without any control over its would-be state” (Geldenhuis 2009: 152).

In 1988, while still in exile in Algiers, the PLO declared Palestine’s independence. In a speech to the Palestine National Council, the parliament in exile of the Palestinian movement, Yasser Arafat declared, “The Palestine National Council announces in the name of God, in the name of the people, of the Arab Palestinian people, the establishment of the state of Palestine in our Palestinian nation, with holy Jerusalem as its capital” (Ibrahim 1988). Within two weeks of its proclamation, the ‘State of Palestine’ had already been recognized by nearly 70 countries and soon afterwards the number went to over 100 (Geldenhuis 2009: 155). However, the PLO could establish some sort of limited authority in parts of the original Palestinian mandate (West Bank and Gaza) only in the aftermath of the Oslo Peace Process in 1993. Arafat and the PLO returned to Palestine in 1994. Following the mutual recognition of Israel and the Palestine Liberation Organization (PLO) in 1993, a *de facto* (limited) Palestinian state, under the name of ‘Palestinian Authority’ (PA) had arisen in the West Bank and Gaza in agreement with Israel (Tschirgi 2004: 188). Importantly, the thorniest issues - Jerusalem’s final disposition, the boundaries of Israel and the ultimate fate of Palestinian refugees were left for the final status negotiations (Ibid.: 187).

Although the PA enjoys significant powers over Palestinian residents in the West Bank and Gaza, its jurisdiction is limited, with Israel effectively regulating the movement of people and goods; moreover, the majority of the Palestinians lived outside the entity (Geldenhuis 2009: 158). The PA has managed to develop many trappings of statehood but its authority is severely undermined by its undefined territory, people and competence, which were pending, until a final settlement was agreed. Due to internal disagreements, violence and wider geopolitical developments and factors, what was supposed to be a transitory period that would ultimately lead to a mutually agreed and internationally recognized state of Palestine, became an indefinite state of political ambiguity and uncertainty. Additionally, the PA authority is also undermined by the fact that Gaza and West Bank are not territorially connected, as well as by many Israeli checkpoints within West Bank and the separation barrier (‘the Wall’). Moreover, the PA authority lost control of Gaza in 2007 after a particularly intense round of fighting with Hamas, who took control over Gaza (Ibid.: 161).

Lacking any progress with Israel, the Palestinian leadership pushed for unilateral recognition, first applying for full UN membership in 2011 (blocked by the Security Council) and then to upgrade the status of the Palestinians from a ‘non-member observer entity’ to that of a ‘non-member observer state.’ Following a successful vote in the General Assembly in 2012, the PA decided to rebrand itself as the ‘State of Palestine,’ a move opposed by Israel (Ahren 2012). At the same time Palestine has managed to gain membership in UNESCO, Interpol and other important international organizations, becoming by far the most internationally recognized and integrated liminal polity. Currently, Palestine maintains 76 embassies abroad, as well as 3 consulates and 21 other representations. Despite this, Israeli consular offices abroad provide administrative and communications assistance to Palestine passport holders on behalf of the PA (Grossman 2001: 860)

Nonetheless, its unprecedented international recognition and support has not helped it enhance sovereignty domestically. To this date, Palestine remains a polity without defined borders, powers and, most importantly, citizenry.

### *The Daunting Task of Defining Palestinian Citizenship*

Despite unprecedented international support and recognition, “Palestinians are the largest stateless community in the world [where] more than half of the eight million or so Palestinians are considered to be *de jure* stateless persons” (Shiblak 2006: 8). Millions of people have been left in a limbo for decades pending the final solution of the Palestinian question and the establishment of a functional and sovereign Palestinian state. Moreover, the carving up of the Palestinian territory in the 1940s meant that Palestinians were subject to various laws and regulations.

In the post-Ottoman period, citizenship in the territory of Palestine was regulated based on the Palestinian Citizenship Order of 1925, which included for the first time, a clear reference to ‘Palestinian citizenship’, defining as ‘Palestinian citizens’ those ‘Ottomans’ resident in Palestine and also regulated acquisition and loss of citizenship (Khalil 2007: 21). During the Mandate, all Palestinians (original residents of Palestine - Ottoman citizens, and Jews who were naturalized in the meantime) were granted British (Palestine) passports (Ibid.: 28)

After the division of Palestine into three parts in 1948, four categories of Palestinians emerged: Palestinians from the West Bank who became Jordanian citizens; Palestinians who remained within the 1948 armistice line and later became Israeli citizens; Palestinians from Gaza who became *de facto* stateless people holding Egyptian travel documents; and Palestinian refugees in Lebanon, Syria, Egypt, and North Africa, who simply became stateless (Ibid.: 24). Responding to the issue of Palestinian refugees, the Arab states in 1956 adopted the Casablanca Protocol in which they undertook to grant full citizenship rights to Palestinian refugees, without these being naturalized by host Arab states (Arab dual citizenship is prohibited according to the Arab League rules) as well as a Refugee Travel Documents (RTD), in order to maintain their refugee status (Ibid.: 29).

The PLO sought to define who Palestinians are since the adoption of its National Charter in 1964. According to article 6 of the Charter, “The Palestinians are those Arab citizens who were living normally in Palestine up to 1947, whether they remained or were expelled. Every child who was born to a Palestinian parent after this date whether in Palestine or outside is a Palestinian” (PLO 1964). However, according to article 7, “Jews of Palestinian origin are considered Palestinians if they are willing to live peacefully and loyally in Palestine.” In other words, the PLO’s vision of a future Palestinian citizenship included both Arab and Jewish population that resided in Palestine before 1947. On the other hand, the 1988 declaration of independence is silent on issues on citizenship. Nevertheless, it contains the following formulation: “The State of Palestine is the state of Palestinians wherever they may be” (Palestinian National Council 1988). This hints towards the idea that Palestine is a national state of Palestinians (wherever they are) and not a state of all its citizens. Moreover, as it will be shown in the following section, non-inclusion of Palestinian Jews in the future independent Palestinian citizenship was practically established by the Oslo Accords, which limits the competences of the Palestinian Authority to Palestinians alone, exempting the Jewish (settler) population within Palestinian Territories.

### *The Post-Oslo Citizenship*

The Oslo Accords established the contours of both a Palestinian polity, albeit with limited powers, and, indirectly, those of the future Palestinian citizenship. However, the main Declaration of Principles on Interim Self-Government Arrangements in 1993 and successive agreements between Israel and the PLO are silent on the question of Palestinian citizenship. Citizenship is one of the areas where the Palestinian authority did not legislate: a draft citizenship law circulated in 1995, but was never adopted (Khalil 2007: 41). According to Appendix III, article 28 of Oslo II (1995), the PA has limited powers to confer rights of residence: it may record in its population registry all persons who were born abroad or in the Gaza Strip or the West Bank, but only if they are under the age of sixteen years and one of their parents is a resident of the Gaza Strip and West Bank. In a way, “*jus sanguinis* and residence, in



tandem, have become the criteria for Palestinian ‘nationality’” (Grossman 2001: 860) but there is no provision for naturalization.

As a result of the Oslo Accords, the Palestinian government’s authority and jurisdiction extended over more than three million Palestinians (notably, the PA did not have authority over the Jewish settlements in the ‘occupied territories’) living in the West Bank and Gaza; in addition to being provided with judicial and rule of law services, these Palestinians are entitled to PA passports and identity cards (Geldenhuis 2009: 157). PA passports are obtained under the indirect, but complete, control of Israel and Israel also controls borders and access to and exits from Palestinian territories according to Israeli regulations (Khalil 2007: 34).

The PA passport is essentially a travel document and does not stipulate that its owner is a citizen of Palestine: the document’s cover reads ‘Palestinian Authority’ (JPost 2013).<sup>2</sup> All Palestinians residing in the areas under PA rule are entitled to a PA passport. However, although most countries recognize it as a valid document, people with PA passport face a very strict visa regime with the absolute majority of countries, including most of the countries in the region, requiring visas. According to the Palestinian Ministry of Foreign Affairs data from 2016, people with PA passports can travel visa free to 39 countries (mostly in Africa and Latin America).

In the words of Asem Khalil, “granting a PA passport is not an expression of Palestinian citizenship (although it may be considered as its embryo). The existence of citizenship is not determined by a passport, or legislation regulating citizenship, but by the existence of a state” (2007: 34). Thus, as long as the issue of Palestinian statehood is not resolved, Palestinian citizenship will remain in its embryonic stage or quasi-form. The current Palestinian state can neither define its community and rights, nor delineate and control its borders. “Accordingly, in the Palestinian context, the ‘state’ cannot determine who is a Palestinian and who is not under the Oslo Agreements” (Ibid.: 40). Nevertheless, in practice, by institutionalizing the distinction between those Palestinians residing in West Bank and Gaza and other Palestinians, with the latter being banned from participating in the electoral process and thus from any involvement in the political life of the PA era (Ibid: 40), Israel and the PA have helped crystallize a ‘Palestinian citizenry’ that excludes large parts of the Palestinian people, namely refugees inside the Palestinian territories as well as those in refugee camps in the neighborhood.

As regards the latter, according to Abbas Shibliak, Palestinian refugees fall broadly into three categories: holders of the ‘Refugee Travel Document’ (RTD) issued by Syria, Lebanon, Egypt, Iraq and some other Arab countries; holders of nationalities of convenience – mainly temporary Jordanian passports; and holders of the Palestinian passport issued by the PA which is considered as a travel document pending formation of a fully-fledged Palestinian state (2006: 8). As long as the ‘interim period’ continues, the status of Palestinian refugees is expected to remain the same (Khalil 2007: 38).

Regardless of the outcome of final status negotiations, when constituting the initial body of a future Palestinian state, such a state should resolve its relationship to four distinct categories of ethnic Palestinians: (a) Palestinian residents of the West Bank and Gaza Strip who are not refugees; (b) Palestinian refugees resident in the West Bank and Gaza; (c) Arab nationals of Israel; (d) ethnic Palestinians residing in other countries (Grossman 2001: 860).

In sum, Palestine is a unique case of a people whose right to self-determination and statehood has been formally endorsed almost universally, while its actual authority on the ground is undermined by territorial division, occupation and, above all, a long-lasting problem of displacement and refugees. Despite UN status and individual recognitions, Palestine controls a fraction of its designated territory

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<sup>2</sup> Following the upgrade of Palestine status at the UN, Palestinian authorities announced an initiative to change the name ‘Palestinian Authority’ into ‘State of Palestine’ (Pileggi 2016).

and rules over just half of its claimed citizens. Above all, it stands out as a case (together with Western Sahara and Nagorno-Karabakh) of a liminal polity without a formal citizenship regime in place.

### **3.2 Kosovo: an ‘Internationally Designed’ Liminal Polity**

After 9 years under international administration and suspension of Serbia’s sovereignty, Kosovo declared its independence from Serbia in 2008 and thus embarked on the path to statehood and the creation of a separate citizenship regime. Nonetheless, almost a decade since its declaration of independence, Kosovo still does not possess all statehood attributes, including external and internal sovereignty, thus making it a contested polity. This mainly stems from the issues related to Kosovo’s contested international status (so far, 115 members of the UN have recognized its independence), and the refusal of Serbs from northern Kosovo to be integrated into the political system of Kosovo. European Union’s approach of ‘limited sovereignty – strong control’ applied through its presence in Kosovo and multiple external mechanisms of control and supervision have also limited Kosovo’s sovereignty (Krasniqi & Musaj 2015).

Kosovo is quite unique, compared to other liminal polities, due to its overwhelming international support, especially from the US, the main EU countries and other major powers like Japan, Canada, Australia, Turkey and so on. In this respect, Kosovo belongs to the category of entities recognized by “key great powers” (Owtram 2011, 129). Because of strong international participation during its creation as a state, Kosovo can be considered a liminal polity of “international design” (Bose 2005: 322). Kosovo has succeeded in becoming a member of the World Bank, the International Monetary Fund, the European Bank for Reconstruction and Development, the Council of Europe Development Bank, as well as some regional bodies and international sportive associations (IOC, FIFA, FIBA etc.), but UN (as well as OSCE and Council of Europe) membership is still not in sight. In other words, Kosovo is thus yet to achieve the “gold standard of international legitimacy”, which membership in the UN represents in Joshua Keating’s (2008) opinion.

As regards citizenship, shortly after the declaration of independence, the Kosovar Assembly adopted a whole package of basic statehood laws, including the Law on Citizenship (No. 03/L-034), and started the process of issuing new IDs and passports, in this way setting up the contours of an independent citizenship regime, the first in the history of Kosovo. The civil register (Central Civil Register of Kosovo) that was created during UN Administration - which included ID cards and special travel documents<sup>3</sup> for the residents of Kosovo – laid the foundation for an independent Kosovan citizenship regime (Krasniqi 2012). All habitual residents registered at the time of UN administration would automatically become Kosovo citizens.

In addition to establishing institutions at home, Kosovo undertook steps to increase its presence internationally and provide consular services to its citizens abroad. In June 2008, a few days after the entry into force of Kosovo’s new Constitution, the President of Kosovo decreed the opening of the first Kosovar embassies in the US, the UK, Germany, Italy, France, Austria, Switzerland, Belgium, Albania and Turkey. As of June 2009, they began to offer consular services to Kosovar citizens living abroad. As of September 2017, Kosovo has opened 25 (including a Special Office) and has accredited 27 Consular Missions in Europe, North America, and Asia. In another move to establish its separate

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<sup>3</sup> In 2000, the UN Mission in Kosovo promulgated a Regulation on Travel Documents (UNMIK 2000). Article 1(1) of this regulation stipulated that all persons registered in the Central Civil Registry having the status of habitual residents may apply to the same institution for a travel document. Despite the fact that this travel document performed the function of a passport, it was not one strictly speaking. Article 1(2) of the UNMIK Regulation on Travel Documents clearly determines that the travel document does not confer nationality (i.e. citizenship) upon its holder, nor does it affect in any way the holder’s nationality. Thus, a person could have a UNMIK Travel Document and any other state passport without a problem. In practical terms, the UNMIK Travel Document was a poor substitute for state passport because only 37 countries officially recognized it, thus creating travel-related obstacles for its holders (Krasniqi 2015: 9).

international status, in July 2013 Kosovo started a visa regime for citizens of 87 countries, including China and Russia, the two UNSC members that oppose its independence (Krasniqi 2014).

In addition, Kosovo engaged in several public diplomacy efforts through nation branding campaigns and debates with policy-makers and intellectuals, public figures and politicians from the countries that have not recognized Kosovo so far. Moreover, the Ministry of Foreign Affairs has pooled resources with foreign embassies in Kosovo, civil society and citizens to launch a digital platform - Digital Kosovo - to help integrate Kosovo into the digital landscape. Campaigners approached many institutions (from airlines to social media) requesting they include Kosovo or fix Kosovo's presence on their websites. This is a clear instance of individual and institutional actorness and of people who creatively perform citizenship and statehood.

Likewise, Kosovo has utilized the 'soft power' of representative sport to create symbolic pressure on states that have not yet recognized Kosovo thus entering the international club of state through the 'sports door' (Brentin & Tregoures 2016). As a result, Kosovo participated for the first time in the Olympic summer games, with judoka Majlinda Kelmendi making history in Rio, by claiming the gold medal in women's judo and becoming the first Kosovo athlete to ever win a medal in the Olympics. International affirmation through sport is altogether very important for Kosovo, as a state with contested statehood and limited international status.

