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**Citation for published version:**

Krasniqi, G 2019, 'Contested states as liminal spaces of citizenship: Comparing Kosovo and the Turkish Republic of Northern Cyprus', *Ethnopolitics*, vol. 18, no. 3, pp. 298-314.  
<https://doi.org/10.1080/17449057.2019.1585092>

**Digital Object Identifier (DOI):**

[10.1080/17449057.2019.1585092](https://doi.org/10.1080/17449057.2019.1585092)

**Link:**

[Link to publication record in Edinburgh Research Explorer](#)

**Document Version:**

Peer reviewed version

**Published In:**

Ethnopolitics

**Publisher Rights Statement:**

This is an Accepted Manuscript of an article published by Taylor & Francis in *Ethnopolitics* on 8 March 2019, available online: <https://www.tandfonline.com/doi/full/10.1080/17449057.2019.1585092>

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**Title: Contested States as Liminal Spaces of Citizenship: Comparing Kosovo and the Turkish Republic of Northern Cyprus**

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**Biography:** Gëzim Krasniqi is a Career Development in Sociology at the University of Edinburgh. His research interests lie broadly in political sociology. In particular, his research focus is on nationalism, ethnic conflict and citizenship.

**Abstract:** Through a comparative analysis of two contested states – Kosovo and the Turkish Republic of Northern Cyprus (TRNC), the paper analyses the impact of internal and/or external statehood contestation on the scope of citizenship rights. It does so by introducing the concept of liminality in the study of citizenship in contested states. It contends that while the negative impact of contested statehood on citizenship rights is inevitable, the degree of impediment depends on the nature and level of contestation of statehood, the wider (regional) citizenship constellations, and on the ability of contested states to use different strategies to overcome sovereignty deficits.

**Keywords:** contested states, liminality, citizenship, Kosovo, TRNC

## 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 recognised that everyone should be entitled to the right of membership in a political community, according to Bauböck (2009), 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' (p. 478). This uncertainty particularly applies to contested polities, also known as 'contested states', 'unrecognised states', 'quasi states' or 'de facto states'. Such states include Abkhazia, Kosovo, Nagorno-Karabakh, Somaliland, South Ossetia, Palestine, Taiwan, the Turkish Republic of Northern Cyprus (TRNC), Transnistria and Western Sahara. While there exists a terminological proliferation in the field and growing attempts to define (Pegg, 2017) as well as develop a dataset (Florea, 2014) of such polities, I subscribe to the term 'contested states' as defined by various scholars (Geldenhuis, 2009; Kyris, 2015).

These entities exist in limbo for they are *de jure* part of one country but *de facto* claimed and controlled (partially or entirely) 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 of or limited internal and/or external sovereignty. Yet, this does not deter contested states' elites from establishing institutional fixtures of statehood, such as border control, taxation, security apparatuses, representative offices or embassies, an education system and frameworks for political rights, social protection and identity

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<sup>1</sup> This article is based on an earlier working paper, 'Contested Territories, Liminal Polities, Performative Citizenship: a Comparative Analysis', published in the Robert Schuman Center for Advanced Studies (RSCAS) Working Paper Series (EUI RSCAS; 2018/13).

documents. Such states are united by their main goals, which are generally to maintain their *de facto* independence and to gain international recognition (Caspersen, 2009, p. 48).

While the phenomenon of contested states has attracted increasing scholarly attention, the issue of citizenship in contested states remains under-researched. By taking an interdisciplinary approach that draws upon politics, law and sociology, I here investigate the link between limited sovereignty and citizenship in contested states. This paper has a two-fold aim: 1) to measure the impact of internal and/or external statehood contestation on the scope of citizenship rights in contested states; and 2) to introduce the concept of liminality in the study of citizenship in contested states and demonstrate how contested states represent liminal spaces of citizenship, whose subjects are neither full citizens, nor stateless. I argue 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 of Kosovo and the TRNC demonstrates the ways in which the negative impact of state contestation is mitigated by the contested states' use of various novel and creative, formal or non-formal performative practices, such as closer engagement without recognition, as well as digital and public diplomacy campaigns aimed at increasing external presence and document recognition.

