ORIGINAL ARTICLE

The Islamic "State": sovereignty, territoriality and governance

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Abstract

In this paper, four elements of statehood will be used to assess the Islamic State's (*IS*'s) June 2014 claim of sovereignty, thereby raising important questions over its classification as a "non" state armed actor. As such, it seeks to contribute to a small, but growing, literature which attempts to look beyond *IS*'s virulent bellicosity and to consider the political institutions it established on their own terms—not as simply an extension of its prodigious messianic and eschatological diatribe or as an interstitial response to the failures of the Asad and Maliki regimes. In other words, rather than adding to the voluminous literature on the extent to which *IS* might be regarded an *Islamic* State, this paper considers to what degree it might have constituted an Islamic *State*.

Keywords Non-state armed actors · Iraq · Syria

> In my view, ISIS is fundamentally a state-building enterprise. Simply put, the Islamic State is, or is on the verge of becoming, what it claims to be: a state.
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Introduction

Over the last two decades, there has been a growing emphasis on the diversity of non-state armed actors (NSAAs). Studies have focused on the great variance of different forms these can take (Krause and Milliken 2009). Alongside national liberation and secessionist movements, categories such as guerrilla bands, terrorist groups, warlords and mercenaries (Mulaj 2010, 3–4) are now looked at alongside criminal businesses and urban gangs (Aydınlı 2016) as well as terrorist organisations, terrorist networks, paramilitaries, rebels, political movements and insurgents (Ezrow 2017). Within explanatory accounts of their origins, methods and objectives, three key emphases are apparent. The first is a focus on motive. Commonly, this is presented in terms of generalizable, rationalist models of strategy or acquisition based either on political grievance or entrepreneurial opportunism (Krause and Milliken 2009, 206). Alternatively, NSAAs are considered less "transactional" and more "transcendental". These may be driven by "ethno-nationalism" if their aspirations seem territorially bound (Oktav, Dal and Kurşun 2018, 4), while a commitment to internationalist causes, such as the global religious drivers often ascribed to NSAAs in the Middle East, has led some to argue that their political projects may be '"in, but not of", the local area in which they try to establish themselves' (Lia 2015, 36). A second emphasis focuses on NSAAs' destructive violence, even though states' responses generally claim more lives. Growing calls from security officials to elevate the dangers they pose to that of hostile governments during the troubled occupations of Afghanistan and Iraq (Shultz, Farah and Lochard's paper is an early example here (2004)) have framed some groups "as so threatening and illegitimate that they must be eliminated by any means necessary" (Herring 2010, 181).

This tends to cloud the distinctions between different types of actor, leading to a third, often-arbitrary emphasis on selectively downplaying the potential institution building capacity of NSAAs.[1] Following the problematic logic of "defining something primarily on the basis of it *not* being something else" (Aydınlı 2015, 427 (emphasis in original)), they are frequently presented as a regressive form of turmoil emerging from the failure of existing social structures (Yeşiltaş and Kardaş 2018). Supported out of "sheer frustration with the state's incapacity to deliver security" rather than on the basis of any alternative political agenda (Davis 2009, 234), they are often understood as primarily "seek[ing] to perpetuate and intensify this weakness" and not as potential institution builders themselves (Williams 2008, 5). The areas in which they operate are therefore commonly seen as nothing more than "islands of international disorder" (Stanislawski 2008, 366)—or, as James C. Scott puts it, "exemplars of rudeness, disorder, and barbarity against which the civility, order, and sophistication of the center could be gauged" (1998, 187).

For some, though, the fact that the territory controlled by NSAAs does not generally exemplify all the qualities of a fully-fledged state is not a reason to

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[1] Klejda Mulaj, for example, offers no rationale for categorising the Irish Republican Army as a "national liberation movement", but the Taliban as an "insurgent guerrilla band", other than to acknowledge that her typology "does not have clear-cut boundaries" (2010, 3–4).

ignore the attributes of statehood that many do possess. The result has been the emergence of a growing literature on the ways in which such regimes combine "formal" aspects of governance with customary, patrimonial and paramilitary institutions (see studies of Afghanistan, Somaliland and South Sudan by Wardak and Hamidzada (2012), Renders and Terlinden (2010) and Podder (2014) respectively). In this way, NSAAs are said to "cohabit, co-distribute, and co-deliver public goods and services in what has been described as hybrid or non-Weberian/non-Westphalian political formations" (Mehmetcik and Kurşun 2018, 55). They may be (partially) co-opted by the state (Reno 2010) or develop their own parallel structures of autonomy, representation and influence (Aydınlı 2015, 428–439). Either way, "such territories represent alternative or contested sources of control, rather than its complete absence" (Caspersen 2012, 103–104). They are, in other words, not ungoverned, but "differently governed spaces" (Williams 2008, 6).

