‘Sign Here for Statehood’:
The Role of International Environmental Agreements in Building Legal Recognition for Taiwan and Palestine

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Introduction

On 29 November 2012, the United Nations General Assembly (UNGA) passed Resolution 67/19 on the “Status of Palestine in the United Nations”. The Resolution accorded the ‘State of Palestine’ “non-member observer state status” at the United Nations (UN). The Resolution’s passing was greeted with great jubilation, with headlines reading along the lines of “Palestinian rivals unite to celebrate UN statehood vote”¹, “U.N. Gives Palestinians ‘State’ Status”², and “Palestinians celebrate winning UN status recognition vote”³. Supporters around the world waved Palestinian flags⁴; Mahmoud Abbas referred to the vote as a “birth certificate”⁵.

But though there were celebrations, the vote also brought confusion. Was Palestine now a state? Had it not already been? Would there soon be passports with Palestine on them? What impact did the vote actually have?

These questions are not as clearly answered as might be expected. Though the state is the primary – and nearly sole – actor in international law, statehood is a complex concept rather than a discrete object. International law does not provide a strict definition of ‘the State’.

Various, and often contradicting, definitions of ‘statehood’ have been given by international agreements and jurists. The extent to which Palestine is or is not a state, and the effect of UNGA Resolution 67/19 on its legal status, can thus be debated.

Like many essays on international law, this dissertation considers the debate, practically and academically, over the definition of ‘statehood’. But it hopes to bring a fresh perspective to the question by focusing on statehood as it relates to environmental regulation. Particular attention will be given to international environmental agreements (IEAs) and how participation in IEAs might build recognition and legal status for semi-state actors.

Questions of statehood have been a part of international legal discourse far longer than have modern conceptions of environmental regulation. Indeed, the United Nations (formed in 1948) and many countries are older than contemporary international environmental law (IEL), which began in the 1960s\(^6\). But historically parallel to the emergence of IEL was a period of major decolonisation and state creation. Just as international environmental agreements have emerged in the past half-century, changing how states address environmental problems, independence has changed how states emerge in the international arena and brought with it new questions about what the ‘state’ means in modern international law. IEL, IEAs, and the international law governing statehood are perhaps all a bit ‘behind the times’ in terms of incorporating the complexities of various actors and the environment in the international arena. Careful consideration of these issues is thus timely.

This dissertation argues that participation in international environmental agreements and good environmental regulation can help semi-state actors gain formal recognition and build legal statehood status. The signing of treaties makes recognition, in some form or another, explicit between parties. Participation in environmental institutions builds capacity for governance and forges international relations. Involvement in international organisations can give the perception of statehood and some of its rewards, even if full, legal statehood is not imminent\(^7\).

The experiences of two semi-state actors, Taiwan and Palestine, will form the basis of this dissertation’s examination. Though there are legal arguments to be made in both directions, it is important to note that this dissertation is not about whether or not Palestine and Taiwan are currently states. Rather, it asks how participation in IEAs and environmental management might tip the arguments – both legal and practical – toward statehood for semi-state actors. The relationship between legal statehood and international environmental agreements will be explored in *A State by Any Other Name Would Sign as Sweet*. Taiwanese and Palestinian participation in major multilateral environmental agreements will be considered in ‘Global’ Regimes? Semi-State Actions in Worldwide Environmental Agreements. Fishing for Recognition: Taiwan and Fisheries Agreements and Watering State Growth: Palestine and International Water Agreements will examine two semi-state case studies in some


detail, with more attention to specific bilateral and regional agreements rather than general worldwide treaties.

Though this dissertation is primarily about statehood, the issue of environmental regulation and participation in regulatory regimes by semi-state actors has serious implications for the environment as well. If semi-state actors do not have environmental obligations by virtue of not being full states but other states are not fully controlling territories, a dangerous gap in global environmental regulation arises. A single area’s unregulated emissions, transboundary pollution, and other environmental degradation could cause serious damage with repercussions felt around the globe. Questions of semi-state status and international environmental regulation are thus important not only for the self-determination of the people of those semi-states but also for the long-term sustainability of the planet and humanity as a whole.

These concerns will be addressed more fully in the Conclusion. Now, a few definitions will be clarified before the legal complexities of statehood are addressed in the next chapter.

Definitions

State: As previously mentioned, the legal definition of ‘state’ is up for debate. Various proposed characteristics required for legal statehood will be considered in the next chapter. From a practical position for the purposes of this dissertation, the term ‘state’ refers to an organised geopolitical territory run by a single government and is synonymous with ‘country’, ‘nation’, and ‘nation-state’.

Semi-state: A ‘semi-state’ is an organised geopolitical area that holds some but not all of the characteristics of a state. Here, both Taiwan and Palestine are considered to be semi-states. The Vatican and Kosovo might also be considered semi-states. In this usage, no country with full membership in the United Nations would be considered a semi-state (thus, South Sudan would be defined as a ‘state’, though it may have been considered a semi-state prior to its acceptance into membership at the UN in 2011).

Treaty: A ‘treaty’ (alternatively, ‘covenant’, ‘agreement’, or ‘memorandum of understanding’) is a binding agreement concluded between states and international organisations in written form, governed by international law. It is important to note that non-states can be parties to treaties: States can enter into formal agreements with any actors they wish. However, there are stipulations in certain multilateral agreements about which actors may or may not be a party. This will be considered more fully in the Global Regimes?

Taiwan: ‘Taiwan’ is a semi-state actor in East Asia near China, Japan, and the Philippines governed by the Republic of China (ROC). It and its numerous fisheries agreements will serve as one of this dissertation’s primary case studies. Here, ‘Taiwan’, ‘the Republic of China’, and ‘ROC’ will be used interchangeably.

Palestine: ‘Palestine’ is a semi-state actor in the Middle East near Israel, Jordan, and Egypt currently granted non-member observer state status by the United Nations. It and its various water resources agreements will serve as one of this dissertation’s primary case studies.

A State by Any Other Name Would Sign as Sweet?

Defining Statehood

‘Statehood’, as central as it is to questions of international legal management, enforcement, and accountability, lacks a clear and authoritative definition in international law. The implicit understanding and definition of statehood has changed over time. Indeed, some scholars argue that, as statehood, its requirements, and its duties evolve over time, defining ‘the state’ can really only ever be a provisional measure, and a static treaty never sufficient. Nonetheless, in 1933, a group of countries met in Uruguay at the International Conference of American States to try and do precisely that – the Montevideo Convention on the Rights and Duties of States was an attempt to ‘“codify” the concept of the state’9. But the Montevideo Convention has numerous discontents, was passed by a small, regional subset of states, and was agreed upon prior to the decolonisation and independence of many other regions of the world. As such, it is unlikely to be considered as customary international law or as holding a binding, authoritative definition of ‘statehood’.