#### *Citizenship Rights, Documents and Travel*

Kosovo's claimed right to statehood has been increasingly recognized by more states each year and the overwhelming majority (189 out of 193 members of the UN) of states recognize its passport *de facto* or *de jure* (Kosovar Embassy in Vienna 2017). The countries that refuse to recognize Kosovo passports include Serbia (although Kosovans can enter Serbia with Kosovo ID cards), Russia<sup>4</sup>, Cuba and Seychelles. Spain does not recognize it formally but allows Kosovar Passport holders with valid Schengen visas to enter its territory. Internally, Kosovo has made significant steps towards integrating Kosovo Serbs, within the Kosovar system, thanks to the EU mediated dialogue between Kosovo and Serbia.

However, despite the fact the Kosovo has a functional citizenship regime that regulates acquisition and loss of citizenship within the territory, partial international contestation has an impact on citizenship rights of its citizens both domestically and internationally. As Grossman argues, "[s]tate non-recognition adds anomaly, challenging ordinary rules. It gives rise to the irony of liberalized nationality rights under domestic law in many States coupled with denial of at least some of those rights to those based elsewhere: to the extent that recognition of nationality is dependent upon recognition of sovereignty" (2001: 853). In Kosovo's case, lack of sovereignty affects its citizens in three main ways. First, as a result of Serbia's non-recognition of Kosovo, there is a substantial, albeit formal, overlap of the Kosovar and Serb citizenship regimes. While *de jure* the absolute majority of residents in Kosovo are entitled to Serbian citizenship, in practice this right is limited to the Serb minority and other non-Serb minorities in Kosovo. On the other hand, while all the Serbs in Kosovo (as well as many Serb and non-Serb refugees that haven't returned since the end of the war) are entitled to Kosovar citizenship, a significant number of them refuse to accept it. Kosovo declared independence a decade ago, but its government institutions are not the only ones present in the country. At least four different sets of institutions operate in Kosovo (Kosovo's, UNMIK's, EULEX's and Serbia's) creating a highly complex net of institutions, legal norms and jurisdictions that often overlap, with Kosovo residents being tied to at least two polities (Kosovo and Serbia) and even more political authorities that determine their legal rights.

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<sup>4</sup> Russia allows people with Kosovo passports to enter its territory only in special cases and in order to participate in international sportive events (Tanjug 2015).

Second, state contestation limits the level of access to various rights, such as travel but also the right to hold your state accountable at the level of international organizations (e.g. the European Court of Human Rights). In reality, while it is for each individual state to determine who are its nationals, it is not unknown for other states to attribute to a person for their own purposes a nationality that the state in question itself would deny (Grossman 2001: 870). One such instance is the decision of various EU states to treat Kosovo Albanian migrants and refugees as Serb citizens (due to the fact that they had been such at the time of the arrival) despite Kosovo's declaration of independence and the fact that these states recognize it.

Third, and most importantly, Kosovo's citizenship is not very functional due to the country's overall position and potential. Although the country has had almost unreserved support from powerful allies, its overall performance hasn't been very good especially in terms of internal functioning and economic development. Kosovo faces the problem of smallness, both in terms of territory and population. It ranks in the bottom quarter of states both by territory and population. Smallness can often be a problem for states, in terms of the various limitations it imposes. Moreover, Kosovo is a lower-middle-income country with a GDP per capita of \$ 3,641 (2016), which makes it the third-poorest country in Europe (World Bank 2017). Although Kosovo's economic growth has been steady and has outperformed its neighbors, it has not been sufficient to significantly reduce the high rate of unemployment, provide more formal jobs, particularly for women and youth or reverse the trend of large-scale outmigration<sup>5</sup> and reliance on remittances to fuel domestic consumption.

In terms of travel, Kosovo passport holders are the only ones in the Western Balkans that need a visa to enter the Schengen Area, although Kosovo is formally on the track to EU membership and hosts EU's biggest ever mission abroad (EULEX). In a larger context, according to the data provided by the Passport Index (2018), which ranks countries according to the number of countries with which the passport allows visa free entry, the Kosovar passport is among the 20 weakest passports of the world. In this respect, Kosovan citizenship is rather weak and dysfunctional. The quality and functionality of citizenship is hindered both as a result of the issue of state contestation but results also from internal weaknesses.

As regards the issue of traveling between Kosovo and Serbia, since 2011, a new EU mediated travel regime has been established. The agreement on freedom of movement gave Kosovo citizens the ability to travel to Serbia using their Kosovo ID cards. Upon arrival on the Serbian territory, they must receive an entry document (a paper) that allows a stay of up to 90 days. The same document is presented when they exit Serbia. As for Serbian citizens, they could in the past enter and leave Kosovo with any valid Serbian ID card or passport. However, more recently, Kosovo authorities have been refusing to recognize personal documents and car license plates issued by Serbia to Serbs resident in Kosovo, thus forcing local Serbs to apply for Kosovar documents (Andric & Bailey 2017).

Kosovo's unresolved status affects Serbia's citizenship regime, too. Serbia's citizenship regime is differentiated; it distinguishes between three categories of citizens. The first one includes legal residents in Serbia proper. They possess passports issued to Serbian citizens residing in Serbia, which have been included in the Schengen Area's visa free regime since 2009. These passports are recognized worldwide, including by Kosovo. The second category includes ethnic Serbs residing in Kosovo. They are issued passports which are not included in the visa-free regime but have been accepted as travel documents around the world. Part of Serbia's transition onto the visa 'white list' was the European Commission's requirement that citizens of Serbia residing in Kosovo receive Serbian passports that designate their status as Kosovo residents. These passports distinguish Kosovo residents from other Serbian citizens, excluding them from the visa-free regime. They are issued by a special Coordination Directorate within Serbia's Ministry of Interior in Belgrade. The ministry issued

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<sup>5</sup> In addition to outmigration, Kosovo faces a 'citizens hemorrhage'. Between 2008 and 2017 more than 40,000 citizens have renounced Kosovar citizenship (Krasniqi-Veseli 2017).

a total of 97,809 passports between 2009 and 2016 (Andric & Bailey 2017). The third category includes all the residents of Kosovo, including Kosovo Albanians, which nominally are Serb citizens but in practice are excluded from Serbian citizenship (Vasiljević 2012). This shows how state contestation and complex legal situations manifest themselves in atypical and highly complex citizenship and travel regimes. By the same token, it demonstrates the use by the EU of citizenship and free travel as instruments to disentangle Kosovo's and Serbia's citizenship regimes.

In sum, Kosovo has made significant progress in strengthening its statehood institutions at home and gaining international recognition abroad. Its emerging foreign policy and citizenship regime have a dual capacity of serving both as a tool of state-building and as a statehood prerogative. Kosovo has pushed hard to establish its citizenship regime at home and gain recognition of its statehood abroad and in both endeavors has had significant support from great powers. However, the impact of state contestation on citizenship rights and status of its citizens is notable. Moreover, the overall poor functionality of its political system and citizenship regime has created numerous impediments for its citizens ranging from the quality or rights and protection at home to travel and status abroad, thus leaving the country and its people in a liminal and exceptional situation.

### ***3.3 Western Sahara: a Recognized Liminal Polity in Exile***

Like Palestine, the Sahrawi Arab Democratic Republic (SADR) is a peculiar type of polity, whose right to self-determination is internationally recognized and which exhibits some institutional attributes of statehood but enjoys very limited territorial control. Regardless of the fact that its claim to statehood received wide international recognition, in particular in Africa, and that its liberation movement (Polisario) enjoys substantial international legitimacy, this has not translated into fully-fledged membership of the world community (Geldenhuis 2009: 190). Although the UN classifies Western Sahara as a 'non-self-governing territory' and does not recognize Moroccan sovereignty over it, the contested territory is predominantly under the Moroccan control.

Western Sahara's subjugation to European colonialism began in 1884, when the largest part of the territory came under the Spanish rule. Formal and effective integration took much longer: Spain established effective rule in Western Sahara in the 1930s, incorporated it into metropolitan Spain as a Spanish African province (*Provincia de Sahara*) in 1958 and only in 1963 a formal Spanish administration was created in the territory (Ibid.: 191). Given the wider international and local context of decolonization in the 1960s, the Spanish rule in the territory was challenged both by local resistance as well as irredentist claims from the newly created states of Mauritania and Morocco. Despite an ICJ (International Court of Justice) opinion that rejected Moroccan and Mauritanian claims to the territory, on 14 November 1975 Spain, Morocco and Mauritania concluded the secret Madrid Accord under which Spain would relinquish Western Sahara to its two partners and a tripartite transitional administration (representing the three signatories) would be established in the territory until Spain's final withdrawal, thus effectively denying the Sahrawi people the right to self-determination (Ibid.: 193). In opposition to the plan to divide and incorporate Western Sahara into Morocco and Mauritania, the Polisario Front proclaimed the establishment of the Sahrawi Arab Democratic Republic on 27 February 1976 and formed a government-in-exile (based in Tindouf in southwest Algeria).

While most of the African and some Latin America countries moved to recognize Western Sahara's independence, seeing it as a case of de-colonization, Western powers have refrained. Western Sahara was recognized by 84 countries (almost half of them have either 'frozen' relations or withdrew recognition in the meantime) and it even was admitted at the Organisation of African Unity (now African Union) in 1980 as a full member. However, its government-in-exile struggled to establish effective control in the territory and was powerless to prevent the exodus of almost half of the population, most of whom live in refugee camps in Tindouf (Martin 2005: 567). However, neither international condemnation, nor local armed resistance could prevent Morocco to advance its territorial ambitions and take administrative control of the territory and in 1976 annex most of it as the

‘Southern Provinces’; following Mauritania’s withdrawal from its portion of the territory in 1979, Morocco formally annexed the rest of Western Sahara. Yet, no country has officially recognized Moroccan claims to Western Sahara and the UN still considers Spain to be the *de jure* administering power in Western Sahara and Morocco to be only its *de facto* administering power (Wilson 2016: 21).

As a result of more than four decades of Moroccan administration, billions of dollars have been invested into basic infrastructure, including, airports, harbors, roads, water and electricity and a settlers’ program increased the population from 74,000 people, according to the Spanish census of 1974, to half a million (Geldenhuis 2009: 196; Boukhars 2012: 14). This influx of investment and migration has changed the demographics, with the Sahrawi people becoming a minority in the territory. Moreover, the territory was divided into a heavily fortified Moroccan zone, constituting 85 percent and protected by defensive walls (called “berms”) built in the mid-1980s and manned by 150,000 soldiers (Boukhars 2012: 3) and the remaining 15 percent that remain under the control of the Polisario Front. Despite countless regional and international peace initiatives, a ceasefire and an agreement between Morocco and Polisario to organize a referendum on the future of the territory under the UN auspices, the territory still remains disputed and mostly under Morocco’s control.

Although exiled, Western Sahara’s Polisario government has existed for over 40 years. However, despite strong support among local people in Western Sahara and in refugee camps in Algeria and wide recognition as the legitimate representative of the Sahrawi people, the Polisario Front has constantly struggled to establish effective control and provide services for its people. From the early days of exile, Polisario has organized health, education and food distribution committees in refugee camps, mostly with the help of international aid, “not merely as a management strategy for the camps, but primarily as a political and ideological strategy for progressively establishing the basis of a future Saharawi state” (Martin 2005: 568-9). The infrastructure put in place in many ways replicated the structure of a projected Saharawi nation-state. This is a *par excellence* case of performing statehood in exile.

Despite claims to statehood, given Moroccan control of the territory and mass displacement, Polisario has in many ways come to embody what is left of the Western Saharan state; indeed, the tension between Polisario as a movement and that of the Saharawi Republic as an institutional structure has been an underlying feature of the Western Saharan case. In reality, Western Sahara is a one-party exile state, because the Constitution of the Saharawi Arab Democratic Republic (1999) stipulates that “Until the achievement of national sovereignty, the Polisario Front remains the political framework that groups and politically mobilizes the Sahrawis, to express their aspirations and their legitimate right to self-determination and independence.” More broadly, there persists “a continuous tension between the process of nation-building, carried out in the camps through the symbolization of identity, and its inherent impossibility” (Martin 2005: 575). Undoubtedly, this has multiple implications on the issue of citizenship.

### *Citizens in Camps*

Despite the declaration of independence of Western Sahara and solid international recognition, the Sahrawi people remains scattered and mostly displaced. It includes a majority of Sahrawi refugees in Algeria, those living in Moroccan controlled Western Sahara, Sahrawi people living in Polisario controlled parts of Western Sahara and other Sahrawi people around the world. In fact, one of the key disputes in Western Sahara is related to the very definition of who is a Sahrawi. The central element of the 1991 UN plan was holding a referendum of self-determination to decide the future of the disputed territory. Having interviewed some 200,000 applicants, the Commission of the United Nations Mission for the Referendum in Western Sahara (MINURSO) published a list of just over 86,000 persons eligible to vote in the referendum (48,000 living under Moroccan control and 38,000 in the refugee camps) (Manby 2009: 154; Martin 2005: 580). The list was mostly based on the Spanish census of 1974 but Morocco did not accept it, lodging more than 130,000 appeals on behalf of the settler population in the territory thus effectively derailing the referendum process (ICG 2007: 2).

While disagreements between Morocco and the Polisario as to the composition of the electorate persist, the ongoing process of “moroccanization” of this territory serves the Kingdom’s purpose of diluting the native population in view of the referendum on self-determination (Zaireg 2017).

The Sahrawi people living in the area under Moroccan rule are Moroccan citizens; they are eligible for travel and other documentation and have also been able, since the late 1970s, to participate in Moroccan national and regional elections (Manby 2009: 155; Perrin 2011: 6). Nonetheless, it has become commonplace for Moroccan authorities to confiscate passports of those Sahrawi activists that oppose Morocco’s rule or refuse leave to travel to activists who are employed in civil service jobs (Manby 2009: 153-6). In many ways, in relation to the Western Sahara, citizenship has been used by Morocco as a tool to consolidate territory (Perrin 2011: 2) and build a new form of national identity (Messari 2001). Since the 1970s, the Monarchy engaged in constructing a new Moroccan identity, by means of the Western Sahara issue, that sought to assimilate the Sahrawis; this was part of a three-fold strategy aiming at “establishing a historical continuity, emphasizing similarities between 'Moroccans' from the North and 'Moroccans' from the South, and strengthening the links with the Sahrawis through their assimilation” (Ibid.: 54).

The Western Saharan refugees in Algeria constitute one of the largest and longest-standing populations of unintegrated refugees in Africa (Manby 2009: 152). Between 90,000 and 125,000 have lived as stateless refugees in Algeria for a long time (Human Rights Watch 2014: 1). Western Saharan authorities issue national identity cards to Sahrawi people living in the refugee camps and the territories under Polisario control. The Polisario and Algerian authorities run checkpoints on the roads leaving the camps, including to the border posts, but in practice camp residents seem to be largely free to leave on trips of short or longer duration. Travel within Algeria beyond Tindouf, however, may require travel permits from the Algerian authorities, that are acquired through the Western Saharan authorities and are valid for three months (Human Rights Watch 2014: 25; Manby 2009: 154). Moreover, the government of Algeria issues short-term passports to Sahrawi refugees who need to travel – usually for reasons of medical treatment, family unification, and so on – to countries that do not recognize Western Sahara. These passports are obtained by applying to the Algerian authorities via the Western Sahara bureaucracy, but are only travel documents and do not confer Algerian citizenship (Manby 2009: 155). Once refugees return to Algeria, their passports are confiscated and can be picked up again later. There is no available data on the number of Sahrawi people that hold Algerian passports.