The bulk of evidence is gathered from legal documents (constitutions, citizenship laws and naturalisation procedures), digital diplomacy materials, on-line media articles, reports, a limited number of semi-structured interviews and other relevant secondary sources. The use of multiple sources will help triangulate the data collected and provide new empirical insights. The 'documental' aspect of citizenship – identification cards, passports, visas and other authorised 'proofs' of our identity – is inherently linked to the actions of state

authorities, to mechanisms of control and registration of populations and to state and international policies controlling the movement of people. Regulation of movement and passports constitutes and conveys the very 'state-ness of states' (Torpey, 2000, p. 6), or, as Friedman (2017) argues, documents are the evidentiary signs of citizenship, statehood, and sovereignty. In order to examine the overall politico-legal context and the wider citizenship constellations, the paper focuses both on legislation and the practice of citizenship on the ground.

Although the two case studies are discussed in considerable detail, including the generation of new insights based on original research of relevant legal documents and on-line media articles, the main contribution of the paper is to provide a conceptual explanation of the impact of internal and/or external statehood contestation on the scope of citizenship rights. Citizenship in contested states has been largely neglected in the scholarship so far. Therefore, this paper is an attempt to address an existing gap in the ever growing literature on contested states.

The selection of the cases of Kosovo and the TRNC is justified by their shared geopolitical location (being part of Europe) and a similar history of intense external involvement. While both cases witnessed heavy involvement of the European Union, the latter's role in relation to citizenship and state-building in the two cases is significantly different. Moreover, the two display different degrees of internal and external state contestation thus making the cases more representative of the wider population and enhancing findings' generalisation.

The paper is divided into two main parts. The first provides a critical overview of scholarship on the relationship between (lack) of sovereignty and citizenship in contested states and then presents the theoretical framework of the study. The second uses the concept

of liminality to examine the impact of lack of internal and/or external sovereignty on citizenship rights in Kosovo and the TRNC.

### **Sovereignty and Contested Statehood**

State sovereignty – meaning a state’s ability to control its border and assert jurisdictional authority within those borders – has become the main determinant of statehood. A widely cited definition of sovereignty refers to ‘a normative conception that links authority, territory (population, society) and recognition’ (Biersteker & Weber, 1996, p. 3). According to this definition, in addition to population, territory and the ‘monopoly of legitimate physical violence’ (Weber, 1968, p. 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 (1) claimed; (2) recognised; and (3) 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 organisations. 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: (1) international legal (mutual recognition); (2) Westphalian (non-interference of external actors in a state); (3) domestic (the ability to exercise effective control within a polity); and (4) interdependence sovereignty (ability of the authorities to regulate flows of goods and people across the borders of their state) (1999, pp. 4-5). From the point of view of international law, however, the 1933 Montevideo Convention sets the following

qualifications that a state should possess as a person of international law: (1) a permanent population; (2) a defined territory; (3) government; and (4) capacity to enter into relations with the other states (article 1).

In reality, as Kurtulus points out (2005), 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 (p. 66). Sovereignty is absolute only if one takes full international recognition (normally manifested in the form of UN membership) as the sole criterion of evaluation. Otherwise, both internationally recognised states and contested states display different degrees of internal and/or external sovereignty, or ‘negative’ and/or ‘positive’ sovereignty. Only by considering both aspects of sovereignty can one begin to form a better picture of a given polity and be able to identify degrees of sovereignty and levels of contestation.

Thus, I treat sovereignty not as an absolute attribute but as a matter of degree. This is particularly obvious in the case of contested states that differ in terms of the degree or internal and external sovereignty.

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

As mentioned above, there is a growing literature that examines various key aspects of contested polities ranging from the nature and level of contestation (Berg & Kuusk, 2010; Geldenhuys, 2009; Caspersen & Stansfield, 2011; Florea, 2014), via international engagement (Caspersen, 2009; Lynch, 2004; Pegg and Berg, 2016) to democratisation and legitimacy (Caspersen, 2011). A growing number of studies concern the intricacies of dealing with these entities in the absence of recognised sovereignty or ‘engagement without recognition’ (Cooley & Mitchell, 2010; Ker-Lindsay, 2015; Kyris, 2018; Berg & Pegg 2018;

Ker-Lindsay & Berg, 2018) as well as on Europeanisation (Kyriss, 2015; Bouris & Kyriss 2017). The focus of these works has been on varying degrees of interaction and hybrid diplomacy with contested states, by both sovereign states and international organisations, without regarding them as independent actors.

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 contested states in its neighbourhood. Likewise, Berg and Kuusk (2010, p. 46) mention citizenship policy as a feature only for more established 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 analysing 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 of examining citizenship in contested states is Grossman's (2001) study, which looks at the relationship between recognition of nationality and recognition of sovereignty. Using different individual cases from contested states 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' (p. 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'. Nevertheless, I take the view that citizenship is a much broader concept and can't be reduced to 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, for example, refugees, documented and undocumented migrants, or some minorities. 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. In other words, similar to the issue of sovereignty, political membership is not absolute – one either is a citizen, or one is stateless – but, rather, is a matter of degree and functionality.