Even the United Nations Charter, which mentions the word ‘state’ no fewer than thirty-one times10, never explicitly defines the criteria for statehood. Nor does any subsequent agreement passed by the UN or its predecessor the League of Nations.

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9 Ibid, pp. 403.
Though an authoritative definition of statehood is lacking, state custom, various treaties, and jurists’ writings suggest a number of attributes that might be considered required for statehood. It is important to note that the numerous definitions put forth do not always agree or have fully overlapping lists of criteria; indeed, some definitions are explicitly contradictory. This section will present several of the proposed conditions for statehood and consider the relationship between those conditions and participation in international environmental agreements. This dissertation does not seek or need to suggest a single definition of statehood; rather, it hopes to demonstrate how involvement in environmental management can help semi-state actors build an argument for statehood regardless of the particular legal understanding of statehood assumed.

The Montevideo Convention asserts that “The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states”\textsuperscript{11}. Interestingly, it goes on to say that “The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence…”\textsuperscript{12} This explicit statement is intriguing, as many other traditional formulations of the state require recognition by other states\textsuperscript{13}. A 1971 article of \textit{The Modern Law Review} put forth that “The traditional international law requirements of independent statehood are hardly open to question. The entity involved must have territory, a population and a stable and independent government to which the bulk of the population renders habitual obedience” but acknowledged that an emerging fourth criteria may be \textit{good} governance\textsuperscript{14}. Other suggested criteria include independence\textsuperscript{15}, sovereignty, expectation of permanence, an organised economy, a state apparatus and legal order, a transportation system, and ‘fictional parts’ of the state such as embassies and envoys\textsuperscript{16}. Some of these criteria are more prevalent than others in statehood’s multiple definitions, but environmental management comes to bear on each.

\textsuperscript{11} Article 1.
\textsuperscript{12} Article 3.
Permanent Population

Though individuals are not considered actors in international law, a population is vital to statehood: No people, no state. The term ‘nation-state’ reflects the subtle difference between a population and a country, with ‘nation’ referring to a large group of people with a common culture, ancestry, history, language, and the like and ‘state’ referring to the political entity governing that nation. In most definitions of ‘state’ in international law, a state must have a nation to govern. A nation might exist without a state, as was said to be true of the Jewish people prior to the emergence of the modern state of Israel. But a state cannot exist without a nation.

This requirement for statehood is perhaps the least influenced by international environmental agreements. Treaties do not create people! But actors without populations are unlikely to be considered even as semi-state actors, or be in a position to enter into treaties.

Defined Territory

“A key element in the process of state formation is the crystallization of a territory which serves as the spatial focus for political power”\(^{17}\). States are required to have concrete and discrete borders, defining the territory they control. Territory is often one of the most contested elements for non-state or semi-state actors. This is certainly true of Palestine and Taiwan, both of which have competing claims to land with their close neighbours!

International environmental agreements may serve to define territory themselves: The United Nations Convention on the Law of the Sea, for example, helped to demarcate states’ control over marine areas. Additionally, an actor’s ability to regulate the environment in the territory it claims may help prove or strengthen its claim to that territory.

Government

While the League of Nations never defined statehood, its Covenant does make “full self-governing” a requirement for membership\(^{18}\). A permanent population on a defined territory must be governed by a central and authoritative system in order for that system to claim statehood. This is one of the most-cited requirements for statehood…though what all is required of a ‘government’ to qualify is not universally agreed upon. Some nuances of meaning are suggested by various authors and states as additional criteria.


\(^{18}\) Article 1.
And though governance is a widely agreed upon necessity for statehood, it is interesting to note that many of the states that have emerged and been fully accepted in the past half century did not necessarily have the capacity for self-governance at the time of their independence\textsuperscript{19}. Post-colonial states emerged and were recognised as full states due more to a global conscientiousness that they should be states, rather than because they were \textit{de facto} acting as such or able to immediately govern effectively. Meanwhile, other semi-state actors that do have functioning governments are not universally agreed to be states. This reality is not well reflected in modern conceptions of and legal requirements for statehood, even implicitly.

Putting that issue aside to consider the role of IEAs: Implementing treaties requires the capacity to do so, implying a government. States are unlikely to enter into binding agreements with parties they do not believe will be able to fulfil their obligations. Indeed, actors without a fairly well established government are unlikely to even manage successful negotiations or be invited to the bargaining table. Involvement in IEAs thus suggests and can demonstrate a semi-state’s fulfilment of the government criteria for statehood.

**Good Governance**

Some suggest that, beyond a functioning government, actors wishing to qualify for statehood must be run by \textit{good} governance. Of course, ‘good’ governance is indeterminate and open to strong debate. The term is widely used in international relations and international development literature and generally has connotations of democratic accountability, strong human rights protection, and the like. But there is no explicit legal definition of good governance; on the contrary, there are legal protections guaranteeing sovereign states the right to the governance structure of their choosing. By one reading of international law, requiring ‘good governance’ and defining what that means may well be illegal and a violation of sovereignty.

Nonetheless, the ability to demonstrate ‘good’ governance may help a semi-state actor claim stronger political and moral right to statehood status in the international arena. And in today’s world, strong environmental regulation and commitment to sustainability can play a powerful role in that claim. Participation in IEAs can help prove that commitment and build institutions that are considered central to good governance.

Stable Government
A stable government is also considered a requirement by many authors. This condition might exclude certain guerrilla groups that have control over a defined territory and population but are not well established and may lose control and see a dramatic change in leadership quite suddenly. This may also be a precondition for actors’ abilities to reliably enter into treaties and guarantee the fulfilment of their obligations under such. The ability to be concerned with and give attention to issues of environmental management (often considered a ‘luxury’ issue rather than an immediately or absolutely vital one) implies that the government is thinking and acting long-term, suggesting stability.