Nevertheless, according to Alice Wilson, the Sahrawi exiles belong to a polity of some kind, by virtue of their engagement in an innovative citizenship in the refugee camps, where they vote, take part in governance themselves, and hold officers to account (2016: 11). Wilson identifies three elements in the construction of citizenship for the Polisario state-movement: ethnic (be a Sahrawi in the region or diaspora), political (be incorporated into the pro self-determination political community), and activist (voters are assigned to a constituency according to the place of activity for the state-movement) (ibid.: 76). In this respect, Polisario is very similar to the Tibetan Government-in-Exile, where the exiled community transplanted its government structures and established a state-like polity in exile, or a ‘state-in-exile’ (McConnell 2009: 1903).

Given the grave circumstances, Western Sahara does not have a citizenship regime in place,<sup>6</sup> although it does provide many citizenship rights to people under its control. As of 2012, Western Saharan authorities started issuing passports to Sahrawi people in accordance with Presidential Decree 11/2012 (Sahara Press Service 2012). Western Sahara maintains diplomatic relations with some 37 countries, mostly in Africa and Latin America, where it also has embassies, and it also enjoys semi-official representation in a number of European countries. However, most of the European countries

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<sup>6</sup> The Polisario Front has made public proposals in 2007 to grant citizenship to all Moroccan residents in Western Sahara in a future consolidated independent state; “the Saharawi State could grant the Saharawi nationality to any Moroccan citizen legally established in the territory that would apply for it” (Polisario 2007; ICG 2007: 6).

continue to consider those Sahrawi people living under the Moroccan controlled territory as citizens of Morocco and those living in the Polisario controlled parts of Western Sahara and in refugee camps in Algeria as stateless persons (European Migration Network 2015). Spain,<sup>7</sup> which keeps receiving the biggest number of asylum seekers from Western Sahara, considers the following questions when deciding on the statelessness status of the applicant: a) whether the Sahrawi individuals from refugee camps in Algeria are in possession of Algerian nationality; b) whether individuals born after 1975 in Moroccan controlled territories could be attributed Moroccan citizenship; and, c) whether the applicants registered by MINURSO may be deemed to be receiving protection and assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees (Cherednichenko 2013).

In sum, the legal and political quagmire surrounding the Western Sahara has resulted in the emergence of three different categories of Sahrawi people: a) Those living in the area under Moroccan control, who are Moroccan citizens and are thus eligible for passports and other official Moroccan documents; b) those who reside in Western Sahara territory under the control of Polisario, who have Western Sahara's citizenship and documents but are largely considered stateless internationally; and c) those living in refugee camps in Algeria, who obtain identity documents from the authorities of Western Sahara or short term Algerian travel documents. A very small percentage of refugees have managed to acquire Algerian or Mauritanian citizenship. Most of the Sahrawi people continue to be trapped by the lack of a definition of their citizenship status or, as Bronwen Manby puts it, they are "trapped in a citizenship black hole" (2009: 152).

### ***3.4 Taiwan: the Master of Engagement without Recognition***

Taiwan, or as it is officially called Republic of China – ROC (hereinafter Taiwan), is the oldest surviving liminal polity. It became a separate political entity after the Chinese Civil War, which started in 1920s and ended in 1949 with the victory of Communist Party of China (CPC) revolutionaries under Mao Zedong. The defeated ROC government under Chiang Kai-shek and the Kuomintang (KMT) vacated the mainland and took refuge on the island of Taiwan. Due to ideological considerations and the Cold War order, most Western countries (including the U.S.) recognized the government of Taiwan instead of that of the People's Republic of China (PRC) and until 1971 Taiwan held the seat of China in the United Nations. The international recognition of Taiwan reached its apogee in 1970, a time when a total of 68 states had diplomatic missions in Taipei (Geldenhuis 1990: 146).

However, after 1978, when the United States and the PRC fully normalized relations, the U.S. withdrew recognition from Taiwan, abrogated the Mutual Defense Treaty of 1954 and established a special status for Taiwan. Thus, in what was commented as an 'unusual exercise', the United States 'de-recognized' Taiwan (Grant 1999: 70). Nonetheless, Taiwan currently has diplomatic relations with 21 countries (the main ones being Vatican, Paraguay, Dominican Republic and Burkina Faso) and substantive ties with many others and has full membership in 37 intergovernmental organizations and their subsidiary bodies, including the World Trade Organization, the Asia-Pacific Economic Cooperation and the Asian Development Bank (MFA, ROC, Taiwan 2016: 39). The country maintains an extensive network of 79 Embassies, Representative Offices or Economic and Cultural Offices. However, although Taiwan is an economic giant - it has a GDP of \$519.1 billion per year (2016), ranking thus among the top 22 countries in terms of GDP) (CIA World Factbook 2017) – and has developed a democratic governing system, it faces strong opposition from China, which champions a policy of "One China" (Pegg 1998: 184).

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<sup>7</sup> Already in 1976, Spain had decreed to facilitate the acquisition of citizenship for the Sahrawis for a period of one year. In fact, Spain still allows Sahrawis easier access to citizenship on the grounds of Western Sahara being a former colony (Perrin 2011: 6; Marin *et al* 2015).



Being an economic giant and a developed country has helped Taiwan's efforts to break international isolation and engage actively internationally with states and governments worldwide. Despite the lack of formal recognition by any major power in the world, Taiwan has been accommodated to such an extent that it is by far the most active liminal polity internationally. It has put serious efforts into building an image of a 'model global citizen'. According to the Ministry of Foreign Affairs of Taiwan, "As a model citizen in global society ... the nation will build lasting partnerships with allied and friendly countries through fostering governmental interactions, business investment and people-to-people exchanges ..." (MFA, ROC, Taiwan 2016: 39). Clearly, the emphasis is on public diplomacy and people-to-people exchanges and, above all, business investment. Taiwan's attempt to portray itself as a model global citizen is a way of using its nation brand to increase interaction with other non-recognizing states. Undoubtedly, with all its limitations, Taiwan has made the most out of the rather ambiguous and complex format of 'engagement without recognition'.

Nonetheless, despite its strong economy, defense and stable institutions, Taiwan's position is very peculiar compared to other similar contested entities. Taiwan not only claims sovereignty over the island but it still carries a legacy of claiming to host the legitimate Chinese government. Since 1949, both governments in Taipei and Beijing claim sovereignty over the whole China. This complicates further its relations with the 'mother state' China and its international relationship with other states. Importantly, it also has a direct bearing on citizenship related issues, which we discuss in the following section.

### *Taiwan's Elusive Citizenship*

Taiwan's citizenship framework is highly ambiguous and differentiated. It mirrors not only its complex legal status and international standing, but also its internal power dynamics. The legislation comprises three key laws: the Immigration Act, the Nationality Act, and the Act Governing the Relationship between Peoples of the Taiwan Area and Mainland Area (conventionally known as the Cross-Strait Act). The first two laws apply to non-Chinese immigrants, whereas the Chinese are covered by the Cross-Strait Act (Cheng & Fell 2014). Until its revision in 2000, Taiwan had been governed by the 1929 Nationality Act, which left a long-lasting legacy that still shapes current political debates in Taiwan. It is characterized by: 1) differential rights between native citizens and naturalized citizens (naturalized citizens were neither entitled to hold dual nationality nor public office), 2) a strict naturalization regime and 3) gender inequality (Low 2016: 18). The 2000 reform improved gender equality and a new reform in 2017 (Yu-fu & Chin 2017) enables naturalized spouses and other 'high-level professionals' to retain their original nationality while becoming Taiwanese.

Taiwan's ambiguous constitutional status and international position has had ramifications in three main citizenship-related dimensions. The first one is related to the issue of the status of Taiwanese residents in China and Chinese residents in Taiwan. Claiming sovereignty over the whole of China, both governments insist on an all-inclusive approach when it comes to citizenship. However, in practice, both governments apply differential citizenship. In Taiwanese laws, the Chinese are labelled 'Peoples of the Mainland Area'. Regulations related to Chinese people are based on 'the Cross-Strait Act'. Chinese immigrants fall under a more rigid set of regulations for citizenship eligibility because of the presumptive incompatibility of their socialist upbringing with Taiwan's democracy (Cheng & Fell 2014: 91). With China juxtaposed as the other, in fact, Chinese immigrants are excluded from the national community (Cheng & Fell 2014: 79).

Differentiated citizenship applies to the situation of Taiwanese citizens in China, too. Despite being regarded as Chinese nationals, Taiwanese people do not enjoy the same citizenship status as the other

Chinese nationals.<sup>8</sup> “They constitute a special category of ‘Chinese nationals’ different from ordinary ‘Chinese citizens’ or ‘foreigners’ due to the legacy of the inter-state rivalry. Though they are PRC nationals, they are required to register with the household registration system to qualify as citizens” (Low 2016: 17). In effect, on both sides of the strait, the status of people from the ‘other’ side is neither foreign nor domestic: they are in-between (Chen 1994, cited in Cheng & Fell 2014: 88). Both the Taiwanese and Chinese legislation slots all ‘the others’ into very anomalous legal categories. The issue of differentiated citizenship is of a particular importance in the context of Taiwan-China inter-state competition, which draws governments and people back to zones of loyalty and nationally defined memberships (Yen-Fen & Jieh-Min 2011).

The second dimension is related to the issue of naturalization of migrants and refugees. Two important trends in Taiwan are the high proportion of naturalized females and the large proportion of marriage migrants (Low 2016: 25). Restrictive policies of naturalization, application of criteria that discriminate in terms of gender and firm requirements for naturalized individuals to renounce their citizenship have raised issues of discrimination and even statelessness. Another related category is that of Tibetan refugees, whose movements and immigration is regulated both by the Cross-Strait Act and the Mongolian & Tibetan Affairs Commission, an official agency under Taiwan’s Executive Yuan.

The third important aspect is related to the status, rights and protection offered to native or naturalized Taiwanese that possess its passport. In principle, the Taiwanese passport is very widely accepted by more than 160 countries (including the countries within the Schengen Area) and territories that grant visa-free entry, landing visa or e-visa privileges to Taiwan passport holders. Moreover, Taiwan is the only country included in the US Visa Waiver Program that does not maintain official diplomatic relations with the United States (MFA, ROC, Taiwan 2016: 38). Only a handful of countries (Georgia, Argentina, Jamaica, and Mauritius) don’t recognize the Taiwanese passport as a valid travel document. Most of the countries do not seem to judge it convenient to reject it for the purposes of travel although they do not recognize Taiwan as a sovereign state. As Grossman puts it, “acceptance of passports by foreign governments is purely a matter of political, diplomatic and administrative convenience rather than any status attributable to the travel document itself” (2001: 862).

Yet, accepting a passport as a valid means of travel and recognizing the actual citizenship or nationality are different things. So it is not unheard of that Taiwanese nationals are assigned a different nationality by foreign countries. For example, in 2016, a Taiwanese exchange student studying in Iceland was issued a residence card labelling her as Chinese. When she rejected this identity and asked the Icelandic authority to correct her nationality to Taiwanese, months later she received a new residence card labelling her as stateless (Gerber 2016). Clearly, being a Taiwanese citizen does not naturally justify a formal status that provides its holder with an efficient political status in other states. At the same time this highlights the struggle, activism and resistance of individual citizens who reject a certain external categorization or misrepresentation of their national selves. More importantly, there have been cases when countries that don’t recognize Taiwan treat the latter’s citizens as PRC nationals, for the purposes of extradition. A case in point is Kenya’s decision to deport 45 Taiwanese passport holders, who were accused of fraud, to mainland China in 2016, sparking a diplomatic incident between Taipei and Beijing (Griffiths 2016).

Taiwanese citizens and activists do not resist other governments’ actions and misrepresentations alone. They have sometimes also defied their own government’s symbolic representation and identity on the passport. In 2015, a group of pro-independence activists started a campaign of using stickers on the cover page of the passport which replace ‘Republic of China’ with ‘Republic of Taiwan’. Many Taiwanese were not happy that their passport were confused with the Chinese one, and the activists

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<sup>8</sup> In 2017, China has announced its plans to launch a pilot project to issue special (Taiwan Special Administrative Region - SAR) passports to people from Taiwan as part of its efforts to “solve the Taiwan problem” (Liang-sheng & Hetherington 2017).

covered the word ‘ROC’ with Republic of Taiwan instead. The stickers became a popular trend and caused controversy, forcing the Taiwanese government to ban their use (the decision was later overturned) following reports that people with such stickers were denied entry in China, Macao, Hong Kong and Singapore (Allen 2016). In this instance, Taiwanese citizens have actively performed and transformed the meaning and functions of their citizenship. For, as Isin argues “when people enact citizenship they creatively transform its meanings and functions” (2017: 501).

The ambiguous legal status of both China and Taiwan in relation to the people residing on the other side of the border has led to the emergence of a special travel regime between the two polities. In an attempt to enhance exchange and cooperation while sidestepping the sovereignty question, the two territories have put in place a system that utilizes unconventional documents. While China requires Taiwanese who seek to enter its territory to apply for a ‘Taiwan compatriot pass’ (*taibaozheng*), which serves as their document of record while in China, the Taiwanese government issues Chinese citizens departing for Taiwan a ‘travel pass’ (*tongxingzheng*) designated specifically for Taiwan (Friedman 2017: 85). According to Friedman, “the documents themselves and the actions performed on or with them reproduce, rather than resolve, the anomalous status of the border travelers cross and the uncertain standing of Taiwan as a document-issuing and document-recognizing sovereign authority” (Ibid.: 82). In other words, the anomalous legal and constitutional setting is mirrored in the atypical and anomalous citizenship and travel regime across the strait.

In sum, Taiwan considers and uses citizenship as a tool of state-building and a sovereignty attribute. However, despite Taiwan’s increasing engagement internationally, mostly in the form of economic and trade relations, its citizenship regime is in many ways in a liminal state that is determined by its ambiguous constitutional status framework and international contestation. Both its institutions and its citizens are engaged in a struggle with China as well as other non-recognizing states and international organizations in which they demonstrate their claimed political status and exercise rights of citizenship.

### **3.5 Georgia’s Twins: Abkhazia and South Ossetia<sup>9</sup>**

Similar to Transnistria and Nagorno-Karabakh, Abkhazia and South Ossetia (SO hereafter) turned into zones of conflict and consequently into liminal polities in the course of the implosion of the Soviet Union and the emergence of new independent states in the region. Abkhazia’s and South Ossetia’s secession in the early in 1990s was in large part a response to Georgia’s nationalizing measures and abolition of the autonomous status that the two regions enjoyed in the Soviet Union (Geldenhuys 2009; Littlefield 2009: 1465). The two contested polities have more things in common than the mere fact that they were (are) part of Georgia. Namely, they are micro states (Abkhazia’s population is around 240,000 and SO’s is around 50,000), they experienced armed conflict with the parent state (Georgia), they heavily depend on the same patron (Russia) and they have been recognized only by a handful of countries (Russia, Venezuela, Nicaragua and Nauru; Vanuatu and Tuvalu extended recognition too but later withdrew it).

Yet, the two polities differ when it comes to their legal and political history. The Republic of Abkhazia (also known as ‘Apsny’) has a longer history of self-rule and independence, including a short-lived period as an independent state in 1921, when it was proclaimed a Soviet Socialist Republic of Abkhazia and recognized by Georgia (Chirikba 2014: 5). By late 1921, however, Abkhazia was compelled to join the Georgian SSR under the Union Agreement that provided for some sort of confederal formula – Abkhazia’s constitution of 1925 defined it as a sovereign state and subject of international law – and its status was further demoted in 1931 when it became an autonomous republic within Georgia (Geldenhuys 2009: 70; Mihalkanin 2004: 145; Chirikba 2014: 18). On 18 March 1989

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<sup>9</sup> In a referendum in April 2017, the official name of the country was amended into ‘the Republic of South Ossetia – State of Alania’.

an Abkhazian national assembly was held to restore Abkhazia's status as a Union Republic (Mihalkanin 2004: 143).