Citizenship as a key organising principle of modern political life is, above all, a status that creates a legal bond between individuals and a polity/state and endows these actors 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). However, despite the promise of equality between members of a polity, citizenship is essentially exclusive, differentiated and ‘uneven’ (Krasniqi and Stjepanović, 2015). As regards exclusion, both citizenship and the nation-state are characterised by a dual capacity to include and exclude.

The concept of liminality is particularly useful in understanding the specific context of citizenship in contested states but also their very actorness in international relations. According to Turner, ‘Liminal entities are neither here nor there; they are betwixt and between the positions assigned and arrayed by law, custom, convention, and ceremony’ (1969, p. 95). I argue in favour of using liminality to analyse citizenship as well as international engagement of contested states. They are neither fully-fledged states, recognised universally, nor functioning parts of a respective sovereign state (parent state). Equally, individuals in contested states are neither citizens, nor are they stateless. Depending on the nature of the particular polity, citizens of contested states mostly find themselves in a

position of legal indeterminacy and ambiguity that nevertheless may last indefinitely. In this, they are similar to Turner's definition of liminality as a temporary state between the stages of separation and re-assimilation. Liminality is particularly useful in analysing citizenship in contested states, 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. More often than not, citizens of these liminal zones of citizenship are 'invisible' when it comes to international law.

### ***Liminality and Citizenship in Contested States***

The concept of liminality has already been applied to a number of categories of citizenship including, but not limited to, women (Roy, 2010) and undocumented migrants and refugees (Skeiker, 2010; Swerts, 2017). Swerts develops a theory of 'liminal politics' that utilises 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, p. 382). Drawing on Rancière (2010), 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 contested states and their citizens strive to gain visibility by challenging prevalent international conceptions and definitions of citizenship and statehood.

Analysing Russia's policy in Abkhazia and South Ossetia, Artman (2013) 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' (p. 685). Thus, belonging to a grey area of international sovereignty, contested states represent liminal spaces of citizenship.

Fiona McConnell (2017) uses liminality as a paradigm for understanding stability and change in institutionalised orders and geopolitics; hence, ‘liminal geopolitics’. Her analysis shows that despite limitations and drawbacks stemming from their ambiguous legal and political status, in-betweenness and ‘out-of-placeness’ offers liminal actors various opportunities of international engagement, thus turning them into ‘liminal geopolitical actors’. Similarly, Bouris and Fernández-Molina (2018) define contested states as ‘international liminal actors’ that use hybrid diplomatic practices to engage internationally and seek recognition.

In addition to liminality, I also use the concept ‘citizenship constellations’ (Bauböck, 2010) to analyse the wider regional and international context of citizenship rights in contested states. As I will show, residents/citizens of these polities more often than not are legally tied to more than one polity. The relevant citizenship constellation involves a contested and a confirmed state, and in many cases, also an external patron or kin state.

In what follows I discuss the issue of citizenship in two cases of contested states, Kosovo and the TRNC with a focus on the impact of contested statehood and limited sovereignty on citizenship rights of their respective citizens.

### **Kosovo: An ‘Internationally Designed’ Contested State**

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 under the auspices of the European Union. Nonetheless, a decade since its declaration of independence, Kosovo still does not possess all statehood attributes, including external and internal sovereignty. This mainly stems from the issues related to Kosovo’s contested international status (so far, 115 members of the United Nations (UN) have recognised its independence), and the refusal of

local Serbs to be integrated into the political system of Kosovo. Kosovo thus remains a contested polity.

Kosovo is unique compared to other contested states due to its overwhelming international support, especially from the United States (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 recognised by 'key great powers' (Owtram, 2011, p. 129). Because of strong international participation during its creation as a state, Kosovo can be considered a contested state of 'international design' (Bose, 2005, p. 322). Nonetheless, the EU's approach of 'limited sovereignty – strong control' applied throughout its presence in Kosovo (i.e. the EU Rule of Law Mission (EULEX) and multiple external mechanisms of control and supervision have also limited Kosovo's internal sovereignty (Musaj and Krasniqi, 2015).