Expectation of Permanence
Very similar to a stable government is the expectation of permanence. The actor – and other states – must consider the actor likely to maintain its position and basic character for the foreseeable future. Again, this could exclude guerrilla groups or unilateral declarations of independence by rebel factions that may well be overtaken or defeated in short order. IEAs are unlikely to proffered to such groups, but the successful agreement and implementation of agreements would suggest the expectation of permanence. In particular, environmental agreements between actors and states with competing claims suggest that they both, in fact, expect the situation to be long-term. Such agreements may thus strengthen a semi-state actor’s claims to statehood.

Independence
States must be independent, able to exercise control within their territory without the direct involvement of other states. A state cannot owe allegiance to or be dependent on an external authority. This requirement excludes dependent territories or colonies. If an actor is not independent, they will not have the right to make or capacity to enforce international environmental agreements; instead, the agreement would be made with its controlling entity. During British colonialism, for example, agreements about the control of its colonies’ environmental resources were made with the British government rather than local groups.

Sovereignty
Sovereignty is subtly different than independence. It suggests that an area is not only fully independent of other states, but that the government in power holds absolute authority over
the area. States are required by international law to respect the sovereignty of other states; it is illegal to interfere in another state’s affairs. Semi-state actors’ involvement in international environmental agreements may, to a limited degree, suggest that the other parties respect the sovereignty of the actor. If they did not, they might simply enforce the desired regulation or extract the desired resources themselves (as, again for example, happens in colonial systems).

Populace Obedience

A permanent population is a common criterion for statehood; some theorists add to the list that the population must feel some level of obedience or loyalty to the state and central government. Self-proclaimed leaders without any level of actual control over the claimed people are not considered governments eligible for statehood.

While control over the population may be an internal affair and IEAs external; IEAs do often contain elements of populace control. The obligations imposed by IEAs on actors often involve regulation of local businesses, trade, agricultural practices, and the like. Actors without control over their populations cannot generally fulfil the promises made in IEAs.

State Apparatus and Legal Order

In order to be independent, sovereign, and have the obedience of the population, a state requires the rule of law and a state apparatus. This requirement may thus seem a bit redundant to the list of criteria, but it can provide something concrete to evaluate when considering statehood status. Involvement in IEAs may help semi-state actors form additional apparatuses around environmental regulation, thus strengthening their legal order and strengthening their statehood claims.

Recognition

Law and politics are inextricably bound, whether or not we wish them to be so. This is certainly true in the question of legal statehood: According to many definitions, recognition – other states’ treating an actor like a state, calling it a state, and including it in their international relations – is one of the core components of statehood. And a willingness to grant recognition is often motivated by alliances and aspirations, driven by political rather than legal rationale20. There are, nonetheless, laws governing recognition. By historical precedent and international law, “recognition of a new state must be withheld if the new state

is brought into existence through violations of international law\textsuperscript{21}. This has implications for semi-state actors such as Palestine tempted to work toward statehood through illegal means. It can also be used by semi-states to argue against the current state status of other actors – including China and Israel.

Recognition is strongly tied to involvement in international organisations and institutions. A state signing a formal treaty with another actor involves explicit recognition of some kind, even if not of statehood. In an increasingly globalised world of environmental regulation, recognition means allowing actors to be on your Board, a member of your River Commission, a trading partner.

The desire of semi-states to gain recognition may also motivate their participation in and adherence to international environmental regimes, even ones they are not explicitly party to:

When trying to gain legal and practical recognition for statehood, it makes sense to play by the rules that other states are playing by. It is only logical to act like what you wish to be.

Relations with Other States

International environmental agreements have a clear connection to an actor’s relations with other states. Interstate treaties, regardless of the topic, serve to build \textit{de facto} and \textit{de jure} relations. A state’s willingness to sign a treaty with an actor may also indicate its willingness to enter into other kinds of relations. IEAs may lead to expanded trade or diplomacy between a semi-state and full stats, paving the way to enhanced statehood status.

Organised Economy

States are expected, by several definitions, to have and supervise an economic system of some sort. This economic system does not have to be entirely internal – consider, for example, the euro in the European Union. But it does need to be intentional and, to some degree, managed by the state’s government.

Many international agreements involve financial obligations and/or a commitment of resources. The capacity to engage in IEAs may thus indicate an organised economy and financial maturity.

Transportation System

Infrastructure is another concrete way to evaluate state-building and the effective management of an area. In particular, transportation allowing for the circulation of people, goods, and ideas is considered by some scholars to be vital enough to an economy and relations to deserve an explicit criterion.

IEAs are often related to transportation systems. Shipping routes and marine pollution, emissions from vehicles, and the like all have dedicated environmental agreements. Involvement in these agreements indicates that actors have transportation systems and an interest in maintaining and regulating them.

‘Fictional Parts’
Fully-fledged states have ‘fictional parts’ of them around the world. Embassies, envoys, and ambassadors represent the state outside of the state’s formally defined territory but are themselves considered to be ‘pieces’ of the state. While very few IEAs will set up formal embassies themselves, they often involve parties’ representation to various commissions and international organisations. Though these representatives are not ambassadors in the high-ranking legal sense, they do symbolise the actor abroad and show the presence of ‘fictional parts’ of the semi-state.

Statehood?
Though this dissertation does not intend or need to give an assertive opinion about whether or not Palestine and Taiwan are states, the extent to which they are considered and treated as states is relevant to their capacity to engage in environmental management and IEAs. States can enter into agreements with any actors they wish; as such, statehood status does not inevitably impact whether or not semi-state actors can enter into IEAs. However, statehood statuses do affect the enforcement measures available to semi-state actors and the likelihood of other parties’ inviting them. The UN vote for non-member observer state status, for example, explicitly granted Palestine certain rights via jurisdictional concerns at the International Criminal Court (ICC) and International Court of Justice (ICJ)\(^\text{22}\), even as the consequences of the ICC’s engagement with questions of statehood and recognition prior to

the UN GA Resolution were debated\textsuperscript{23} and jurists argued that the ICC could have legally claimed jurisdiction upon PA request prior to the UN vote\textsuperscript{24}. This subsection will provide a brief overview of the historical political and legal context of the two semi-state case studies in order to better understand their current and potential roles in various IEAs.

**Palestine**

By Article 1 of the Montevideo Convention, Palestine may seem to be a state: It has a population, government, and the capacity to enter into relations with other states. Its weakest characteristic lies in ‘defined territory’ – while the West Bank and Gaza are considered by almost all international actors to be Palestine, the borders are not universally agreed upon, and many actors claim territory of the modern State of Israel for the Palestinian state as well. But control over the area, as well as agreements with Israel about environmental regulation, the division of resources, and borders\textsuperscript{25}, help strengthen Palestine’s claims to a defined territory.