In response to the Georgian Supreme Soviet's decision to assert Georgia's sovereignty, including the right of secession from the Soviet Union, the Abkhaz Supreme Soviet passed a declaration on the State Sovereignty of the Soviet Socialist Republic of Abkhazia on 25 August 1990 (Mihalkanin 2004: 147; Geldenhuys 2009: 71). At the all-Union referendum held on 17 March 1991, the overwhelming majority of the Abkhaz people voted for the preservation of the reformed USSR with Abkhazia as its part (Chirikba 2014: 5; Geldenhuys 2009: 71). Although initially the Abkhazian Supreme Soviet proposed a federal or confederal link with Georgia, in mid-1992 Abkhazia reintroduced its 1925 constitution, in effect declaring Abkhazia a sovereign entity no longer part of Georgia (Geldenhuys 2009: 72). The territory was soon afterwards invaded by Georgian troops thus sparking a conflict that in effect ended in late 1993 with the victory of the Abkhaz side – largely thanks to the Russian military assistance – and was formalized in 1994 when the two sides signed a peace agreement under UN auspices with Russian facilitation (Ibid.:72).

Following the Abkhaz victory over the Georgian forces, Abkhazia formed itself as a virtually independent state. A new constitution of sovereign Abkhazia was adopted in 1994 and reaffirmed in an all-Abkhazia referendum in 1999 together with an “Act of State Independence of Abkhazia” (Chirikba 2014: 6; Geldenhuys 2009: 74). The new authorities became heavily reliant on Russia for security as well as economic and financial support in their attempt to resist Georgian pressures, which in 1995 set up a rival government that was initially based in Tbilisi and then in 2006 relocated to the Kodori Gorge, a part of Upper Abkhazia under Georgian control (Geldenhuys 2009:74-75). However, in 2008, the Abkhaz forces seized the opportunity created by the Georgian-SO war and launched a major offensive to drive Georgian forces out of some of the 17 per cent of the territory under their control. At the end of conflict, Abkhazia was recognized together with SO, thus becoming partially recognized entities.

The majority of people in SO are part of the Ossetian people in the South Caucasus, which were initially separated between South and North Ossetia in 1918, when Georgia's separation from Russia meant that South Ossetians were divided from their fellow compatriots in the North (Cornell 2001, cited in German 2016: 157). The South Ossetian Autonomous Region was created in 1922 within the Georgian Soviet Socialist Republic (SSR), whilst North Ossetia was an autonomous republic (ASSR) within the Russian SSR, on a higher administrative level than its southern counterpart (German 2016: 157; Geldenhuys 2009:80). In 1989, the South Ossetian regional council proposed to the Georgian Supreme Soviet that the Autonomous Region be elevated to an autonomous republic and on 20 September 1990 the SO communist authorities declared the formation of the South Ossetian Soviet Democratic Republic, a constituent part of the USSR, and secession from Georgia (Geldenhuys 2009: 80; German 2016: 157). Georgia reacted by abolishing SO's autonomous regional status. The two sides engaged in a conflict in 1991-1992, which resulted in some 1,000 people killed, thousands of Ossetians fleeing to the north and about 10,000 Georgians and persons of mixed ethnicity displaced from SO to Georgia proper (Geldenhuys 2009: 81; Toal & O'Loughlin 2013: 142). SO organized two referendums to disassociate itself from Georgia: the first referendum held in 1992 was in favor of joining Russia, whereas in the second referendum in 2006 SO voted in favor of staying independent.

Of all the liminal polities in the region, SO has the closest ties to Russia. It was Russian troops that defeated the Georgian army in August 2008 thus paving the way for SO's recognition of independence. These close ties were formalized with the signing of the ‘Treaty on Alliance and Integration between Russia and South Ossetia’ (2015), which envisages the incorporation of SO's armed forces, security agencies and customs authorities into those of the Russian Federation. It has been estimated that 90 per cent of SO's budget comes directly from the Russian Federation and SO also uses the Russian ruble as its formal currency (Saari 2015). As German argues, “Notwithstanding the political rhetoric regarding South Ossetian statehood, the reality suggests that the authorities in

Tskhinvali are unable to deliver the basic functions of a state, such as defence and control over borders and territory, and remain reliant on Russian provision of these services” (2016: 160).

In terms of international engagement, the two entities have diplomatic relations only with the four countries that recognize them and maintain informal representation in dozens of countries around the world. Forced by international boycott, the two entities cooperate closely together as well as with Transnistria and Nagorno-Karabakh within the framework of the Commonwealth for Democracy and Rights of Nations. Moreover, the two countries have been exploring ways to overcome years of international isolation, and continued attempts by Georgia to block Abkhazians from taking part in international events. Thus, in 2016 Abkhazia teamed up with the Confederation of Independent Football Associations (Conifa), which represents national teams unable to join FIFA, to organize a ‘World Cup of unrecognized states’ in Sukhumi. The event included teams from 12 unrecognized countries, ranging from *de facto* independent states to autonomous regions with faint hopes of future autonomy (Abkhazia, SO, TRNC, Somaliland, Kurdistan, Northern Cyprus, Somaliland, Punjab, United Koreans of Japan, Chagos Islands etc. (Walker 2016).

SO, and Abkhazia to a lesser extent, have since the 1990s been highly dependent on Russia’s support. However, paradoxically, their recognition of independence is accelerating the loss of their ‘*de facto* independence’ in many ways. As Popescu (2009) contends, “the paradox is that until August 2008 Abkhazia and South Ossetia were unrecognized, but *de facto* independent; after August 2008 they became partly recognized, but not *de facto* independent anymore. If the secessionist wars of 1992-1993 were their ‘wars for independence’, the August 2008 war is becoming the war that marked the loss of (their however limited) ‘*de facto* independence’.” As a result, the two polities have outsourced a number of state functions to Russia, most notably, citizenship. For a long time now, the two cases have become synonyms of Russia’s ‘passportization’ policy.

Russia has been Abkhazia’s and SO’s benefactor in many ways, including through the delivery of Russian passports. Already by mid-2000s, nearly 90 per cent of the residents of SO and Abkhazia were by official accounts Russian citizens, whether by birth or through ‘passportization’ (Geldenhuys 2009: 82; Saari 2015). In fact, the Russian citizenship law since 1992 guaranteed the right of former Soviet citizens to become citizens of the Russian Federation. However, although Russian passports had been available before, albeit following an often complicated administrative procedure, it was only after Russia announced plans to introduce a new law on citizenship and the outlawing of the old Soviet-era passports in 2002 and after Georgia’s reintegration of the other seceding territory (Adjara) in 2004 that the pace of passportization in Abkhazia and SO began in earnest with virtually the entire populations of SO and Abkhazia becoming Russian citizens by 2008 (Artman 2013: 690). Russia’s military intervention in SO and the consecutive recognition of the two territories’ independence was presented as a case of ‘humanitarian intervention’ to defend endangered Russian citizens. Notwithstanding, “by naturalizing over 90 percent of the residents of Abkhazia and South Ossetia, Russia captured a sizeable portion of the population – and, discursively, the territory – of the Republic of Georgia” (Ibid.: 683-4). In other words, the two countries gained limited international legitimacy deriving from Russia’s formal recognition but, on the other hand, lost their citizens to Russia.

### *Citizenship Struggles*

Since the early 1990s, Georgian citizenship was rejected by Abkhazians and South Ossetians, with the result that many of the local populations held no recognized citizenship. “This meant that these people did not have an international identity and a means of travelling abroad as locally issued documents like passports were not accepted by other countries” (Littlefield 2009: 1471). Throughout the 1990s, most of the people in these two territories carried Soviet-era passports, “which allowed them to travel into Russia and gave them face internationally” (Ibid.: 1471). Even before the advent of the Russian passportization program, authorities in Abkhazia and SO began distributing their own internal passports, which were not recognized as legal documents by any other country, and they could not be

used for travel (Artman 2013: 693). In fact, authorities in Abkhazia and SO had demanded that their citizens be given UN documents, but the request was turned down by the UN (Khashig 2002).

According to Georgia's 1993 citizenship law, all the residents who had lived in Georgia for five years up to the point of the adoption of the law, who had not renounced Georgian citizenship in a written form and who had received documents that confirmed it, would automatically become citizens of Georgia (Gugushvili 2012: 3). Given that at the time of the entry of this law into force both Abkhazia and SO were outside of Tbilisi's control, residents of the two breakaway territories could neither renounce nor confirm their Georgian citizenship; indeed, a very small fraction of them acquired Georgian documents (Ibid.: 3). However, as Littlefield (2009: 1471) concludes, in the cases of Abkhazia and SO, "people were not (*de jure*) denied the right to citizenship by the Georgian authorities; however, they (*de facto*) refused to accept this [Georgia's] civic national identity" (2009: 1471).

Importantly, Georgia prohibited dual citizenship, apart from exceptional cases. This would not necessarily have consequences for Abkhaz and SO people who have citizenship of their respective states since Georgia considers them part of their territory. However, the mass acquisition of Russian citizenship by the populations of both territories indeed provides them with an opportunity to renounce Georgian citizenship, if not to lose it automatically. This is because according to article 21(c) of the current Georgian Citizenship Law (No 2319-IIS), a citizen loses his/her citizenship if he/she acquires a foreign citizenship. The same provision stipulates that a person may lose citizenship if he/she "joins military, police or security services of a foreign country without permission of competent Georgian authorities." Moreover, following the 2008 war and recognition of the two territories by Russia, Georgia adopted a new 'Law on Occupied Territories'. Among others, that law prohibits foreign citizens to enter the 'Occupied Territories' directly, forbids any economic activity with the breakaway territories without the written authorization of the Georgian government and declares all officials in the entities illegal (de Waal 2017: 3).

In an attempt to win the hearts of people from its break away provinces, in 2011, the Georgian government introduced 'neutral passports' and 'ID cards' — a form of document for people in Abkhazia and SO that did not explicitly state that they were Georgian citizens (Bigg 2012; ICG 2016). This was meant to be a humanitarian document to help people there receive social services from Georgia and facilitate travel abroad. However, the policy was a failure as very few people from the two territories acquired these documents. In 2016, when Georgia was granted a visa waiver regime with the EU, the country's government sought to use the added value of its biometric passport as a means of attracting residents in Abkhazia and SO to acquire Georgian citizenship through a facilitating procedure (Svanidze 2016). Although the EU, as well as the US, bar the issuance of visas to those holding a Russian passport that reside in Abkhazia and SO, the Georgian offer was shunned by the authorities of the two countries (Svanidze 2016; ICG 2016).

Although, paradoxically, Moscow's decision to extend recognition has made both places more internationally isolated (de Waal 2017: 2), in 2009 the European Union approved a non-recognition and engagement policy (NREP) for Abkhazia and SO, which endorses engagement in these territories at multiple levels, while explicitly ruling out recognition of their sovereignty. In the framework of the NREP, the EU has since 2008 provided almost €40 million of funding for projects in Abkhazia alone, which included supporting local NGOs, improving healthcare and education, water facilities, rebuilding destroyed houses and working to find missing persons (Ibid.: 4). Yet, issues of sovereignty and statehood often trump any other human rights considerations, economic cooperation and education. As the International Crisis Group concluded: "Without a more open road to it [education] and the other advantages of contact with the outside world, the populations of the breakaway regions will remain trapped ever more firmly in their isolated status quo" (ICG 2016).

### *South Ossetia*

Issues of citizenship in SO are regulated by the Constitution of the Republic of South Ossetia (2001) and the constitutional law of the Republic of SO "On the Citizenship of the Republic of South Ossetia" from 2006, amended in 2008. According to article 5 of the law, citizens of SO are all those persons permanently residing in the territory of the Republic for at least five years at the time of the proclamation of the Act of State Independence of the Republic of SO of 29 May 1992, provided that they did not renounce the citizenship of the state in writing. This rule, however, does not apply to persons who, by unconstitutional methods, fought against the existing state system of the Republic of SO and its people. Indeed, this rule can and has been used to deny citizenship to ethnic Georgians who sought to return to the territory. South Ossetia has a rather unusual attitude to dual citizenship. Although dual citizenship is allowed in principle, as enshrined in the country's constitution (article 6), article 13 of the law demands from any foreigners who want to acquire SO citizenship, with the exception of Russian citizens, to renounce their previous citizenship (in addition to fulfilling the 10-year continuous residence criterion, speaking the state language, having a legitimate source of livelihood etc.). Russian citizens, together with persons who are of special interest to the state, people with 'historical roots' and refugees, are also provided with the opportunity to acquire citizenship through the facilitated procedure. Likewise, according to paragraph 6.1 of the 2015 Treaty on Alliance and Integration, "The Russian Federation will take additional measures to simplify the procedures for the acquisition by citizens of the Republic of South Ossetia of the citizenship of the Russian Federation." In many ways, the SO citizenry is blended within the wider Russian citizenry.

While SO passports do exist, almost everyone has a Russian passport with their place of residence registered as SO, which enables travel and allows people to receive pensions and social benefits from the Russian state (Kochieva 2016). However, it is important to note that, far from being a forced choice, "'Ossetians' flood of applications for Russian citizenship seems to announce that population's future intentions toward Russia; they intend to act and live as Russian citizens" (Natoli 2010: 413). At the same time, citizenship has been used by SO authorities to bar ethnic Georgians from returning to the territory unless they renounce their Georgian citizenship and accept Russian passports (Freedom House 2014). Given that Georgia does not allow dual citizenship, many Ossetians who have Russian citizenship and family ties in Georgia proper, have had their Georgian citizenship automatically terminated (Ombudsman of Georgia 2015: 27).

### *Abkhazia*

The origins of Abkhazian citizenship can be traced back to the interwar period and its 1925 Constitution. According to article 5 of this Constitution: "The SSR Abkhazia is a sovereign state exercising the state power on its territory on its own and independently from any other power ... The citizens of the SSR Abkhazia, retaining their republican citizenship, are citizens of the ZSFSR [Transcaucasian Socialist Federative Soviet Republic] and the Union of SSR" (Chirikba 2014: 5). It is no surprise that, in 1992, Abkhazia temporarily returned to the 1925 Constitution, until a new Constitution was adopted in the aftermath of the conflict with Georgia. The Abkhaz Constitution from 1994 does not include any specific provisions on regulating citizenship, apart from article 53, which lists the President's competences, including the one to "resolve in accordance with the law, the issues of citizenship." The initial Abkhaz Law on Citizenship (1993) gave the right to obtain citizenship to all residents of Abkhazia, who had at least one of their ancestors born in Abkhazia (Kvarchelia 2014: 2). Mirroring the Georgian model, the law did not allow dual citizenship. However, due to a new amendment made in 2013, dual citizenship is allowed only for Russian citizens (Ibid.).

In 2005, a new Law on Citizenship of Republic of Abkhazia (2005) was adopted. It has three main characteristics. First, it utilizes an ethnic definition of citizenship. According to article 5(a), citizens of Abkhazia are "people of Abkhazian (abaza) nationality, regardless of place of their residence or whether they have a citizenship of a foreign country, except for those people, who, using unconstitutional methods, support changing of the sovereign status of RA, or support a violent change

of constitutional system of RA or, using unconstitutional methods, fought against the existing constitutional system or are connected to terrorist activities.” Clearly, the law distinguished between ethnic Abkhaz (*abaza*) people and others. Indeed, the very preamble of the law stipulates that “RA respects the right and encourages the returning of Abkhazian (*abaza*) diaspora, who live outside of RA, to their historical homeland”. In a move intended to swell the numbers, the new law gives anyone who can claim Abkhaz origin – the Abkhaz diaspora is estimated to be half a million – the right to claim citizenship without renouncing their current nationality (except for those now living in Georgia), nor will they have to take up residence in Abkhazia, unless they want the vote (Khashig 2005).