Internationally, Kosovo has succeeded in becoming a member of the World Bank, the International Monetary Fund, the European Bank for Reconstruction and Development, as well as some regional bodies and international sporting associations (International Olympic Committee, International Football Federations etc), but UN (as well as Council of Europe) membership is still not in sight. In other words, Kosovo has 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 Kosovan Assembly adopted a package of basic statehood laws, including the Law on Citizenship (The Assembly of the Republic of Kosovo, 2008), 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 that was created during UN Administration - which

included ID cards and special travel documents<sup>2</sup> for the residents of Kosovo – laid the foundation for an independent Kosovan citizenship regime (Krasniqi, 2012).

In addition to establishing institutions at home, Kosovo undertook steps to increase its presence internationally and provide consular services to its citizens abroad. Despite multiple challenges, during its first decade as an independent state, Kosovo has established diplomatic relations with over 80 states, opened 25 embassies, and became a member of over 60 international and regional organisations (Krasniqi, 2014; Visoka, 2018, p. 4). Kosovo's contested statehood has also impacted Kosovo's relations with the EU, where 5 of the member states don't recognise Kosovo. Yet, Kosovo has managed to build close ties with EU institutions as demonstrated by the launching of a visa liberalisation dialogue<sup>3</sup> in 2012 and signing of the Stabilisation and Association Agreement in 2015. Despite the issue of status and EU's 'status neutral' position, the SAA provides an opportunity for Kosovo to maximize the benefit of the current situation, fulfil as many criteria as possible and try to consolidate its position within the joint market while working with individual states that don't recognise its independence.<sup>4</sup>

Lacking universal recognition and full access in multilateral organisations, Kosovo was forced to use liminal spaces to perform its diplomatic agency and build informal diplomatic networks to bypass formalities and bureaucratic impediments posed by an inhospitable international order (Newman & Visoka, 2016). 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

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<sup>2</sup> In 2000, the UN Mission in Kosovo issued travel documents for local residents, which neither confer nationality (i.e. citizenship) upon its holder, nor do they affect in any way the holder's nationality. In practical terms, the UNMIK Travel Document was a poor substitute for a state passport because only 37 countries officially recognised it, thus creating travel-related obstacles for its holders (Krasniqi, 2015, p. 9).

<sup>3</sup> Visa liberalisation was the key priority for Kosovo institutions both because it is not connected to the issue of statehood (Taiwanese passport holders have been granted visa free travel within the Schengen area despite of the fact that the EU does not recognise Taiwan as a state) and ultimately strengthens Kosovo's nascent citizenship regime (Interview with a Kosovan diplomat, Brussels, 24 June 2017).

<sup>4</sup> Interview with a Kosovan official, Pristina, 11 April 2017.

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 agency to challenge statehood contestation.

Likewise, Kosovo has utilised the 'soft power' of representative sport to create symbolic pressure on states that have not yet recognised Kosovo thus entering the international club of states through the 'sports door' (Brentin & Tregoures, 2016). As a result, Kosovo participated for the first time in the 2016 Olympic summer games, with Majlinda Kelmendi making history by claiming the gold 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 contested state.

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

Kosovo's claimed right to statehood has been increasingly recognised by more states each year and the overwhelming majority (more than 185 out of 193 members of the UN) of states recognise its passport *de facto* or *de jure*.<sup>5</sup> The countries that refuse to recognise Kosovo passports include Serbia (although Kosovans can enter Serbia with Kosovo ID cards), Russia<sup>6</sup>, India, Cuba and Seychelles. Spain does not recognise it formally, but allows Kosovan Passport holders with valid Schengen visas to enter its territory. Internally, Kosovo has made significant steps towards integrating Kosovo Serbs within the Kosovan system thanks to the EU mediated dialogue between Kosovo and Serbia.

Citizenship has been a crucial instrument for state building in Kosovo both in terms of acting as a state but also in terms of integrating minorities into the political system and state.

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<sup>5</sup> Kosovo Embassy in Vienna, personal communication, 7 December 2017.

<sup>6</sup> Russia allows people with Kosovo passports to enter its territory only in special cases and in order to participate in international sporting events (Tanjug, 2015).

Kosovo's citizenship legislation stands out for its territorially inclusive character, civic definition of the concept and toleration of dual citizenship (Krasniqi, 2012). However, 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, p. 853).

In Kosovo's case, limited 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 Kosovan and Serbian 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 who haven't returned since the end of the war) are entitled to Kosovan 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.

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 organisations (for example, the European Court of Human Rights). In reality, while it is for each individual

state to determine 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, p. 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 recognise it.