The Palestine Liberation Organisation declared independence for Palestine on 15 November 1988, claiming sovereignty over the Palestinian territories with Jerusalem as its capital. Most of its claimed areas have been occupied by Israel since the Six-Day War of 1967, though the Palestinian National Authority (PA) has exercised administration over much of the West Bank and Gaza since 1993. On 29 November 2012, Resolution 67/19 gave Palestine non-member observer state status within the United Nations system, upgrading its prior status as an observer entity. Palestine is not a full member of the United Nations and is unlikely to become so; a great number of states have not explicitly recognised Palestine, even given the Resolution.

Palestine’s decision to go to the United Nations was part of a deliberate strategy for statehood\textsuperscript{26}. But the legal and political implications of the vote continue to be contested\textsuperscript{27}. Many scholars believe that Palestine is legally a state\textsuperscript{28}; others argue that state creation

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cannot be a side effect of international treaties or organisations, even at the United Nations level, and that Palestine has *not* implicitly become a state via the UN vote.\(^{29}\)

Regardless of the continuing controversy, Palestine submitted letters of accession to fifteen major international treaties in 2014, including the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, the Vienna Convention on the Law of Treaties, the Geneva Conventions, the Hague Convention, and several human rights agreements. The United Nations and other bodies accepted the applications, indicating greater interest and recognition in major international organisations and a potential for expanded involvement in IEAs.

**Taiwan**

Taiwan, formally known as the Republic of China, has a complicated history of statehood. The ROC joined the United Nations as a founding member in 1945 – and became one of the five permanent members of the Security Council. The Chinese Civil War led to the ROC’s losing control of mainland China and the People’s Republic of China (PRC)’s takeover. For the next couple of decades, the PRC effectively had control of mainland China and the ROC, Taiwan. But the ROC continued to represent China at the United Nations.

On 25 October 1971, the UN GA adopted Resolution 2758, recognising the PRC (what we now think of as ‘China’) as “the only lawful representatives of China to the United Nations” and as the rightful holder of the Security Council seat. Rather than expelling one member and accepting another, the United Nations transferred a single member’s credentials. Taiwan is *not* a member of the United Nations and, from the UN perspective, never was.

Many countries continue to have formal diplomatic relations with the Republic of China; others ‘only’ have informal relations – but these often include *de facto* embassies.

The status of the ROC is further confused by the fact that the People’s Republic of China has never controlled the territory now run by the Republic of China. But the ROC continues to claim mainland China as part of *its* territory.

As is the case with Palestine, Taiwan’s status is hotly contested. Some assert that it is absolutely a state; others argue that Taiwan is “beyond doubt” “an inalienable part of the territory of China and that China’s sovereignty over Taiwan is firmly established both in fact

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and in law”\textsuperscript{30}. For the most part, states operate under a policy of deliberate ambiguity as regards Taiwan, carefully maintaining beneficial relations with both parties whilst not explicitly recognising Taiwan. Though UN membership thus far remains out of Taiwan’s grasp, both it and China are members of organisations such as the WTO, the Asian Bank, and APEC, demonstrating its capacity for involvement in major international and regional organisations and building its claims to statehood\textsuperscript{31}.

\textbf{‘Global’ Regimes? Semi-State Actors in Worldwide Environmental Agreements}

The 1900s and 2000s have seen a great number of major, nearly universal, multilateral environmental agreements, ranging from resource exploitation regulation to species protection and pollution control. This section will consider the participation of Palestine and Taiwan in such ‘global IEAs’.

\textit{Barriers to Palestinian and Taiwanese Involvement}

Most international agreements are governed by the 1969 Vienna Convention on the Law of Treaties…but the Vienna Convention explicitly governs treaties \textit{between states}\textsuperscript{32}, and thus has contested application to Palestine and Taiwan. Semi-state actors may well be disadvantaged in the international arena without undisputed legal governance of their IEAs. But such actors also have much to lose from \textit{not} being part of such near-universal regimes. There are very real political and legal barriers to Palestine’s and Taiwan’s participation in some IEAs. Two very powerful countries, China and the United States, object to Taiwanese and Palestinian involvement, respectively. Of course, the United States has a long history of not ratifying or implementing many environmental and human rights treaties regardless – and so this should perhaps not be considered by other countries as a practical reason for denying Palestinian involvement.

Major multilateral agreements are often negotiated at the United Nations, and thus participation is limited to UN members and, sometimes, observers. Palestine and Taiwan have thus been blocked from several important IEAs. Future UN-led IEAs are likely to continue excluding Taiwan, though Palestine may have a seat at the table.


\textsuperscript{32} Article 1.
Practically, semi-state actors are less likely to be able to fulfil their obligations. They tend to have fewer resources and be more constrained in their relations and actions. The extent to which they are constrained varies widely: Taiwan is an economic powerhouse both regionally and globally, and faces very few threats to its internal sovereignty; Palestine, on the other hand, is relatively weak, dependent on Israel and foreign aid for many of its resources and under regular threat of military action.

It is not uncommon for major multilateral treaties to limit ratification to states. While this may not be done to intentionally exclude actors like Taiwan or Palestine but rather to exclude non-state actors such as NGOs, it effectively challenges semi-states’ participation.

Barriers to semi-state involvement may not be exclusively external. Semi-state actors may be less likely to see the advantages of participation in such regimes, especially if their disputed status prevents them from the full benefits of participation or participation distracts from concerns of state-building and recognition attempts. Semi-state actors may also have greater difficulties with governance and implementation.

But in spite of these barriers, there are positive precedents. Several non-environmental international organisations provide helpful examples of inclusion. Taiwan participates in the Conference of Parties of the WHO Framework Convention on Tobacco Control\(^\text{33}\). The membership of both Taiwan and China in the WTO has created legal tensions between the two\(^\text{34}\), but also illustrates that involvement from both parties is possible in international regimes.

*Palestine and Taiwan in Global IEAs*

The United Nations

Membership in the United Nations suggests “recognition of an entity’s international status as a nation-state by the international community”, though not all jurists agree that UN membership automatically leads to state status\(^\text{35}\). Regardless of whether or not membership involves full legal recognition, it does mean participation in General Assembly Resolutions pertaining to the environment, invitations to UN-initiated conferences leading to major


multilateral treaties, and involvement in agencies such as the United Nations Environment Programme.