This should be seen in the light of the continuous efforts of Abkhaz state authorities to strengthen the Abkhaz ethnic element in the territory. Although Abkhazia has been the historical homeland of the Abkhaz people, consecutive waves of migration and deportation under Stalin has brought down the number of Abkhaz people significantly: in 1989 the Abkhaz constituted only 17.8 per cent of the population. As a result of war and exodus of some 250,000-300,000 people (mostly Georgians), Abkhazia’s population shrank by half (Caspersen 2011: 349; Geldenhuys 2009:73). Abkhazia has since 1994 allowed about 45,000 ethnic Georgians to return to its Gali region; the total estimated population in 2011 is 240,705 (of whom Abkhazians 50,71 %, Georgians/Megrelians 19,26 %, Armenians 17,32 %, Russians 9,17 % etc. (Chirikba 2014: 24).

Another provision of the 2005 law has negative practical effects on ethnic Georgians. Namely, article 5(b) defines as Abkhaz citizens “people who had permanently lived on the territory of RA for not less than 5 years by the time of adoption of the Act of state independence of RA on 12 October 1999 and if they had not refused the citizenship in written form, except for those people, who, using unconstitutional methods, support changing of the sovereign status of RA, or support a violent change of constitutional system of RA or, using unconstitutional methods, fought against the existing constitutional system or are connected to terrorist activities”. Practically, this provision excludes both the refugees of the 1992-3 war, as well as those who are suspected to have cooperated with the Georgian state.

According to the 2011 official Abkhaz census, over 46,000 Georgians live in Abkhazia, mostly in the Gal district. More than 26,000 passports were issued to Georgians residing in in Abkhazia (Veresk 2013). However, ethnic Georgians in Abkhazia face numerous challenges. First, many residents of the eastern districts of Abkhazia have both Abkhaz and Georgian passports, a situation prohibited according to Abkhaz legislation (with the exception of Russian citizenship) (Kvarchelia 2014: i-ii). For many ethnic Georgians, the Abkhaz passport is perceived as a compulsory measure required only to regulate living at their place of residence (a kind of internal document) (Ibid.: 5). Second, in order to obtain Abkhazian passports, many Georgian residents first had to renounce their Georgian citizenship because Abkhazia does not allow dual citizenship. Given that unlike other ethnic groups in Abkhazia, Georgians are unable to get a Russian passport for free travel to third countries, renunciation of Georgian citizenship would practically render them stateless (Ibid.: 5).

Worse, in 2013, the Abkhaz Parliament formed a special commission to probe the lawfulness of issuing Abkhazian passports (i.e. granting Abkhazian “citizenship”) to ethnic Georgians in Abkhazia earlier on (especially before the 2009 election) (Menabde 2013). As a result, some 1,000 Abkhaz passports held by Georgian residents were confiscated or annulled without the issuing of replacement identity documents (Kvarchelia 2014: ii). Often perceived as a disloyal group and a threat to the Abkhaz statehood, there is no common opinion among the Abkhaz society “about the extent to which an Abkhaz civic identity should be extended to the ethnic Georgian residents of the eastern parts of Abkhazia” (Ibid.: i). Consequently, the Georgian population is politically marginalized and large parts of it are completely disenfranchised: in 2014, nearly 23,000 residents – constituting 15% of voters in Abkhazia – were struck off the electoral register, the vast majority of them ethnic Georgians living in the south-eastern district of Gal on the grounds that they also held Georgian passports (Ó Beacháin 2015: 243).



Whereas the Abkhaz population and other minorities benefit from Russian citizenship and the country's economic engagement with external actors, under the formula of 'engagement without recognition', the Georgian population of Abkhazia is in a very dire situation. Marginalized politically and disenfranchised, Abkhaz Georgians are forced to renounce their Georgian citizenship while been unable to get Russian citizenship. All that is left for them is the obscure Abkhaz citizenship that guarantees them no more than residence rights in the contested territory.

In addition to its 'open door policy' towards the ethnic Abkhaz diaspora, Abkhazia has also been active in using its economic growth, mostly stemming from Black Sea tourism, to attract foreign investors. In 2005, then President Sergei Bagapsh announced that he will grant citizenship to any foreign businessman who invests at least two million US dollars, thus placing Abkhazia on the growing list of countries with provisions that provide a direct route to citizenship based on investment (Khashig 2005). Indeed, article 14(d) of the Abkhaz Citizenship Law offers the opportunity of naturalization "on favorable conditions" for certain categories, including "people, who have rendered great services to RA, or have the profession or qualification, which is of specific state interest for RA," but does not specifically refer to investment as a service to the state.

Nevertheless, despite the country's increasing reliance on foreign tourists and investment, the issue of foreign investors remains contentious in Abkhazia because of the fear that the free sale of real estate to foreign citizens will disrupt the tiny country's delicate ethnic balance. The Abkhaz law does not permit foreign citizens to own property in the country. This means that hundreds of foreign citizens (mostly Russians) who have chosen Abkhazia's warm climate to settle and set up businesses live in a semi-legal state of limbo, because obtaining an Abkhaz passport is very difficult and having a residence permit does not give them the automatic right to buy property (Achba 2016). In fact, Russia has been trying to coerce the Abkhaz parliament into adopting a law that allows the sale of Abkhaz property to Russian citizens. However, unlike SO, Abkhazia has resisted such efforts refusing thus to relax its naturalization procedures for Russian citizens. Therefore, the 'Agreement between the Russian Federation and the Republic of Abkhazia on Alliance and Strategic Partnership' (2014) contains only a general commitment in article 13, which stipulates that "the Russian Federation will take additional measures aimed at simplifying the procedures for citizens of the Russian Federation to acquire citizenship of the Republic of Abkhazia."

In sum, albeit partially recognized, Abkhazia and SO are less sovereign today, especially the latter, than before 2008. The two entities did 'outsource' not only some of their institutions (citizenship) but the control of their entities to the Russian Federation (Popescu 2006: 7). The considerable protection that their respective citizens enjoy today does not derive from their statehood and minimal recognition but from Russian citizenship. As Artman puts it, "the large number of Russian citizens created in Abkhazia and South Ossetia through passportization meant that Russia could now claim some measure of jurisdiction over a significant proportion of the populations of the de facto states and, therefore, of Georgia" (2013: 691).

### **3.6 TRNC: the (Un)recognized EU Territory**

Established in 1983, the Turkish Republic of Northern Cyprus is the second oldest surviving liminal polity, after Taiwan. The history of the TRNC is intricately related to Cyprus' colonial past as part of the British Empire. The UK forced the Ottoman Empire to cede Cyprus in 1864, formally annexed it in 1914 and made it a Crown Colony in 1925 (Trimikliniotis 2010: 390). Since the time of the British rule, the Greek-Cypriots and the Turkish-Cypriots had incompatible 'national aspirations' – for Greek-Cypriots the aim was *Enosis* (union with Greece and for the Turkish-Cypriots the goal was *Taksim* (partition). The Republic of Cyprus gained its sovereign independence from the UK by virtue of three treaties, the Treaty of Guarantee, the Treaty of Alliance and the Treaty of Establishment and a Constitution, all of which came into operation on 16 August 1960 (Skoutaris 2011). The international brokered agreement established the parameters for communal power-sharing in the new state, with the

constitution providing for a seven:three ratio for Greek and Turkish Cypriots respectively in the key political institutions and civil service, although Turkish Cypriots represented 20 per cent of the population in the island (Bahcheli 2004: 166). Following Greek Cypriot one-sided attempts to amend the Constitution and the ensuing communal strife, the bi-communal government practically failed and Greek Cypriots took control of the state institutions in 1963. The situation worsened in 1974 when Turkey, responding to the Greek Junta's staged coup against the Cypriot President Makarios, intervened militarily and occupied 34 per cent of the territory. This set the stage for the division of the island and the creation of a Turkish Cypriot-dominated polity in the northern part of the island. The Turkish Cypriot leaders first established a "Turkish Federated State of Cyprus" in 1975 and then eight years later they declared the independence of the Turkish Republic of Northern Cyprus (Bahcheli 2004: 168-70). Its independence has been recognized by Turkey alone.

Despite the fact that the TRNC has created its separate institutions since 1983 and had a strong patron state in Turkey, which in addition to providing for its security has also played an important role in its economic development, the TRNC has been unable to graduate to confirmed statehood (Geldenhuis 2009: 170). In addition to its diplomatically accredited Embassy in Istanbul, the TRNC maintains 19 Representative Offices in Western Europe, Asia and North America (MFA TRNC 2017). Thanks to Turkey's support, the TRNC has managed to gain some sort of access to various international fora, namely the Organisation of Islamic Cooperation (OIC) and the Economic Cooperation Organization, where it managed to maintain an observer status (Geldenhuis 2009: 180). However, the TRNC not only failed to gain wider international recognition, but also had to taste the bitter fruits of international isolation and economic and travel embargo imposed on it by the Republic of Cyprus and supported by many European states. Nevertheless, given its leadership's constructive attitude towards internationally mediated initiatives to find a solution for a joint state, it turns out that the TRNC is tolerated by the international community more than 'partly recognized' Abkhazia (Pegg & Berg 2016: 270).

Although the TRNC has worked hard to maintain its *de facto* independence and sought to find ways to engage internationally and broaden its international relations and recognition, it has nevertheless been actively engaged in various international initiatives to find a solution that would unify the island. Most notably, the Turkish Cypriot side has voted in favor of the Annan Plan in 2004, which foresaw the creation of a federal state consisting of two federal units and a single citizenship. Yet, given the rejection of the referendum by Greek Cypriots, the Republic of Cyprus joined the EU as a divided island. When Cyprus signed the EU Accession Treaty on 16 April 2003, article 1(1) of the Protocols on Cyprus provided that "[t]he application of the *acquis* shall be suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control" (European Union 2003). This meant that only the Greek Cypriot part would reap the benefits of EU membership whereas the TRNC would remain condemned to contested statehood.

Despite the fact that a common solution is yet to be reached, EU involvement and the dimension of EU membership has altered the political and national dynamics in TRNC. In particular, the prospect of EU citizenship deriving from the potential unified citizenship of a joint bi-national state, has opened new horizons and opportunities both for its citizens and its political leadership.

### *Fractured Citizenship in the Island State*

Since the establishment of the Republic of Cyprus, the "very concept of citizenship was not only ethnically/communally defined by the Constitution, but it was also a sharply divisive issue between the Greeks and Turks, acquiring strong ethnic and nationalistic overtones" (Trimikliniotis 2010: 390). Indeed, citizenship in the new state was regulated by the Treaty of Establishment. Accordingly, any British subject of Cypriot origin ordinarily residing on the island at any time in the period of five years immediately before 1960 became a citizen of the Republic of Cyprus on 15 August 1960. Equally, a person could – and still to this day can – also acquire the citizenship of the Republic by birth if one of her/his parents was a citizen at the time of her/his birth but also if s/he is married to a citizen of the

Republic and the two have lived together for at least two years (Trimikliniotis 2010; Skoutaris 2011). Similarly, the constitution of the TRNC provides for an ethno-religious-based nationality and citizenship to a large extent reproducing the provisions of the Cyprus Republic (Dodd cited in Trimikliniotis 2010: 393). According to article 67 of the TRNC constitution, “all persons who acquired citizenship of the Republic of Cyprus under Annex D of the Treaty of Establishment [...] and were ordinarily resident in the Turkish Republic of Northern Cyprus on the 15th November, 1983[...] shall be citizens of the Turkish Republic of Northern Cyprus” (The Constitution of the Turkish Republic of Northern Cyprus 1983). The key principles of citizenship were reaffirmed in the TRNC Citizenship Law (No. 25/1993), which was adopted in 1993.

There are three key citizenship related issues in TRNC. First, TRNC citizenship is not recognized beyond Turkey. Albeit, its passports can be used for travel to five more countries (Australia, France, Pakistan, UK and US), pre-arrival visas are required for everywhere apart from Turkey. Importantly, the biggest challenge to the TRNC citizenship comes from the fact that despite the existence of two competing claims of authority on the island, Turkish Cypriots still have access to the citizenship of the Republic and thus to European Union citizenship (Skoutaris 2011). The TRNC authorities have undertaken active measures to prevent people from the north from crossing the ‘Green Line’ as well as from acquiring Republic of Cyprus citizenship. In 1995 a ‘passport scandal’ occurred in the TRNC when it was revealed that among many Turkish Cypriots passports of the (Greek-Cypriot controlled) Republic of Cyprus were more in demand than the local, unrecognized ones. TRNC authorities, in turn, responded with immediate measures threatening to confiscate Republic of Cyprus passports and even sentence people to jail (Isachenko 2012: 97). However, after the opening of the Green Line in 2003, Turkish Cypriots could openly apply for identity cards and passports from the Republic of Cyprus as well as cross to the south for other services, including healthcare.

Between 1995 and 2009, some 101,778 Turkish-Cypriots have acquired birth certificates of the Republic of Cyprus, while 83,372 have acquired identity cards and 54,595 passports (the numbers of applications for citizenship more than doubled since Cyprus acceded to the EU and there is a backlog of some hundreds of applications pending) (Trimikliniotis 2010: 408-9). It is estimated that some 100,000 Turkish Cypriots have acquired Republic of Cyprus passports. In many ways, this undermined the citizenship and statehood of the TRNC. Another alternative citizenship for TRNC residents is provided by Turkey. TRNC citizens have always enjoyed preferential treatment in Turkey. Turkish citizenship legislation provides TRNC citizens with all the social and economic rights of Turkish citizens except voting rights; they have an option to obtain a Turkish passport without becoming a citizen of Turkey or a fast-track process for the citizenship applications of those TRNC citizens who want to acquire the citizenship of the Republic of Turkey (Kadirbeyoglu 2010: 16).

The second issue and probably the most complex is that of the Turkish settlers in TRNC. Already in 1975, TRNC authorities launched a ‘settler recruitment program’, which facilitated the arrival of settler families from Turkey. Turkish-Cypriot authorities at the time argued that these seasonal and low-skilled ‘migrant workers’ were crucial to fill the labor shortages and to build a viable economy (Cirakli 2016: 84). According to the Turkish-Cypriot ‘Home Office’ data, a total of 21,851 citizenships were offered to Turkish nationals as part of the ‘settlement program’ between 1974 and 1981 (Ibid.: 87). The number of settlers is still disputed today. According to the Republic’s authorities, there are about 115,000 ‘settlers’ north of the Green Line, whereas Turkish Cypriot sources refer to a number less than 90,000 out of a total of 220,000 people (Skoutaris 2011). The status of this group of TRNC citizens in a potentially united country has turned into one of the key negotiating issues. The Republic of Cyprus does not consider the ‘settlers’ as legitimate claimants to Cypriot citizenship and thus they do not have access to EU citizenship via the citizenship laws of the Republic of Cyprus. However, had the Annan Plan been approved by both parties, around 80,000 ‘settlers’ (45,000 in the list, 18,000 spouses, and 17,000 naturalized) could have become citizens of the United Cyprus Republic and thus of the EU (Ibid.).