Could NSAAs, at least in principle, be regarded as potentially sovereign authorities then? For those that consider this to be a "specific form of legitimization whose reality consists in its being accepted by relevant audiences [sic]", it would seem unlikely–at least in the short-term (although the world is replete with recognised governments which emerged from, or partly absorbed, hitherto vilified para-military forces) (Closson 2011, 63). This status-creating, or "constitutive", assessment of a territory's potential statehood has, however, been heavily criticised. Stefan Talmon, for instance, describes it as "an outdated, positivist view of international law as a purely consensual system" (2004, 102) which, as Raul Toomla notes, forecloses any analysis of the extent to which the political institutions created by actors outside the world's existing regime structure might possess sovereign attributes (2014, 25–28). An alternative "declaratory" approach, on the other hand, proposes a status-confirming evaluation of a territory's characteristics based on measurable variables regardless of international recognition—thereby raising the possibility of entities such as *quasi* (Jackson 1990), de facto (Pegg 1998) or *contested* (Geldenhuys 2009) states emerging from separatist and/or armed contestation. The conclusion is, in other words, that, although these political structures may suffer from deficiencies in substance and/or legitimacy, it remains possible to analyse them from the perspective of potential statehood.

An early attempt to do this can be found in Georg Jellinek's *Allgemeine Staatslehre* of 1900 in which he argued that a state could be said to exist "if a *population*, on a certain *territory*, is organized under an effective *public authority*" (Talmon 2004, 109–110, emphases in original). While these three elements remain the bedrock of contemporary declaratory approaches to issues of contested statehood (see the Badinter Arbitration Committee's judgement on the former Yugoslavia in 1991 for instance (Pellet 1992, 182)), the final criterion is frequently divided into inward and outward looking forms. In other words and as Crawford makes clear, states must exercise both domestic and foreign policy independently (2007, 62). So, while there remains "no universal international agreement pointing out conditions necessary to be fulfilled" by a state, the most commonly cited formulation in this regard has become the four elements of the 1933 Montevideo Convention on the Rights and Duties of States: (a) a permanent

population; (b) a defined territory; (c) a government; and (d) a capacity to enter into relations with other States (Potyrala 2017, 108).

In terms of the first element, the Convention does not specify a minimum number of inhabitants and there are ongoing debates about what constitutes living together with quite a large literature on itinerancy, communal identity, the so-called "genuine link" doctrine and what "permanent" might actually mean (Caspersen 2012, 5).[2] The population must, however, have the goal and purpose of being inhabitants of a specific territory permanently. Fleeing residence for work or asylum with the underlying intention of imminent departure is generally excluded, but, as the International Court of Justice's decision regarding Western Sahara makes clear, itinerary or a nomadic lifestyle does not negate "the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory" (1975, 68).

The second element is the presence of a defined territory. While the United Nations made clear in 1948 that "one cannot contemplate a State as a kind of disembodied spirit", there is neither a preclusion due to size (Nauru is under 21 square kilometres) nor a requirement that there must be fixed and consensually agreed upon boundaries (cited in Bishai 2007, 62). The sovereignty of the Albanian government was, for example, recognised by the League of Nations in 1920 even though the preceding Paris Peace Conference had divided its territory between Italy, Greece and Yugoslavia and it remained occupied by the former two claimants (the latter subsequently invaded the north of the country and established the independent Mirdita Republic) (Zametica 2006, 207).

The third element relates to the extent to which a political elite is able to exert its authority over the territory it purports to control. This has been extremely varied, with many newly-independent states successfully gaining international recognition despite a questionable popular mandate and very limited infra-structural capacities. For example, the Belgian Congo was, as James Crawford notes, granted independence in 1960 despite (1) its administration and armed forces being dominated by expatriates, most of whom had to be subsequently rescued through military action (2) the activities of a powerful secessionist movement that quickly resulted in civil war (3) the presence of two irreconcilable factions within the indigenous political elite—both of which claimed to represent the legitimate government (4) an acute financial crisis necessitating immediate humanitarian action and ongoing aid support (5) a general lack of public order ultimately leading the United Nations to dispatch a peacekeeping force and (6) the continued presence of foreign militia presenting a chronic obstacle to the institutionalisation of government authority (2007, 56–57).

Finally, the Convention holds that states must be able to enter into relations with other states. The criterion does not specify what the content of these relations should be, but the sovereign entity must be able to act autonomously—even if the results of these efforts are of little influence. It cannot, in other words, derive its authority to act from another state. In this sense, then, it is not the existence or absence of relations that is definitive here, but the capacity and will to act. As the American

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[2] The Republic of Nauru was, for instance, granted independence in 1968 with a population of fewer than 7000 individuals (Republic of Nauru 2011, 7).