Prior to 1971, the Republic of China was a UN member; however, its membership was then transferred to the People’s Republic of China. Taiwan is thus not a member of the UN, limiting its involvement in UN-led environmental initiatives.

Palestine became a ‘non-member observer state’ on 29 November 2012. Prior to UN GA Resolution 67/19, the Palestine Liberation Organization held observer status as a ‘non-member entity’ since 1974. It is now on equal footing with the Vatican at the United Nations, granting it many rights and privileges, though it is not yet a full member state and thus still limited. Palestine has submitted reports to the United Nations and other major organisations about its environmental management and sustainable development. These reports include discussion of its participation in and attempts to implement various international environmental agreements – including those it has been unable to ratify or gain access relevant funding opportunities from\(^\text{36}\).

The United Nations Educational, Scientific and Cultural Organization

UNESCO is strongly involved in various environmental initiatives, including World Water Day and many international ecological science partnerships. Informal work with United Nations agencies like UNESCO may provide a ‘back door’ entrance to the United Nations for Taiwan\(^\text{37}\). Palestine, for example, has been a member state of UNESCO since 2011, before its recognition as a non-member observer state of the United Nations. Taiwan is not a member state of UNESCO and is unlikely to become so soon.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

CITES regulates the trade of endangered plants and animals. It is one of the more popular environmental issues in news media, with attention to poached ivory and the like. ‘Parties’ are defined by the Convention as states\(^\text{38}\), and neither Palestine nor Taiwan is a formal Party.

The Convention on Biological Diversity (CBD)


\(^{38}\) Article 1.
The CBD is meant to protect and promote the diversity of environmental resources. The Convention stresses the importance of intergovernmental organizations and the non-governmental sector in conserving diversity and invites accession by both States and regional economic integration organizations. It does not have explicit provision for accession from other international actors, and neither Palestine nor Taiwan are parties, even though both semi-states’ ecosystems are richly diverse.

The United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol

Palestine is not a state party to the UNFCCC, but – like the Holy See – it is an observer. It has also explicitly declared its intention “to accede to the UNFCCC and other international treaties related to Climate protection” and made claims to its hard work “to uphold [its] share of the collective responsibility to combat climate change”. Palestine is not a state party to the UNFCCC, but – like the Holy See – it is an observer. It has also explicitly declared its intention “to accede to the UNFCCC and other international treaties related to Climate protection” and made claims to its hard work “to uphold [its] share of the collective responsibility to combat climate change”.

Taiwan has no formal involvement with the Framework Convention, but though it is formally excluded from signing, it may be able to creatively participate in some of the related mechanisms and adhere to the standards. Many argue that doing so could only help its claim to statehood.


The International Tribunal for the Law of the Sea is open to “entities other than State Parties”, including states and intergovernmental organisations that are not parties of the Convention. This has particular importance for Taiwan, which has some access to an international court and essentially adheres to UNCLOS, even though it is not a party. The Convention is not fully favourable to Taiwan, though: UNCLOS granted national jurisdiction

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39 Preamble.
40 Article 35.
41 Statement by H.E. Ambassador Azmi Aldaqqa, Ambassador of the State of Palestine to Poland, before the High Level Segment of the United Nations Climate Change Conference, Warsaw, Poland, November 21st 2013.
42 Su, Yi-Yuan (William). “The Effects of the Kyoto Protocol on Taiwan”. Sustainable Development Law & Policy 51:.
43 Article 20.
for the waters of the Taiwan Strait to China\textsuperscript{46}, and China can request ITLOS’ intervention in disputes with Taiwan\textsuperscript{47}.

Unlike most of these IEAs, Palestine is named in UNCLOS. The Palestine Liberation Organization signed the Convention, along with the African National Congress, Pan Africanist Congress, and South West Africa People’s Organization, “In the name of the following National Liberation Movements invited in accordance with rule 62 of the rules of procedure, as decided in resolution IV of the Conference”. It is interesting to note that, along with the PLO’s signature, Israel then made a Declaration upon its signing: “This signature of this Final Act in no way implies recognition in any manner whatsoever of the group calling itself the Palestine Liberation Organization or of any rights whatsoever conferred upon it…”


Fishing is a fairly minor industry in Palestine and a relatively major one in Taiwan. Neither semi-state has signed onto the UN Fish Stocks Agreement, a sub-agreement of UNCLOS, as political reality prevented such. But Taiwan is implicitly mentioned: The term ‘fishing entity’ appears in the Fish Stocks Agreement for the first time in international law\textsuperscript{48} and fishing entities are requested “to cooperate fully”\textsuperscript{49}. Taiwan is explicitly involved in other fisheries agreements; these will be explored in a later chapter.

The International Convention for the Prevention of Pollution From Ships (MARPOL)

MARPOL regulates the shipping industry, particularly pollution and dumping on the High Seas. Palestine and Taiwan are not parties. Palestine does virtually no shipping, but Taiwan is a major boat producer and has numerous freight ship companies. The Republic of China signed several related agreements under the International Maritime Organization prior to the


\textsuperscript{48} Ho, Peter S. C. 2006. “The Impact of the UN Fish Stocks Agreement on Taiwan’s Participation in International Fisheries Fora”. \textit{Ocean Development & International Law} 37(2): 133.

\textsuperscript{49} Article 17.
recognition of the People’s Republic of China, but the PRC has declared those signatures “illegal and null and void”. The ROC has not signed onto MARPOL on behalf of Taiwan.

The International Convention for the Regulation of Whaling (ICRW)
Neither Palestine nor Taiwan is party to the ICRW, which currently places a full moratorium on commercial whaling. Palestine is not a whaling state and is incredibly unlikely to become so. Taiwan’s domestic laws protect whales and dolphins, and the state is in compliance with the Convention even though it is not a state party to it.

The Convention on the Law of Non-Navigational Uses of International Watercourses (Watercourses Convention)
The 1997 Watercourses Convention deals with the ‘equitable and reasonable use’ of surface and groundwater shared between states. Neither Taiwan nor Palestine are currently party to the Convention. Of course, Taiwan’s current territory – the group of islands – does not have any transboundary waters, making the Watercourses Convention less relevant to it. If, however, Taiwan controlled its full claimed territory – including mainland China – it would have a great many transboundary waters. Palestine does have shared waters, and uses international water law as a tool in bargaining for greater access to that water. And though Palestine has not yet signed the Convention, the Palestinian Water Authority announced its intention to do so once formal statehood was achieved50.