Moreover, within TRNC, the ongoing immigration from mainland Turkey has since converged with the citizenship status of the newcomers to constitute a central crux of identity politics in the Turkish-Cypriot community and in turn, has transformed the citizenship status of Turkish settlers into a political battleground since the first general elections in 1981 (Cirakli 2016: 84-86). Although, under the 1993 TRNC citizenship law, anyone who has been living in the northern part of the island legally for at least five years is entitled to receive citizenship, the five-year requirement is in practice often waived by the Interior Ministry or Council of Ministers on grounds that the applicant 'is of benefit to the state'. Articles 8-12 of the law allow acquisition of citizenship by decision of the Council of Ministers. The TRNC government has recurrently granted citizenship to Turkish settlers. The 2002 decision of the then TRNC government (led by the center-right Democrat Party, DP) to grant citizenship to some 1600 people in one sitting caused controversy and later led to protests and a 'citizenship-stripping' legal battle launched by the social-democratic Republican Turkish Party, CTP (An 2004; Cirakli 2016: 137). In particular, the number of people acquiring TRNC citizenship through 'exceptional naturalization' tends to soar under the center-right governments and before elections; in 2017, a former interior minister claimed that the TRNC authorities were now granting "45 to 50 new citizenships to foreigners every week" (Eroglu 2017).

However, a newly adopted Permanent Residence Permit Act (2015) effectively suspended the handing out of further TRNC citizenships except for births and marriages, replacing it with permanent residence permits. As a result, some 10,000 people, who are already entitled to receive TRNC citizenship, will be receiving permanent residence permits or 'white ID cards' instead (Aydin 2016). The TRNC authorities are under strong pressures, on the one hand, from Turkey and local nationalist parties and associations to grant TRNC citizenship to thousands of Turkish 'settlers' and, on the other hand, from the international community and Greek Cypriots to limit this practice in order not to undermine the peace process (Yeni Duzen 2016).

TRNC's 'exceptional naturalization' provisions are more explicit than those of Abkhazia in terms of citizenship by investment. According to article 9(1)(b) of the citizenship law, "Persons who have made investment in industrial, trade, tourism, social and economic fields in the Turkish Republic of Northern Cyprus and have performed, or are likely to perform, extraordinary services in science, politics and cultural sectors" can acquire TRNC citizenship by decision of the Council of Ministers, without requiring the satisfaction of residence criteria. Consecutive TRNC governments have exercised their discretionary powers to grant citizenship to foreign investors from Turkey as well as other countries (An 2004; Eroglu 2017). This is another policy with regard to which the TRNC mirrors citizenship provisions and practices of the Republic of Cyprus, which is known for its flexible investor citizenship provisions (Džankić 2015: 8-10).

Third, although the TRNC owes much to Turkey for its unwavering support, the issue of Turkish military presence in the territory has made various states and international organizations treat the northern part of the island as a territory occupied by Turkey. For instance, Council of Europe (CoE) resolutions have issued calls on "Turkey, as well as its Turkish Cypriot subordinate local administration in Northern Cyprus, to stop the process of colonization by Turkish settlers..." (Council of Europe 2003). Likewise, a ruling by the European Court of Human Rights (ECtHR) in 1996 held Turkey (rather than the Turkish Cypriot government) responsible for barring a Greek Cypriot refugee's access to her property in Northern Cyprus and ordered the Turkish government to pay her compensation (Bahcheli 2004: 179).

The accession of the Republic of Cyprus to the EU in 2004 has dramatically altered the situation on the ground and consequently has weakened the legitimacy of the TRNC authority. Unlike in the case of Serbia-Kosovo, where the EU's role has been instrumental in disentangling Kosovo's citizenship regime from that of Serbia, using EU conditionality and visa liberalization mechanisms, in the case of Cyprus EU citizenship has been utilized as an instrument to integrate the two communities and the island's fractured citizenship. Given the fact that the Republic of Cyprus continues to recognize, in accordance with its own rules, the citizenship and the right to citizenship of all Cypriot residents of

Turkish origin residing in the North who can prove that they come under the scope of its legislation, most of the TRNC residents can 'activate' their EU citizenship. However, neither the Republic of Cyprus nor the EU can uphold their legislation against the TRNC within the territory under its control. Moreover, whereas the added layer of EU citizenship and the subsequent lifting of restrictions of travel between the two parts of the island have enabled many residents in the north to claim their Republic of Cyprus citizenship and by implication also their EU citizenship, for naturalized TRNC citizens and second (or even third) generation Turkish-Cypriots of Turkish origin this meant that "their citizenship status was thrown further in limbo, also raising questions about who belonged to the Turkish-Cypriot community and who did not" (Cirakli 2016: 103).

TRNC is the most elusive case of liminal polities for two major reasons. First, since the declaration of independence, it never excluded a settlement to the Cyprus problem (Pegg 1998: 105) and its leadership remains officially committed to a bi-communal, bi-zonal Cyprus settlement. Second, despite the lack of wider international recognition of its statehood and citizenship, its citizenship matters enormously mainly as a pre-condition for access to the Republic of Cyprus (and therefore EU) citizenship and/or that of Turkey. Far from being 'invisible' citizens, TRNC citizens, for the most part, have access to a number of citizenship options, the most important one being EU citizenship. This adds another dimension of liminality, with TRNC citizens being caught in a perplexing network of citizenship constellations and territorial jurisdictions.

### ***3.7 Transnistria: the Pragmatic Liminal Polity***

Transnistria, officially called *Pridnestrovskiaia Moldavskaia Respublica* (PMR), is a break-away province of Moldova that declared its independence in 1991 and hasn't been recognized by any UN member so far. Today the region makes up 12% of Moldovan territory and 17% of its population and, due to heavy industrialization in the Soviet era, accounts for up to 40% of its industrial production (Istomin & Bolgova 2016: 178). As in other similar cases in the post-Soviet space, conflicts between Moldova and Transnistria emerged from the disintegration processes that characterized the collapse of the Soviet Union. Responding to a set of measures undertaken by the Moldovan authorities in the late 1980s, which were seen as part of a wider 'Romanianization' campaign that would ultimately lead to unification with Romania, in September 1990 the leaders of the Transnistrian region proclaimed the Dniestrian Moldovan Socialist Soviet Republic as a constituent unit of the Soviet Union and then, following Moldova's independence from Soviet Union in April 1991, proclaimed the Pridnestrovyan Moldovan Republic (PMR) in December 1991 (Geldenhuis 2009: 90; Istomin & Bolgova 2016: 171). The break-away territory engaged in a short war with the Moldovan army in 1992, which ended after the Russian 14th Army intervened on behalf of Transnistria and defeated the Moldovan troops. It resulted in some 1,000 lives lost and a ceasefire agreement that was signed on 21 July 1992. A trilateral peacekeeping operation has been in place since the ceasefire was declared (Popescu 2006: 2; Geldenhuis 2009: 91). With the help of the Russian troops, which remain stationed in Transnistria, and an on-going diplomatic process to resolve its status, "local elites maintain a small, unreformed version of the Soviet Republic" (Cisiel 2006: 580).

Transnistria is unique compared to other such polities in four main respects. First, there is no clear ethnic element involved in the conflict. The sense of distinctiveness stems from the fact that the territory east of the river Dniester has never been part of Romania (unlike the rest of Moldova) and maintains a sense of nostalgia for the Soviet era. When it comes to territory, Transnistria also had historical memory of territorial distinctness as an autonomous republic (the Moldavian ASSR) in Soviet Ukraine in interwar period (O'Loughlin et al 2014: 434). Since the 1980s, due to the fact that identification with the Soviet Union was greater than elsewhere in Moldova, Transnistria attracted unreformed communists throughout the former Soviet Union (Roper 2004: 107). Second, there is no clear ethnic majority in Transnistria. Its population is composed of some 32 % Moldovans, 30 % Russians, 29 % Ukrainians and several smaller ethnic groups (Kamilova & Berg 2012: 162; European Union 2016: 8). Transnistria is the most multiethnic region of Moldova (Istomin & Bolgova 2016:

171) and this is also reflected in the preamble of the Constitution (2000), which refers to ‘We, the multinational people...’, and in state and nation building policies more broadly. The Transnistrian leadership has been trying to fashion an identity which at its core is “‘Russo-centric’, with genuflexions in the direction of multi-ethnicity and multi-lingualism” (Geldenhuis 2009: 94). A recent survey found that 51 percent of its inhabitants define themselves first of all citizens of their republic – and not as Moldovan or European or Soviet (O’Loughlin et al 2014: 450).

Third, relations between Moldova and Transnistria are unusually cordial. Although in a referendum in September 2006, some 97 per cent of the territory’s electorate voted for independence from Moldova and free association with Russia (Geldenhuis 2009: 95), Transnistria has actively engaged in internationally mediated negotiations for a joint solution since the early 1990s (Vahl & Emerson 2004). In May 1997, the presidents of Moldova and Transnistria signed the Memorandum on the basic principles of their relations’ normalization (also signed by representatives of Russia, Ukraine and the OSCE as guarantors), agreeing to build ‘a common state’ (Berg & Toomla 2009: 39). Moreover, the two polities have signed a number of agreements in the fields of education, transport, trade and so on.

Fourth, due to its good relations with the parent state and closer economic cooperation, Transnistria has been actively involved in international trade despite its unrecognized political status. Transnistrian industrial capacities are largely export-oriented and open to external markets of raw materials as well as of final goods (Istomin & Bolgova 2016: 172). As a result of the agreement with Moldova, companies based in Transnistria use Moldovan customs stamps to officially export their products on the world market (Ó Beacháin et al 2016: 449). Transnistrian authorities have also agreed to the Deep and Comprehensive Free Trade Area (DCFTA) as part of Moldova, which gives the territory’s exports the same tariff-free access to EU markets as other Moldovan goods (de Waal 2017: 6).

Nonetheless, a combination of military factors, economic and citizenship policies towards Transnistria make the Russian Federation an important factor in the country. In addition to the presence of some 1,500 Russian troops, Transnistria’s economy is very dependent on subsidies from Russia, not least because of cheap gas supply and other financial aid (Ó Beacháin et al 2016: 443). According to Kamilova and Berg (2012: 176), Transnistria is a *de facto* state falling under the full control of the patron (Russia).

Transnistria’s pragmatic approach and its cooperation with both Russia and Moldova has also manifested themselves in a rather unique citizenship constellation with the residents of Transnistria having access to a range of citizenships and passports.

### *Citizenship: a Multiple Choice*

Citizenship in Transnistria is regulated by article 3 of the Constitution. Although article 3(1) stipulates that “Citizenship of the Pridnestrovskiaia Moldavskaia Respublica is granted and forfeited in accordance with the constitutional law,” Transnistria does not have a special law on citizenship. Instead, according to Article 71(3)(b), the “President of the Pridnestrovskiaia Moldavskaia Respublica shall deal with questions related to citizenship ... and granting political asylum.” Nevertheless, the break-away republic issues passports, which are valid in other Eurasian liminal polities and in some of the former Soviet republics (Commonwealth of Independent States). However, given the fact that there are no regular flights from Tiraspol to the rest of the world (Berg & Toomla 2009: 40), they are used mostly domestically. Importantly, according to article 3(1) “A citizen of the Pridnestrovskiaia Moldavskaia Respublica can have a citizenship of another state, i.e. double citizenship.” Such a liberal approach has in effect enabled a regional race to ‘appropriate’ Transnistrians through the means of citizenship and passport delivery, with Moldova, Russia, Ukraine and Romania all taking a share.

While, according to the Moldovan legislation, all Transnistrian residents are Moldovan citizens, in practice, not all of them have made use of the provision, continuing to use their old Soviet passport, or acquiring Russian or Ukrainian citizenship instead. Given that the initial Moldovan citizenship law did not allow dual citizenship, acquisition of another citizenship was illegal according to the Moldovan

law. However, in order to contribute to the resolution of the Transnistrian conflict, in 2003 Moldova added a new provision to the Law on Citizenship which states explicitly that the acquisition of another citizenship by a Moldovan citizen does not lead to the loss of Moldovan citizenship (Gasca 2010: 14). By including a provision according to which persons who on 23 June 1990 were lawfully and habitually residing and continue to reside on the territory of the Republic of Moldova qualify for Moldovan citizenship the current legislation in Moldova leaves open a window for persons residing in the Transnistrian region and meeting the conditions of the 2000 citizenship law (article 12) to confirm their Moldovan citizenship (Ibid.: 12-13). Currently, according to Moldovan officials, a majority of Transnistria's population (which stands at half a million) has Moldovan citizenship (Ó Beacháin et al 2016: 458, footnote 27).

While Transnistrians do not see any economic advantage in joining Moldova, given that the latter is one of the poorest countries in Europe, where income is not any higher than in their territory, Moldova's closer ties with the EU have increased the value of the Moldovan passport for Transnistrians (O'Loughlin et al 2014: 451). Following the EU green light for visa liberalization for Moldova in November 2013, some 74,000 people applied for Moldovan citizenship in the ensuing 18 months, raising concerns in Tiraspol that Transnistria is at risk of losing its citizens to Moldova, courtesy of the EU visa regime (Braw 2015). At present, some 144,128 Moldovan passport holders in Transnistria benefit from visa free travel with the EU (Livadari 2017). Moldova has taken other good will measures to build bridges with the authorities in Transnistria; namely, amendments to the law were adopted to exclude the territory of Transnistria from the provisions that prohibit those possessing dual citizenship from holding certain public positions (Gasca 2010: 18). Also, entry into Transnistria from either Moldova proper or Ukraine is visa-free and subject to relatively mild border controls. However, freedom of movement is, on occasion, hindered by Transnistrian authorities that ban Moldovan citizens from entering the separatist entity with no explanation given (European Union 2016: 8).

In addition to Moldovan citizenship, Transnistrians have easy access to Russian citizenship. According to Transnistrian authorities, around 213,000 residents have Russian citizenship (Vlas 2017). Notably, many high ranking Transnistrian officials, including the president, are in fact Russian Federation citizens (Kamilova & Berg 2012: 174). In the aftermath of the crisis in Ukraine, which increased the demand for Russian citizenship among Transnistrians, Russia announced it would undertake measures to further ease the procedures to acquire Russian citizenship (Coynash 2015). In addition to providing traveling opportunities, access to Russian citizenship entitles people to pensions that are generous by the standards of the region, which is particularly relevant for the society in Transnistria, where "many of the young have emigrated and pensioners constitute a disproportionate percentage of the population" (Ó Beacháin et al 2016: 444). In addition to Russian citizenship, some 100,000 Transnistrians have Ukrainian citizenship (O'Loughlin et al 2014: 450) and a substantial number of Moldovans from Transnistria have obtained citizenship of Romania, particularly prior to that country joining the EU in 2007 (Ó Beacháin et al 2016: 458, footnote 27). Although typically citizenship choice is determined by ethnic/linguistic belonging and identification in the contested territory, dual and multiple citizenship remains widespread, rendering thus the putative Transnistrian citizenship practically extraneous.

Transnistria remains a complex case of a contested territory that, despite lack of recognition, has been successful in maintaining separate institutions and being active internationally, especially in trade, due to the pursuance of a prudent and pragmatic policy of working with various partners, including its parent state of Moldova. Yet, Transnistria has no diplomatic missions abroad and there are no foreign representations in the country (Berg & Toomla 2009: 39) and the polity increasingly depends on Russia regarding financial aid and political support. Regarding citizenship, Transnistria has adopted a very liberal approach that practically benefits its claimed citizens through (easy) access to a set of citizenships and passports while at the same time accepting a devaluation of its own citizenship.