Third, and most importantly, Kosovo's citizenship is not very functional due to the country's overall position and potential is limited due to domestic structural limitations and factors. 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. Although Kosovo's economic growth has been steady and has outperformed its neighbours, 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>7</sup> and reliance on remittances to fuel domestic consumption.

In terms of travel, Kosovo passport holders are the only ones in the Western Balkans who need a visa to enter the Schengen Area.<sup>8</sup> 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<sup>9</sup>, the Kosovan 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 and internal weaknesses.

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<sup>7</sup> In addition to outmigration, Kosovo faces a 'citizens hemorrhage'. Between 2008 and 2017 more than 40,000 citizens have renounced Kosovan citizenship (Krasniqi-Veseli 2017).

<sup>8</sup> This is expected to change soon as a result of a recommendation by the Commission to European Parliament and Council to lift the visa requirements for Kosovo passport holders (Balkan Policy Research Group, 2018).

<sup>9</sup> Since 2011 a new EU mediated travel regime between Kosovo and Serbia has been established that enables Kosovo citizens to travel to Serbia using their Kosovo ID cards. Upon arrival in Serbian territory, they must receive an entry document (a paper) that allows a stay of up to 90 days.



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 and who possess regular passports, which have been included in the Schengen Area's visa free regime since 2009. These passports are recognised 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 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 endeavours 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 of rights and protection at home, to travel and status abroad, thus leaving the country and its people in a liminal and exceptional situation.

### **TRNC: The (Un)Recognised EU Territory**

Established in 1983, the Turkish Republic of Northern Cyprus is one of the oldest contested states in existence. The history of the TRNC is intricately related to Cyprus' colonial past as part of the British Empire and the post-1960 political disagreements and communal strife. The failure of the bi-communal government in 1963, Greek Junta's staged coup against the Cypriot President Makarios and subsequent Turkish military intervention in 1974 resulted in a divided island setting the stage for 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 8 years later they declared the independence of the Turkish Republic of Northern Cyprus (Bahcheli, 2004, pp. 168-70). Its independence has been recognised by Turkey alone.

As regards international activity, 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). With Turkey's support, the TRNC has managed to gain some access to various international fora, namely the Organisation of Islamic Cooperation (OIC) and the Economic Cooperation Organisation, where it managed to maintain an observer status (Geldenhuys, 2009, p. 180). However, the TRNC not only failed to gain wider international recognition but also has been subjected to international isolation and economic and travel embargoes imposed on it by the Republic of Cyprus (RoC) and supported by many European states. Yet, given the fact that it has a stable political and economic system,

including a centralised and effective government, public administration, a multi-party political system and a working economy and also effective control of the territories they claim, TRNC is considered a contested state that displays a high degree of internal sovereignty (Bouris & Kyris, 2018, p. 759).

Although the TRNC has worked 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. Despite the fact that a common solution has yet to be reached, EU involvement and the dimension of EU membership<sup>10</sup> has altered the political and national dynamics in the TRNC (Kyris 2015). 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, civil society and its political leadership (Bouris and Kyris, 2018).

### ***Fractured Citizenship in the Island State***

Since the establishment of the RoC, 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, p. 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 RoC on 15 August 1960. Similarly, the constitution of the TRNC provides for an ethno-religious-based nationality and citizenship to a large extent reproducing the provisions

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<sup>10</sup> When the RoC 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).

of the RoC (Dodd cited in Trimikliniotis, 2010, p. 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 Constituent Assembly of the TRNC, 1983). The key principles of citizenship were reaffirmed in the TRNC Citizenship Law No. 25/1993 (The Turkish Republic of Northern Cyprus, 1993) adopted in 1993.

There are three key citizenship related issues in the TRNC. First, TRNC citizenship is not recognised beyond Turkey. Although its passports can be used for travel to 5 more countries - Australia, France, Pakistan, UK and US, pre-arrival visas are required for everywhere apart from Turkey.<sup>11</sup> Importantly, the biggest challenge to 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 RoC 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) RoC were more in demand than the local, unrecognised ones. The TRNC authorities, in turn, responded with immediate measures threatening to confiscate RoC 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 RoC 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 RoC, while 83,372 have acquired identity cards and 54,595 passports (the

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<sup>11</sup> TRNC London Representative Office, personal communication, 12 December 2017.

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, pp. 408-9). It is estimated that some 100,000 Turkish Cypriots have acquired RoC passports. In many ways, this undermined TRNC citizenship and statehood. 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, p. 16).