The practical utility of these near-universal environmental regimes is debated. The UNFCCC, for example, has achieved very little in terms of concrete steps to reduce carbon emissions from pollution, and certainly is off-track from its stated targets. But the Conventions have created platforms for considering issues that affect the entire planet, and should not be said to be entirely worthless. The regimes cannot, however, claim to be truly ‘universal’ when several actors – and thus the territories and systems they control – are not included, either by lack of interest or willingness (e.g., the United States) or lack of invitation (e.g., semi-state and non-state actors). These gaps seriously challenge the use and future potential of such regimes, and should be remedied by the international community.

The next two sections will consider some of the international environmental agreements that Taiwan and Palestine are active in. Such agreements are often more regionally and topically specific than the overarching environmental regimes discussed above.

**Fishing for Recognition: Taiwan and Fisheries Agreements**

In spite of its contested international status, Taiwan has a robust economy: It is in the world’s top 15% in GDP purchasing power party, GDP per capita, and gross national saving. Its economic success has dubbed it an ‘Asian Tiger’ and been a major route to politically vague but very real international relations – China is its greatest export partner, even as the two countries contest the other’s existence. Unlike many major international organisations, the World Trade Organisation does not require its members to be states. Taiwan is a full member – along with China. This provides an interesting example of how state-to-semi-state relations can work in an international regime.

The economy is a strong, pragmatic route to recognition. But though Taiwan’s economic strength and independence fulfils several of the suggested criteria for statehood and has been a major motivating factor in its de facto relations with other states, acquiring this economic strength has involved a great deal of environmental degradation. This could harm Taiwan’s claims to statehood and its long-term sustainability. But since Taiwan is an island country with a booming fishing industry, one portion of its economy has provided a practical route to environmental relations as well. Fisheries agreements may be an avenue for rebuilding Taiwan’s environmental reputation and the fulfilment of additional statehood criteria.

East Asian states have been rivals for ocean tuna fisheries for many years, and tuna stocks are at risk. Many of the major fishing waters in the region are contested. The Taiwan Strait, the Senkaku or Diaoyu waters (called so by Japan and China, respectively), and other portions of China, Japan, and Taiwan’s exclusive economic zones are claimed by multiple parties. International environmental agreements such as UNCLOS have helped to clarify some of the contested waters in some instances – and heightened tensions in others. Actors are expected

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by international law to give regard to the resource rights of other actors, provide for the freedom of navigation, and maintain stability. Regional fisheries management organisations are emerging to help oversee these obligations and address practical concerns over rivalries, overfishing, and illegal capture. As an actor with a large fishing industry, Taiwan has been included in many of these organisations out of necessity, even when such participation has been a political challenge.

Taiwan’s contested political status was affirmed by its lack of invitation to sign the UN Fish Stocks Agreement. But the Agreement was carefully worded to include Taiwan as a “fishing entity”. At the time of the Agreement’s 1995 adoption, Taiwan was not yet a member of any regional fisheries organisations. Since then, Taiwan’s participation in the Fish Stocks Agreement and various other fisheries organisations under the term “fishing entity” has been a politically contentious one for the actor itself, requiring various concessions. Though Taiwan has gained access to numerous organisations and furthered its relations through participation, doing so essentially involved acknowledging its non-statehood. It has often had to go by the name “Chinese Taipei” and settle for observer status, with fewer voting and enforcement rights. However, the term “fishing entities” has led to Taiwan’s membership status in the Western and Central Pacific Fisheries Commission, setting a precedent for other agreements and suggesting that participation in these institutions may well be paving the way to legally explicit recognition for a Taiwanese state.

Taiwan has gained acceptance of varied forms in numerous other fisheries agreements. In 1998, the Inter-American Tropical Tuna Commission passed a “Resolution on the Participation of Taiwan in the Work of the Inter-American Tropical Tuna Commission” explicitly supporting Taiwan’s involvement in the Commission and paving the way for its formalised participation in the Commission’s institutions. A 2003 Resolution refers to Taiwan’s “active participation as an observer” in the Commission’s work and calls upon the actor to sign the Antigua Convention “in its character as a fishing entity under the name Chinese Taipei”.

57 Ho, Peter S. C. 2006. “The Impact of the UN Fish Stocks Agreement on Taiwan’s Participation in International Fisheries Fora”. Ocean Development & International Law 37(2): 144.
58 Ibid, 145.
The Convention for the Conservation of Southern Bluefin Tuna was signed in 1993 as an arrangement between Australia, Japan and New Zealand. Since then, Indonesia, Japan, and Korea have become state members of the Extended Commission and the Philippines, South Africa, and the European Union have become cooperating non-members. On 30 August 2002, Taiwan was granted membership of the Extended Commission – but again, as a “fishing entity” rather than a state.

In 2013, Japan signed onto a bilateral fisheries agreement with Taiwan\(^60\). The accord was a politically bold move for Japan, which is committed to recognising Taiwan as belonging the China. The agreement gives Taiwanese fishing boats leave to work in the Senkaku, part of Japan’s exclusive economic zone. The nearby islets are controlled by Japan – but also claimed by both China and Taiwan\(^61\). Japan still does not formally recognise Taiwan as a state, but the agreement created stronger ties between the two and certainly angered China. Taiwan has successfully navigated the tenuous waters of multiple regional fisheries management organisations. And while this participation and the applicable language may not take the form Taiwan would like, it is extensive – and growing. Each agreement strengthens the actor’s relations with other states and its claims to independence from China. Fisheries agreements are hardly going to reclaim mainland China for the Republic of China, but they may well help the ROC build its argument for legally recognised statehood as they put it on more and more equal footing with other states in international arenas.

### Watering State Growth: Palestine and International Water Agreements

Palestine is a very different semi-state than Taiwan. In some ways, it seems to be *more* of a state than Taiwan: Unlike Taiwan, it has formal recognition at the United Nations, albeit as a non-member. But in practical terms, Palestine is far less independent an entity than Taiwan. Its economy is weak and the area very dependent on foreign aid. Unlike Taiwan, it has regularly active military conflict on its soil. While many of its affairs are administered by the Palestinian National Authority, the State of Israel retains *de facto* control, even if that control is contested as an illegal occupation.