### 3.8 Nagorno-Karabakh: a Liminal Polity in the Deep Freeze

The Nagorno-Karabakh Republic, renamed ‘Republic of Artsakh’ in 2017, (hereafter NKR), is an ethnic Armenian enclave which is formally part of Azerbaijan, declared its independence in January 1992 and has been *de facto* independent since then. Until 1988, NKR was an autonomous region in the Soviet Republic of Azerbaijan, but in February that year, it voted to secede from Azerbaijan and join Armenia and in December 1991— as the Soviet Union was falling apart – the demand for unification was changed to a demand for independent statehood (Caspersen 2012). NKR was denied international recognition due to its lack of status as a republic in the Soviet Union but *de facto* independence was achieved following a bloody two-year war with Azerbaijan. Compared to other liminal polities, it is unique in three main respects: a) as a result of the military conflict with Azerbaijan, it controls more territory than it actually claims for itself; b) it benefits from significant Armenian patronage and relies on its support for survival, and c) it is entirely unrecognized (Potier 2001; Caspersen 2012; Pegg & Berg 2016). Being a ‘micro-state’ population-wise (around 150,000), relatively poor and without international recognition, NKR is a prime example of the ‘frozen conflicts’ that have sprouted in the region after 1989.

Although the struggle for international recognition has been central to the narrative employed by the NKR leaders for more than two decades (Caspersen 2013: 937), it has yielded no results. Despite the fact that most liminal polities are not completely negated by international society since they enjoy partial recognition, some, including NKR, remain in the boycott zone, more than others (Pegg & Berg 2016: 270). Nonetheless, NKR has established numerous institutions, including external representations, that mimic those of recognized states. NKR has established Permanent Missions in Armenia, Russia, US, France, Australia, Germany and Lebanon (covering the Middle East) (NKR Ministry of Foreign Affairs 2017). It also provides consular services to foreign citizens wishing to visit NKR with entrance visas being granted at the NKR Permanent Mission to Armenia, or, in exceptional cases, at the Ministry of Foreign Affairs of the NKR in Stepanakert.

One rare instance of international integration is NKR’s participation in the ‘Commonwealth for Democracy and Rights of Nations’ (CDRN), which includes Abkhazia, South Ossetia and Transnistria. Lack of recognition has made NK extremely reliant on Armenia. So much so that “when it comes to economy, culture and defense, Nagorno-Karabakh and Armenia can be seen as a single space” (Caspersen 2012: 56). Due to the risk of conflict with Azerbaijan, NKR remains in a permanent state of insecurity and this only increases the role of Armenia in the territory of NKR. Although the Armenian government did not recognize it, it supports the claims of NKR and has played a pivotal role in providing NKR with the trappings of a state. NKR is increasingly integrated with Armenia politically, militarily and economically (the legal currency in NKR is the Armenian Dram) (ICG 2016:12). As an illustration, NKR’s first president, Robert Kocharian, was appointed to the post of Prime Minister of the Republic of Armenia, while still holding his mandate in NKR. A year later, Kocharian was elected President of the Republic of Armenia in early presidential elections (despite the controversy related to his eligibility and citizenship status) and he served as Armenia’s President for two terms. Importantly, NKR relies on Armenia when it comes to citizenship, too.

#### *NK Citizenship: a Stillborn Regime?*

Having been engaged in a military conflict with Azerbaijan until May 1994 and facing acute problems of large numbers of refugees, NKR has been struggling to establish its independent legal framework and a separate citizenship regime. The ‘Declaration on State Independence of NKR’ (1992) stipulates that “All the residents of Nagorno Karabakh are citizens of the NKR. The NKR allows double citizenship. The NKR protects its citizens. The NKR guarantees rights and freedoms of all its citizens regardless of their nationality, race and creed.” Clearly, the intention was to use a territorial definition of citizenship and also allow dual citizenship. A law on ‘The Main Principles of Citizenship of the Republic of Nagorno Karabakh,’ which is unusually brief and general, was promulgated only in 1995 by the NKR President. The key elements of the law include: a) definition of NKR citizens, which



include “persons born in Nagorno-Karabakh who have been forced to migrate or leave their homeland far from the territory of the NKR, as well as their children and grandchildren who recognize the Constitutional Law on the Principles of the NKR Independence” (article 5); b) permission of dual citizenship (article 4); and, c) non-extradition of NKR citizens to a foreign states if s/he is not citizen of that state. A year later, the government of NKR approved a decision ‘On measures to ensure the implementation of the NKR law ‘On the Basic Principles of the Citizenship of the Republic of Nagorno Karabakh’ to regulate the procedure for approval of citizenship by the NKR President on the bases of a prior confirmation from the Ministry of Internal Affairs.

As regards personal documents, in the first years of its *de facto* independence, NKR residents used old Soviet passports as well as Armenian passports. Only in 1998 the NKR government undertook measures to issue NKR passports to its citizens to replace the expiring Soviet ones (RFE/RL 1998). NKR adopted a proper constitution only in 2006 which, in addition to entrenching its claims to independence and statehood, redrew internal administrative boundaries to create seven new districts that blurred the distinction between the former Nagorno Karabakh Administrative Oblast and the surrounding occupied districts (ICG 2016, 12).

Overall, NKR faces several key citizenship related challenges. First, although, according to Article 14(2) of the 2006 NKR constitution, “[t]he procedure of acquiring or ceasing of the Nagorno Karabakh Republic citizenship is stipulated by law”, no new law on citizenship has been adopted. As a result, citizenship is still regulated based on the 1995 law on basic principles. Lack of a proper citizenship law leaves NK residents, as well as other ethnic Armenian refugees from Azerbaijan, in a legal limbo. Moreover, as a former NK foreign minister put it, for as long as NKR does not have a law on citizenship, “it will be a virtual republic” (Lragir 2009). Nonetheless, a recently adopted ‘Constitution of the Republic of Artsakh’ (2017) introduced a number of new general provisions regarding NKR citizenship. According to articles 47(1) and 47(2) of the constitution, every child born to NKR citizens or with one of the parents holding NKR citizenship is considered a citizen. Importantly, it opens the opportunity for ethnic Armenians to acquire NKR citizenship (article 47) even provides for a simplified procedure for them to acquire NKR citizenship. However, the document is not entirely clear on dual citizenship: article 47(5) stipulates that “[a] citizen of the Republic of Artsakh may not be deprived of citizenship. A citizen of the Republic of Artsakh may not be deprived of the right to change citizenship.” Unlike the 1992 declaration of independence, the new Constitution introduces ethnic criteria in the definition of citizenship.

Second, due to the lack of recognition, the value of its citizenship and passports is very low. Its passport is not legally recognized by the international community and it is used mainly within the borders of NKR. Although, technically, NKR passport holders can travel to the other three post-Soviet liminal polities (Abkhazia, South Ossetia and Transnistria), in practice, that is impossible due to the fact that NKR is neither contiguous with any of them, nor has direct links to them. Therefore, these documents remain of very limited practical value and the least powerful symbol of NKR sovereignty and independence. Nonetheless, at least domestically, NKR passports constitute the evidentiary signs of NKR citizenship, statehood, and sovereignty. The NKR government and President occasionally approve requests to grant citizenship to foreign citizens. In 1999, the NKR government decided to approve the requests of 7 Iranian nationals and petitioned the president to grant them citizenship (Noyan Tapan 1999). However, given the absence of a citizenship law and detailed procedures, on the one hand, and NKR’s almost permanent military mobilization, on the other hand, it has been reported that foreign nationals or stateless people who apply for residence, citizenship or passports are required to get ‘a clearance’ from the military, which often rejects them without justification (NKR Ombudsman 2011).

Third, limited value of NKR citizenship and passport inevitably increases its reliance on Armenia. In many ways, NKR was forced to outsource the issue of passports to Armenia. In fact, in the early 1990s, the Armenian government did not grant citizenship *en masse* to people from NKR. Instead, it decided the status of citizenship applications of Nagorno-Karabakh people (especially refugees) on a

case-by-case basis (Makaryan 2010: 7). Legally, people from NKR could not hold both NKR and Armenian citizenship, since the latter did not allow dual citizenship until 2007. After the introduction of dual citizenship in 2007, the number of both citizenship applications and naturalizations has increased drastically (Makaryan 2010: 2). However, as Nagorno-Karabakh residents mostly hold an Armenian passport with a serial number tied to Karabakh residence, Western embassies will rarely stamp visas on such passports (ICG 2016). Beneficial as it might be to people from NKR, Armenian citizenship in many way hinders NKR efforts to establish statehood and sovereignty. To paraphrase Artman, similar to other cases of liminal polities in the Caucasus, the process of ‘passportization’ by Armenia in NKR is a “key component of a longer process of the reterritorialization of effective sovereignty in the separatist states (2013: 683-4).

A fourth important dimension is related to the issue of Azeri refugees from NKR and Armenian refugees from Azerbaijan. According to the 1989 Soviet population census, 75 per cent of NKR’s population consisted of ethnic Armenians, and the other 25 per cent were Azeris. Currently, there are hardly any Azeris left in NKR. In fact, the status of Azeri refugees is one of the key issues in the negotiations on the NKR conflict. It’s not entirely clear what the status of these people is. However, responding to Azerbaijan’s plans for a ‘Great Return’ of refugees to NKR, the state officials of the latter have responded in a positive manner leaving the door open for their return on the condition that they apply for NKR citizenship. As a high government official from NKR put it: “We do not discriminate between the citizens of different nationalities. We are a developed democratic state, by contrast to Azerbaijan, where people are persecuted solely for belonging to the Armenian nation” (Massis Post 2017).

From the Azeri perspective, NKR remains an occupied territory and there are no specific provisions in its citizenship law regarding NKR. However, new amendments to the Law on Citizenship of the Azerbaijan Republic (2014) not only prohibit dual citizenship (with the exception of cases regulated by international treaties) but also stipulate that “failure to provide such information [on acquisition of citizenship] by those persons leads to a responsibility envisaged in the Criminal Code of the Republic of Azerbaijan.” This leaves open the possibility for the Azeri authorities to prosecute all those residents of NKR who have acquired Armenian citizenship. According to article 18 of the law, Azeri citizenship can be lost: 1) if an Azeri citizen voluntarily acquires citizenship of another state; 2) if an Azeri citizen voluntarily serves in state or municipal bodies, armed forces or other military units of a foreign state; and 3) if a behavior of an Azeri citizen causes serious damage to a state security. All the three categories could apply to the case of NKR and could serve as legal grounds for the Azeri authorities to strip NKR residents of their Azeri citizenship. Moreover, the Azeri Ministry of Foreign Affairs has been issuing warnings for foreign nationals wishing to travel to the ‘occupied territories’ threatening to undertake legal actions against such individuals who visit NKR without a permission from Azeri authorities (Valiyev 2013).

On the other hand, NKR has sought ways to provide incentives for Armenian refugees from Azerbaijan (currently residing in Armenia) to settle in NKR. Indeed, for many refugees stranded in camps in Armenia the way out of such limbo leads to NKR. The new provisions introduced by the 2017 constitution will certainly facilitate inclusion of Armenian co-ethnics abroad and refugees from Azerbaijan. The government of NKR has offered them large sums of money – \$300 per person and \$600 to buy cattle and get ready for the farming season, as well as 3,500 square meters of land, electricity subsidies, free water, and exemption from military service for two years – to Armenians wishing to return or settle (Hakobyan 2005). According to the NKR Department for Refugees and Internally Displaced Persons, about 25,000 refugees have settled in NKR until 2005 (Hakobyan 2005). These efforts are often supported by the large Armenian diaspora, which donates money and resources to increase the settlement of Armenians in NKR (ICG 2016, 12; King 2009: 118). In many ways, this is the opposite of the investor citizenship policies applied by TRNC and Abkhazia. In this case, the state is using financial means to lure foreign citizens and refugees of Armenian ethnicity to settle in the country.

In sum, NKR's almost absolute international isolation has had a significant negative impact on its citizenship regime and policies. Indeed, NKR has a very weak citizenship regime, having been forced to transfer key citizenship functions to Armenia. Albeit its incomplete citizenship legislation plays a performative role for it claims and seeks to exercise a statehood right, it hasn't helped NKR much to advance its statehood agenda. NKR's documents "mimic internationally recognized evidentiary standards for citizenship" (Friedman 2017:81) but they are of little value in legitimating cross-border mobility for NKR's claimed citizens.

### ***3.9 Somaliland: the Orphaned Liminal Polity***

The Republic of Somaliland was born in 1991, amid the disintegration of Somalia's central government, after an almost decade-long conflict that pitted various oppositional groups – most notably, the Somali National Movement (SNM) - against the government forces of Mohamed Siad Barre, the President of the Somalia between 1969 and 1991. Despite demonstrating an ability to exert (almost complete) control over its territory and its generally impressive accomplishments in terms of democratization and maintaining peace, Somaliland remains entirely unrecognized (Pegg & Berg 2016: 272; Arieff 2008: 60). In addition to lack of international recognition, Somaliland's sovereignty is contested by significant proportions of people inhabiting eastern regions of Sanaag and Sool, which are also claimed by the neighboring semi-autonomous entity of Puntland (Bradbury 2008: 5).

Somaliland is an outlier in more than one respect. First, Somaliland is the only liminal polity currently in existence which has been able to survive without a patron state (Caspersen 2015: 51). Its long survival is in large part due to the extreme weakness of the parent state (Somalia), which has been a failed state since 1991. Thus, Somaliland is unique among liminal polities as an entity that is more functional and (internally) sovereign than the state it seceded from. Most importantly, Somaliland's demand for independence draws more on its colonial history and short-lived independence than on ethnic, religious or ideological factors. Somalilanders are part of the wider, cross-border Somali nation in the Horn of Africa region. As a result of the European colonization of the Horn of Africa, between 1827 and 1900, Britain, Italy, France and Abyssinia carved up the Somali inhabited regions into five states: The British Somaliland Protectorate, Somalia Italiana, Côte Français des Somaliens (now Djibouti), the Northern Frontier District of Kenya, and the Abyssinian Empire of Menelik II (Bradbury 2008: 24).

After almost seven decades under colonial administration, the British protectorate of Somaliland gained independence on 26 June 1960 and five days later it joined the Italian-administered UN Trust Territory of Somalia to form the new Somali Republic (Ibid.: 32). Despite being considered a unique case of ethnically homogenous nationhood in Africa, Somaliland was considered incomplete from the outset thus producing irredentism and later on secessionism (Ibid.: 23). Nevertheless, Somaliland's five-day existence as an independent state, recognized by 35 states, became crucial in the context of its current drive for independence and statehood (Rudincová 2017: 195). So, when the SNM and northern Somali clan elders declared Somaliland's independence in 1991, they claimed that they were repealing the 1960 Act of Union and therefore independence was not an act of secession but rather a 'voluntary dissolution' of a union of two sovereign states (Arieff 2008: 66). This is also enshrined in the 2001 Constitution which states that "(t)he territory of the Republic of Somaliland covers the same area as that of the former Somaliland Protectorate..."(Constitution of the Republic of Somaliland 2001).

As Pegg and Berg put it, "the combination of Somaliland's separate colonial existence, its five days of sovereign independence and its respect for former colonial borders gives it a unique degree of legitimacy in terms of the contemporary interpretation of self-determination that no other secessionist entity approaches" (2016: 272). Yet, this has yielded no results in terms of international recognition. Nevertheless, Somaliland has seen some international involvement "due to its strategic position on the Horn of Africa, due to fear of instability, and arguably due to the lack of effective opposition from the 'parent state', Somalia" (Caspersen 2015: 51). The country has built broad, sustained, and often

friendly interactions with the US and Ethiopia (Pegg & Berg 2016: 282-4). Indeed, Ethiopia has emerged as Somaliland's main partner in the region, with the two having signed a number of bilateral agreements, most notably a formal trade agreement allowing Ethiopia to use Somaliland's Berbera port for importing and exporting (Rudincová 2017: 198). More recently, it has forged closer ties with the neighboring countries Djibouti and Kenya, as well as South Africa and the United Arab Emirates (UAE).