The second issue, and probably the most complex, is that of Turkish settlers in the TRNC. Already in 1975, the 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 labour shortages and to build a viable economy (Cirakli, 2016, p. 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 (Cirakli, 2016, p. 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 of 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 RoC 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 RoC. 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 naturalised) could have become citizens of the

United Cyprus Republic and thus of the EU (Skoutaris, 2011).

Moreover, within the 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, pp. 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 centre-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, p. 137). In particular, the number of people acquiring TRNC citizenship through 'exceptional naturalisation' tends to soar under the centre-right governments and before elections.

However, a new Permanent Residence Permit Act 51/2015 (TRNC Assembly, 2015) was adopted in 2015 that 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 pressure, 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).

The TRNC has developed explicit provisions for ‘exceptional naturalisation’. 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 RoC, which is known for its flexible investor citizenship provisions (Džankić, 2015, pp. 8-10).

Third, the accession of the RoC 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 liberalisation mechanisms, in the case of Cyprus, EU citizenship has been utilised as an instrument to integrate the two communities and the island’s fractured citizenship. Given the fact that the RoC continues to recognise, 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 RoC, 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 RoC

citizenship and by implication also their EU citizenship, naturalised TRNC citizens and second (or even third) generation Turkish-Cypriots of Turkish origin this still remain in a legal limbo when it comes to their citizenship status and rights.

Contested statehood and limited international recognition put multiple insurmountable barriers in TRNC's relations with the EU. TRNC's low degree of external sovereignty and recognition has however enhanced the role of local technocrats and civil society in managing EU affairs. This is an example of 'how the lack of external sovereignty has mediated the process of Europeanisation in the form of changing domestic power distribution towards an empowered civil society as an alternative interlocutor with Brussels' (Bouris & Kyris, 2018, p. 761). However, TRNC's interaction with the EU has been very limited compared to Kosovo. Above all, EU accession of RoC, which continues to take an uncompromising stance towards any form of external engagement with Turkish Cypriot officials, has limited TRNC interaction with the EU to a bare minimum required in the context of ongoing reunification efforts (Ker-Lindsay, 2018, p. 6).

In sum, despite displaying a high degree of internal sovereignty, TRNC's lack of wider international recognition of its statehood and continuous 'stigmatisation' (Ker-Lindsay, 2018) has hindered its citizenship regime recognition. Yet, given the wider citizenship constellations that involve TRNC, Turkey, RoC and the EU, citizenship gained enormous relevance mainly as a pre-condition for access to the RoC (and therefore EU) citizenship and/or that of Turkey. Consequently, while the TRNC remains in international limbo and isolation, 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.

## **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, p. 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 contested states. 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.

Despite a rapid growth in the recent years, the contested states literature has neglected the impact of limited/contested sovereignty on citizenship in contested states. This article has addressed this gap in the literature through a comparative discussion that introduces the concept of liminality to analyse the link between contested statehood and citizenship. The two cases analysed here display different degrees and forms of contestation and, consequently, different levels of impediment of their (claimed) citizens' rights. While Kosovo has reached high levels of international engagement and consequently increased the value of their citizenship, the TRNC has adopted a more flexible attitude allowing their respective citizens to acquire the citizenship of the parent state (the RoC). Since the RoC is an EU member, these policies also enabled access to EU citizenship. So, more than its citizenship regime's 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 contested states' residents with access to citizenship of confirmed states, including EU member states.

Looking at two different types of contested states, 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 contested states to use liminal spaces to perform their diplomatic hybrid practices such as closer cooperation with other states or the EU through ‘engagement without recognition’.

Additionally, an analysis of these contested states’ 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 contested state also ‘imitates’ its parent state (the RoC) when it comes to the practice of citizenship by investment.

Looking in detail at Kosovo and TRNC, the paper has 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 contested states 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 of other residents of contested states who are formally and/or informally stateless, the study highlights the crucial relevance of citizenship constellations, and the creative and flexible policies of some of these contested states that have ultimately provided their claimed citizens with meaningful status, rights and protection.

By the same token, the paper has shown some of the many ways in which liminality manifests itself in terms of citizenship. Due to the ambiguous status and nature of contested

states, their citizenship regimes, documentation and travel arrangements are often atypical, ambiguous, exceptional and liminal. To paraphrase Friedman (2017, p. 82), these atypical documents and evidentiary standards of citizenship both substantiate contested states' claims to sovereign standing and simultaneously undo those very claims through their ambiguity. In other words, 'where there are conflicting claims to sovereignty, there may be anomalous attribution of rights and obligations' (Grossman, 2001, p. 876).

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