These realities greatly impact Palestine’s ability to engage with and implement international environmental agreements. At the same time, policymakers and activists within Palestine often use international law as a bargaining tool, a means of fighting for environmental,

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human, and statehood rights. The PA and/or the Palestine Liberation Organisation are party to several agreements and show willingness to be involved with many others. Water, in particular, has emerged as an issue for Palestine to organise around. This is due, in part, to its geography: The West Bank and Gaza, Palestinian territories, are both desert areas with relatively little arable land and limited control over water resources. The Jordan River and Dead Sea, traditional sources of water for a people with a long history of agricultural and strong cultural ties to water, are both drying up quickly. But Palestine’s need to engage in international water agreements is also predicated on Israel’s history with and policies around water, the environment, and statehood.

*Israel’s Environmental Statebuilding Precedent*

The modern State of Israel declared independence on 14 May 1948 and gained full membership in the United Nations in 1949. This membership, and Israel’s statehood, is not uncontested; indeed, Israel is not technically recognised by more than thirty member states of the United Nations. Nonetheless, Israel is a state according to international law. The story of how it got there is an interesting one, and relevant to questions of statehood and environmental management.

As previously mentioned, modern international environmental law emerged in the 1960s, more than a decade after the State of Israel was formed. But this is not to say that the environment was fully absent from international law and custom prior to this time. The 1884-1885 Berlin Conference brought together European colonial powers in order to formalise their “Scramble for Africa” and agree upon requirements for colonisation. The subsequent agreement, the 1885 General Act of the Berlin Conference on West Africa, created the “principle of effective occupation”. “Effective occupation” required colonising powers to actively possess or administer colonies; European powers could not simply make claims to land they had no *de facto* control over. The Act also claimed for European powers the right to use their colonies economically. Taking control over physical resources and making colonial land productive soon became a concrete and beneficial way to comply with the principle of effective occupation.

Against this backdrop, Theodor Herzl, the father of modern political Zionism, called the First Zionist Congress in Europe. The Congress led to the creation of the World Zionist Organization and, eventually, settlement in the land of Palestine and Israeli statehood. From the beginning, a central goal of Zionism’s efforts in the Palestinian land was to “make the
“desert bloom”62. Agricultural success was seen as a way to legitimise the Jewish claim to the land – using the logic of the principle of effective occupation. The desert country’s “emergence as an agricultural country was a matter of choice”63 rather than natural comparative advantage. The quest for agricultural productivity in the midst of limited water resources encouraged the country to become a pioneer in water use infrastructure and policy64. It also led to strong state control over water resources and the framing of environmental resources as issues of national security.

The narrative of ‘making the desert bloom’ continues to be a strong one in Israeli and international thought. This discourse may well feed into Palestine’s interest in international environmental agreements. The Zionist movement employed resource management in line with contemporary political-legal trends in order to argue for statehood. This provides a powerful precedent case study for the Palestine Liberation Organization and Palestinian National Authority as they consider their own strategies for claiming statehood.

**Palestine and International Water Law**

Most of the water resources, along with the territory itself, are contested in the region. Both Israel and Palestine claim the Mountain Aquifer, a major source of groundwater and recharge65. Both actors assert they are water scarce and face severe shortages for the needs of their populations and economies.

The contested status of the Palestinian territories also calls into question the applicability of various international legal regimes in the area. However, Israel, as a recognised state, may well be bound by customary international law – including rules created by the Watercourses Convention and the human right to water – even if a non-state Palestine cannot necessarily be held accountable66. Palestinian activists are certainly using international law to bring attention to perceived water injustices in the region.

When signing the 1982 UN Convention of the Law of the Sea, Israel explicitly declared that its signature did not imply recognition of the Palestine Liberation Organization. Relations

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have evolved drastically since then. The two actors exchanged Letters of Mutual Recognition in 1993. Since that time, multiple agreements have been signed and various other negotiations attempted. Many of these agreements have included or been motivated by water resources and concerns.

Under international water law, agreements about transboundary waters cannot be purely bilateral between Israel and Palestine; instead, they must at least consider the needs and roles of other riparian states. One neighbouring riparian, Jordan, has been included in water agreements. The most recent of these will be considered later in this chapter. Two other major riparians to the north, Syria and Lebanon, do not recognise Israel, making expanded regional water agreements a challenge – even though such agreements would likely result in a better outcome for Palestine thanks to a stronger bargaining position with allies.

There has been speculation that increased attention to Palestinian statehood could make water agreements between Israel and Palestine more likely. It may well be in Israel’s interest to renegotiate quotas and claims now, before Palestine gains any more international support or power.

The Oslo Accords: According Authority?

The Oslo Accords were the first major agreements between Israel and Palestine, with Israel recognising the Palestine Liberation Organization as the representative of the Palestinian people and both recognising each other as a negotiation partner. The Accords outlined the Oslo peace process and set in motion a variety of measures intending to achieve stability and self-determination for both peoples.

Though the Oslo Accords are not primarily international environmental agreements, both include emphasis on environmental resources and management. Through Oslo I, the Declaration of Principles on Interim Self-Government Arrangements, the two parties agreed to establish a Palestinian Environmental Authority and an Israeli-Palestinian Continuing Committee that would consider an environmental protection plan. Annex III of Oslo II, the Interim Agreement on the West Bank and Gaza Strip, included explicit agreements about

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69 Article VII.
70 Annex III.
agriculture\textsuperscript{71}, environmental protection\textsuperscript{72}, fisheries\textsuperscript{73}, forests and parks\textsuperscript{74}, and water and sewage\textsuperscript{75}.

The Israeli-Palestinian Joint Water Committee (JWC) created by the Accords is still active. The JWC has been severely criticised by multiple actors and scholars, including the World Bank and Amnesty International, for failing to fulfil its mandate of “coordinated management” and instead being another instrument of asymmetric power. Though both parties have equal representation and each has the power of veto, Palestinian must obtain approval for any project involving water extraction from the Mountain Aquifer or in the majority of the West Bank, while Israel does not.

In spite of these serious concerns, the Oslo Accords – and the continued work of the Joint Water Committee and other environmental programmes initiated by the Accords – granted the PLO official recognition by the State of Israel, established the authority of the PA, and made possible much of the (albeit limited) progress made by Palestinians toward statehood.

\textit{The Red Sea-Dead Sea Conveyance: Conveying Recognition?}

On 9 May 2005, the World Bank received a letter co-written by the State of Israel, the Hashemite Kingdom of Jordan, and the Palestinian Authority requesting its oversight on a program examining a proposed Red Sea-Dead Sea Conveyance (RSDSC). The project was meant to:

- replenish the Dead Sea with water from the Red Sea, saving the Dead Sea from environmental degradation;
- provide a source of desalinated water and energy generation; and
- symbolise peace and cooperation in the region.