Similar to other liminal polities, Somaliland has established representation offices in some 20 countries worldwide, some of which provide consular services to the Somaliland diaspora, and has sought to engage in economic, cultural and public diplomacy with third parties and international organizations (Mahamoud 2017). In particular, Somaliland institutions have sought to enhance partnership with the international community through their commitment to "strengthen peace and stability within its territory and the region, and participate in international initiatives aimed at combating terrorism, piracy, extremism and organized crime" (Ministry of Foreign Affairs & International Cooperation 2017). It is quite remarkable that the fact that there has not been a functioning Somali government or authority for a long time did not in any way strengthen Somaliland's case for independence or its presence internationally.

### *Citizenship*

Similar to its statehood, the origins of Somaliland's citizenship are to be found in its short-lived independence in 1960. In fact, historically, the first Somaliland citizenship law/ordinance (1960) was passed while the country was still a British Protectorate on 23 June 1960 and came into force three days later with the independence of Somaliland on 26 June 1960. According to article 4 of the Ordinance, a citizen of Somaliland is "every Somali who does not then possess any other nationality or citizenship, and - a) who was born in the Territory of Somaliland; or (b) whose father (or in the case of an illegitimate child whose mother) was born in the said Territory." In terms of residence criteria, article 5(1)(i) stipulates that, to be eligible, a person should have normally resided in the territory of Somaliland for a continuous period of 12 months immediately prior to such application. Importantly, the law did not allow dual citizenship and discriminates against women both in terms of citizenship by descent (which is patrilineal) and naturalization. However, this law was repealed by the Law No. 28 of 22 December 1962 on Somali Citizenship.<sup>10</sup> In the new law, too, citizenship was primarily based on patrilineal descent and dual citizenship was excluded. Article 1 of the Somali citizenship law of 1962 grants citizenship to any person whose father is Somali as well as to Somalis who live abroad and renounce any other citizenship, with a 'Somali' defined as any person who by origin, language and tradition belongs to the 'Somali Nation' (article 3). Somali citizenship broadly derives from the concept of *u dhashay* (born to a family/group/clan/nation) (Hoehne 2010: 34).

Following the (re)assertion of sovereignty and statehood by Somaliland in 1991, the country was in legal vacuum regarding citizenship as no new citizenship law was adopted for a decade and, to complicate matters further, there was no legal authority in Somalia proper. The constitution of the initial body of citizens became a daunting task, not least due to the mass displacement of people as a result of war and drought, with more than a million finding themselves in refugee camps in the neighboring states or within Somalia's internationally recognized borders (Hammond 2013). A new citizenship law (22/2002) in Somaliland was adopted only in 2002, following the adoption of a new Constitution in a referendum and introduction of a multi-party system. Based on article 1 of the law, a Somali citizen is any "individual who descended from persons who were resident in the territory of Somaliland on 26 June 1960 or before, and a person who had Somaliland citizenship conferred on him

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<sup>10</sup> This law is still in force although changes have been initiated with the adoption of the Provisional Constitution of the Federal Republic of Somalia (2012) which allows dual citizenship. For more on the changes on citizenship provisions see (Legal Action Worldwide 2017).

lawfully.” While the 2002 law largely reaffirms patrilineal descent as the basis of citizenship, it introduces some changes, the most important one being toleration of dual citizenship.

Whereas Somaliland has established a solid degree of functionality internally, it has struggled to make any headways in terms of international recognition. Somaliland issues its passports since 1996 (biometric ones came into use in 2014) but, despite the fact that there was no political authority in Mogadishu, they were not recognized by Somalia or internationally for a long time. Only more recently have they been recognized (formally or in practice) by a number of states that include Ethiopia, Djibouti, South Africa, Kenya, UK, Sweden, UAE etc. (Mahamoud 2017). Pre-1991 Somali passports, being the only ones recognized by most countries (Arieff 2008: 63), special travel documents issued by Djibouti or Ethiopia provided alternatives for a long time. However, the establishment of a Somali Federal Government in 2012 and issuance of new internationally recognized Somali biometric passports, including within the territory of Somaliland, since 2015 (Somaliland Informer 2015), poses a serious challenge to Somaliland’s claim to statehood and international recognition. In a pre-emptive move, Somaliland authorities refuse to recognize Somali passports issued within Somaliland threatening to deny their bearers entry or exit in Somaliland (Radio Dalsan 2016).

However, the biggest challenge to Somaliland remains the issue of refugees. While during the 1977–78 Somali-Ethiopian war an estimated half a million Ethiopian Somalis were settled in Somaliland, more than half a million people fled Somaliland during the 1988-91 conflict (Hammond 2013). Many refugees have returned from neighboring countries and have been integrated in the society, but even more (from other Somali regions) remain in a legal limbo due to their disputed status. While Somaliland authorities consider them refugees, international organizations and aid agencies treat them as IDPs. This way, many displaced ethnic Somalis who are in the territory of Somaliland have found themselves drawn into Somaliland’s battle for recognition (Sperber 2016). The refugee and asylum problem exposes the paradox of Somaliland’s status also in the case of repatriation (including from the EU countries), who implement such actions on the grounds that their ‘homeland’ is safe – all the while refusing to recognize a distinction between Somaliland and Somalia (Arieff 2008: 63). Most importantly, refugees/IDPs in Somaliland remain excluded from citizenship, the political process and are offered little protection. The 2016 voter registration, which *de facto* served the purpose of a census and civil register, excluded many IDPs/returnees coming either from neighboring Somalia in the south, Ethiopia, or Yemen in the east, on the grounds that they are not recognized as citizens of Somaliland, making them ineligible to register to vote or to participate in Somaliland elections (Schueller and Walls 2017: 31).

In sum, despite the success in establishing a considerable degree of functionality of citizenship internally, Somaliland citizenship has not achieved much international recognition. Ironically, most countries and international organizations consider Somalilanders citizens of a practically collapsed state (Somalia). An unlikely combination of circumstances and factors – a solid degree of rights and protection provided by Somaliland authorities on the one hand and nominal/formal citizenship (passports, including expired ones) provided by an internationally recognized practically non-existent state (Somalia) on the other – saves Somalilanders from statelessness. This way, they are the archetypical liminal citizens.

#### **4. Conclusion**

(Lack of) sovereignty and citizenship are inherently linked. In many ways, recognition of citizenship is dependent upon recognition of sovereignty. In principle, if citizenship is intrinsically connected to the state, then the inexistence of the state means the inexistence of citizenship; however, given that sovereignty is not absolute, the result of incomplete or limited sovereignty is incomplete and limited regulation of citizenship, but not its total absence (Khalil 2007: 39). This link and the impact of lack of sovereignty on the quality and functionality of citizenship more generally is hardly anywhere more

visible than in the case of liminal polities. Different degrees of internal/external contestation, as well as the very functionality of a citizenship regime determine the level of impediment of rights and protection of individuals belonging to such atypical entities.

All the ten cases analyzed display different degrees and forms of contestation and, consequently, different levels of impediment of their (claimed) citizens' rights. While Kosovo and Taiwan have reached high levels of international engagement, formal in the case of the former and more informal in the case of the latter, and consequently increased the value of their citizenship, other liminal polities such as the TRNC and Transnistria have adopted a more flexible attitude allowing their respective citizens to acquire the citizenship of the parent state (Republic of Cyprus) or a neighboring state (Romania). Since these states are EU members, these policies enabled also access to EU citizenship. So, more than their respective citizenship regimes' strength, it is the wider regional context or the relevant citizenship constellation involving one or several confirmed states (parent state, external patron or kin state) that provides liminal polities' residents with access to citizenship of confirmed states, including EU member states.

Abkhazia and South Ossetia, on the other hand, have had their citizenship regimes blended and integrated into the Russian one as a result of the 'outsourcing' of sovereignty. Unrecognized liminal polities such as Nagorno-Karabakh and Somaliland remain mostly isolated with no functional citizenship regimes. The two extreme cases of liminal polities include Palestine and Western Sahara, which despite substantial international recognition, lack defined borders, sovereign control and even a citizenry, with roughly half of their claimed citizens living as (stateless) refugees in neighboring countries. In particular, Western Sahara stands out as a case of a 'liminal polity-in-exile'.

Looking at different types of liminal polities, this paper has shown that the negative impact of the lack of sovereignty and contested statehood on the quality of citizenship and individual rights and protections is inevitable. The degree and nature of impediment, on the other hand, varies largely and depends on the nature and level of contestation of statehood and lack of recognition and, importantly, on the ability of liminal polities to use different strategies and symbolic actions to overcome sovereignty deficits. Importantly, it turns out that in some occasions citizens of parent states who live within the borders of liminal polities are most disadvantaged – due to the use of secession to rectify a previous unjust incorporation into another state – when it comes to the delimitation of the initial citizenry (Reinikainen 2012: 146). Disenfranchised and often stateless Georgians in Abkhazia are a case in point.

Importantly, using the performative citizenship lens, I have analyzed some performative struggles over rights' claims enabling these liminal polities and their citizens to constitute themselves as political subjects — as states and citizens, respectively. In their struggle to govern themselves as political subjects, liminal polities and their citizens exercise rights that they may have and claim other rights that they are being denied. They perform acts of citizenship and statehood, and by doing so they creatively transform the rules. The very persistence of liminal polities in issuing passports and controlling movement of people has transformed the legal meaning of citizenship and passports leading to a situation where non-recognition is no longer an obstacle for international mobility (Taiwan).

Additionally, an analysis of these liminal polities' citizenship regimes demonstrates a high degree of similarity, imitation and "creative adaptation" (Taylor 1999) of citizenship norms and practices compared to their respective parent states. More often than not, citizenship norms and practices regarding definition or single/dual citizenship policies mirror those of their respective parent states. Moreover, in the case of the TRNC, this liminal polity also 'imitates' its parent state (Republic of Cyprus) when it comes to the practice of citizenship by investment. The analysis has also shown how liminal polities' performing of citizenship and statehood has in certain cases creatively transformed rules by establishing new innovative ways of acting domestically and internationally. A case in point

is their strategy to outsource citizenship or their attempts to establish alternative spaces of diplomacy and cooperation with other liminal polities or UN members.

The main aim of the study has been to expand citizenship studies' gaze to critically engage with a range of provisions and constellations that ultimately determine the scope of rights, status and protection of some 35 million people who live in liminal polities and many more who originate from there and now live in refugee camps in neighboring countries or in the diaspora. I have demonstrated that in spite of a precarious position, general political neglect and exclusion, it would be incorrect to see all the individuals claimed by those liminal polities as *homines sacri* stranded in a state of exception that is becoming the norm and being reduced to a state of bare life (Agamben 1998). Without underestimating the plight of millions who are formally and/informally stateless, the study highlighted the crucial relevance of citizenship constellations, and the creative and flexible policies of some of these liminal polities that have ultimately provided their claimed citizens with meaningful status, rights and protection.

By the same token, I have shown some of the many ways in which liminality manifests itself in terms of citizenship. Due to the very ambiguous status and nature of these polities, their citizenship regimes, documentation and travel arrangements are often atypical, ambiguous, exceptional and liminal. Moreover, to paraphrase Friedman (2017: 82), these atypical documents and evidentiary standards of citizenship both substantiate liminal polities' claims to sovereign standing and simultaneously undo those very claims through their ambiguous features. In other words, "where there are conflicting claims to sovereignty, there may be anomalous attribution of rights and obligations" (Grossman 2001: 876).

Although I have limited my research to the ten most notable cases, one can certainly expand the study to include other liminal polities with outstanding and unrecognized claims to statehood. Tibet would certainly be an interesting case, since the Tibetan Government-in-Exile has made serious attempts to construct a Tibetan nation and citizenry in exile and has striven to institutionalize state-citizen relationships (including the introduction of personal documents, such as a passport, 'voluntary' taxation, exile parliamentary elections), as well as the provision of welfare services to Tibetans in India and Nepal (McConnel 2009: 1907). Other likely candidates would certainly include Luhansk and Donetsk in Ukraine, which have great similarities with the case of Abkhazia and South Ossetia in the early 1990s. Russia's interference in Ukraine is seen as a process of "annexation by passport" (Artman 2014), whereby Russian authorities first issue passports and later on justify their intervention on (humanitarian) grounds of protecting their citizens. However, the breakaway regions' authorities have already issued their own passports in 2016, which were recognized by Moscow within months. Holders of the passports are allowed to stay in Russia for 90 days visa-free. Nonetheless, according to Kremlin officials, in terms of residence and naturalization, they are "regarded by Russian authorities as Ukrainian citizens" (The Moscow Times 2017). Yet, they could easily follow the path of other liminal polities in the region that consolidated their citizenship over time.

An important case that was on the cusp of statehood and independence for some time is the Kurdish Region in Iraq. Iraq's estimated five million Kurds have been effectively governing themselves since 1991 and they formally achieved federal status in 2005. However, despite the federal status, according to article 140 of the new Iraqi constitution, the borders of the Kurdish region and the future of Kirkuk and other disputed territories were left to be determined through a referendum by 2007 (Zaman 2016). The Kurdish Region is an interesting case of a liminal entity that contains almost all the sovereignty and statehood prerogatives and elements but does not have a separate citizenship in place. There is a single Iraqi citizenship. Indeed, the Kurdish Regional Government (KRG) attempted to use the September 2017 referendum to expand its borders as well as delineate the boundaries of its future citizenry by extending the franchise to Kurds in disputed regions and denying it to Arab refugees and 'settlers' in the same areas (Ajgayi 2017). Nevertheless, with the Kurdish referendum backfiring spectacularly and the Iraqi army retaking control of the disputed areas and border points

with Turkey and Iran in late 2017, the prospects of Kurdish independence could not have waned more quickly.

Last but not least, another potential emerging case could be that of Catalonia, which – similarly to the case of the Kurdish Region in Iraq – failed to gain any support for their independence referendum. The region’s deposed and exiled leader, Carles Puigdemont, vowed in October 2017 to set up a government in exile and work for independence (Keeley & Keating 2017). Albeit highly unlikely, especially given the fact that the pro-independence parties took part in regional elections organized by the Spanish government last year, such a step would certainly place Catalonia in a similar position to that of the Tibetan Government-in-Exile, i.e. it would create a potential ‘Catalan State-in-Exile’.

In conclusion, given their atypical position that entails various shades of liminality and in-betweenness, liminal polities can be conceived of as *heterotopies* or spaces of difference that are ambiguous and “simultaneously excluded and interwoven”, and differ from *isotopies* – identical spaces of order – and *utopias* – non-places or imagined spaces (Lefebvre 2003: 128-9). According to Harvey, Lefebvre’s notion of heterotopy “delineates liminal spaces of possibility” (2012: xvii). Most of the liminal polities have indeed worked hard to become established states or ‘spaces of order’ by performing various state-like functions. While some have been relatively successful, most remain excluded and marginalized.

However, the advent of blockchain technologies may provide an opportunity for liminal polities to move in the opposite direction, i.e. towards creating new innovative and imagined spaces that are “eager to use the technology to support the coordination of transnational communities of voluntary association that operate independently of traditional nation-states, but are capable of peacefully coexisting with them” and thus “contribute to developing new governance models that might help us build a real global democracy” (De Filippi 2017).



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