The World Bank administered a fund of more than $16 million for the Study Program alone, with monies provided by France, Greece, Italy, Japan, South Korea, The Netherlands, Sweden, and the United States of America.

The proposal was met with mixed reviews, with some praising it for its environmental and political cooperation potential and others worried about the deal being yet another water grab disguised as cooperation. Environmental scholars and jurists warned that there was a legal

\textsuperscript{71} Appendix 1, Article 1.
\textsuperscript{72} Appendix 1, Article 12.
\textsuperscript{73} Appendix 1, Article 13.
\textsuperscript{74} Appendix 1, Articles 14, 25, and 26.
\textsuperscript{75} Appendix 1, Article 40
obligation to notify all riparians about any deal concerned and called for attention to other possible solutions, including a Dead Sea Commission to aid in decision-making.

On 9 December 2013, the three actors signed an agreement for a 180-kilometre pipeline passing through Jordanian territory annually drawing 200 million cubic metres from the Red Sea for use in desalination and Dead Sea refill. The Agreement also includes a provision for the sale of Israeli water to Jordan.

Palestine signed the Red Sea-Dead Sea Conveyance Agreement as “the Palestinian Authority”, not as the “State of Palestine”. And it was not guaranteed more water in the Agreement that was finally signed. But the project involved many rounds of negotiations that involved many fully recognised states, not only Israel, and was overseen by a major international organisation. The RSDSC may not convey water to Palestine, but perhaps the semi-state hopes it has played a role in conveying recognition.

Other Regional Agreements

Many of Palestine’s international negotiations and environmental agreements are, by necessity, with Israel. But the semi-state’s relations are not limited to its neighbour/occupier. Palestine is recognised by many states in the region. It is a member of various regional organisations, including the Arab League. It is also party to regional agreements with implications for the environment, including the 2001 Agreement on International Roads in the Arab Mashreq; the 2003 Agreement on International Railways in the Arab Mashreq; and the 2005 Memorandum of Understanding on Maritime Transport Cooperation in the Arab Mashreq. Transportation has potentially serious impacts on the environment, both negative and positive, and environmental conservation and protection is explicitly mentioned in the agreements. Given Palestine’s very limited infrastructure (Gaza has only one port, currently under blockade by Israel), its involvement in these agreements suggests its interest in participating for the purpose of building recognition and international ties as much as fulfilling the actual stated purpose of a treaty.

Conclusion: Statehood…the Only Game in Town?

The role of international environmental agreements in building legal recognition for statehood is a complex one, but one well in need of attention by the international legal community. This Conclusion will review some of the primary findings of this dissertation and suggest further areas of consideration for international jurists and advocates.

There are not legal barriers to non-state or semi-state actors’ involvement in treaties. States can enter into agreements with any entities they wish; the participation and inclusion in multilateral environmental agreements for a semi-state is entirely up to the other parties. There may, however, by both legal and practical barriers to semi-states’ implementation of treaties and the realisation of their treaty obligations, especially if they are barred access to the institutions that the treaty builds on. There will also be legal barriers to the enforcement and interpretation mechanisms commonly used by states when treaties are breached or contested: The Vienna Convention does not apply to non-state parties, and actors like Taiwan do not have uncontested access to the interpretative or reparative measures of the International Court of Justice.

But the disadvantages of semi-state status are not always biased against the semi-state. There are costs as well as benefits to statehood. Though semi-states lose access to certain benefits by not being fully recognised states, their non-recognition also limits their responsibilities under international law and the possibilities for punitive measures against them.

This dissertation finds that the international community must more explicitly consider the complex relationships between states, semi-states, organisations, and the environment in global regulation and sustainability. In doing so, it agrees with Clapham’s 1998 suggestion that statehood should be considered more fluidly on a spectrum of relative statehood: Entities that are soundly, legally states do not necessarily do what the world expects of states, even as non-state actors such as guerrilla governments and community organisations do what the world thinks states should (public infrastructure, education, food banks, and the like).79

International law has long been predicated on the basis of the sovereign state as its sole actor, but this is not pragmatically possible in today’s world. Non-governmental organisations are more and more involved in the international arena, and governance systems are shifting to the

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private sector even in well-established states\(^80\). The ‘state’, international law, and environmental regulation must be considered in the light of these shifting patterns\(^81\).

New states and regimes virtually always accept the obligations agreed to by their predecessors\(^82\). Doing so helps to promote stability and ease international relations. The same rationale applies to semi-state actors wishing to achieve full international legal recognition. Taiwan and Palestine engage with various international institutions as a policy choice to further their recognition and capacities for state-building. Their involvement slowly changes the scope of their and others’ legal obligations. This can be a very good thing for the environment, as contested areas take up stringent environmental protection in order to best showcase their control over territory in order to vie for statehood. But when participation in international regimes serves to build recognition and make semi-states more likely to become legal states, ugly motives arise for states that do not wish certain semi-states to be states: They may become opposed to environmental regulation and participation from those actors. The People’s Republic of China may hope to deny the Republic of China statehood and oppose its recognition or involvement in various international institutions. But China could also have a lot to lose from unregulated environmental damage in Taiwan. The same is true for Israel of Palestine.

If the attempts of actors like Taiwan and Palestine are not recognised, semi-states may lose the incentive to be good stewards of environmental resources. There is little reason for them to follow strict environmental standards if they are receiving nothing in return and their regimes are not strengthened or are even further threatened by it. While there are legitimate political concerns in recognising certain semi-state actors, recognition can be “both necessary and pragmatic” “to avoid the judicial black hole in terms of global justice”\(^83\). Bringing non-states into environmental regimes is not merely a matter of recognition for states, but also an issue of accountability for and protection against environmental degradation\(^84\).


Whether or not it *should* be, statehood is still the predominant player on the world stage. Given this reality, scholars, advocates, and jurists concerned for the environment should consider the role and duties of statehood – and the gaps created by overemphasising traditional understandings of the state – in their work. Those wishing to contend for statehood would do well to consider adding environmental management, regulation, and protection to their legal arguments. Gaining legal statehood is not quite as simple as signing your name on a treaty, but participation in international environmental agreements can serve as a globally beneficial element of state-building and should be widely encouraged. Multilateral environmental regimes should take intentional steps to incorporate semi-state actors. Doing so will help promote global sustainability, improve environmental justice, and increase accountability for multiple actors at all levels.
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