Law Institute puts it, "an entity is not a State unless it has competence, within its own constitutional system, to conduct international relations with other states, as well as the political, technical, and financial capabilities to do so" (cited in Carter, Weiner and Hollis 2018, 451). Assessing these is open to some question, but some commentators argue that the criterion may be met even if it is an "opinion not necessarily shared by other states" (Pegg 1998, 27). While the fact that most of the world chooses to recognise the territorial integrity of Somalia may have inhibited Somaliland's attempts to establish its own foreign policy, for instance, it has not limited the latter's *capacity* to enter into relations with other states (Lalos 2011, 806).

In this paper, each of these four elements of statehood will be used to assess the Islamic State's (*IS*'s) June 2014 claim of sovereignty, thereby raising important questions over its classification as a "non" state armed actor. As such, it seeks to contribute to a small, but growing, literature which attempts to look beyond *IS*'s virulent bellicosity and to consider the political institutions it established on their own terms—not as simply an extension of its prodigious messianic and eschatological diatribe or as an interstitial response to the failures of the Asad and Maliki regimes. In other words, in focussing on the prosaic and temporal, rather than on the discursive or the ideological, it seeks to move beyond the literature on the *Islamic* State (for the contours of this debate, see Jacoby 2019) and considers to what degree it might have constituted an Islamic *State*.

A permanent population

The people who lived in the territory at the heart of the Caliphate are part of one of the oldest civilisations on earth. Around 2310 BC, the Akkadians, believed to have been based in what is now Anbar province, developed sufficient surplus wealth from alluvial agriculture on the banks of the Euphrates to dominate neighbouring Sumer and ultimately much of the region, giving rise to the world's first imperial state (Mann 2012, 131). Regularly invaded since, most formatively as a battleground between Byzantine, Persian and Arab forces during the first Christian millennium, the newly founded city of Baghdad emerged, from 762 onwards, as the metropolitan centre of the Abbasid Caliphate, administering a swath of territory stretching from Morocco to India. Over the next 500 years, amid unprecedented advances in science, technology, philosophy and art, its administrators built on the fundaments of Akkadian and Roman statecraft to establish a loose, tributary mode of governance which "included an acknowledgment that the ruler be made aware and reminded of his obligations to rule according to religious authority with a commitment to justice" (Milton-Edwards 2006, 39).

First and foremost, then, *IS*'s resurrection of the Caliphate conveyed a message of stability, righteousness and, most importantly, anti-colonialism. What was important here was not an evocation of an Abbasid "golden age", but an affirmation of the organisation's ancient sovereign connection to the people of its territorial heartland. Its leader, Ibrahim al-Badri from Samarra, took the name Abubakr al-Baghdadi as his *nom de guerre*, for instance, as a joint reference to the prophet's immediate successor and to Iraq's ancient imperial capital (Hashem 2015). His choice of

headquarters might also not simply have been driven by battlefield expediency, but by a symbolic association with the famous Caliph Harun ar-Rashid who moved his administration to Raqqa in 796 (Ford 2016). References to Abbasid history were, in this sense, deployed to underline, firstly, the organic position of *IS* within the population it controls and, secondly, its military capacity to resist foreign encroachment. For example, its classical scholar of choice, the Damascene professor, Taqi ad-Din Ibn Taymiyyah (born in 1263 within 100 miles of Raqqa) was principally deployed not as a theologian, but in order to draw parallels between *IS*'s own struggle and his defence of Abbasid society against the threat of Ikhanate and European invaders, as well as the domestic threat of local Shi'a leaders (some of whom began co-operating with former from 1271 onwards) (Jacoby 2019, 41).

Repeatedly citing Ibn Taymiyyah's treatises on the state's responsibility to develop new legal maxims to "protect the public interest and …control disturbances and lawlessness" (Johansen 2002, 186), *IS*'s assumption of the Caliphate was thus accompanied by a detailed legislative programme. This would, it suggested, form a social contract with its residents that could project the kind of collective will to live together set out in the Montevideo Convention. It distributed numerous constitutional documents setting out the rights of responsibilities of the citizenry—amounting to 6.3 million Iraqis and 3.3 million Syrians in 2014 and still totalling more than 2.5 million (double that of Cyprus) in early 2017 (Jones et al. 2017, 100; Dobbins and Jones 2017, 55). Just as similar publications from its predecessor, the Islamic State in Iraq (*ISI*), envisaged a loose network of "pseudo-feudal allegiances from subject to Emir", these attempted to mark *IS* out as fundamentally different from other, less politically ambitious NSAAs by promising to return its subjects' "dignity, might, rights, and leadership" through the incorporation of semi-autonomous local elites (Fishman 2007, 3; see also *Dabiq*, Issue One). As al-Baghdadi underlined, in a paraphrase of Abubakr as-Siddiqi's famous words following the death of the prophet, "I was appointed to rule you but I am not the best among you… If you see me acting truly, then follow me. If you see me acting falsely, then advise and guide me…. If I disobey God, then do not obey me" (quoted and translated in Ford 2016, 18).

This evoked the traditional statecraft of the Caliphate at its zenith. As the great Abbasid scholar al-Mawardi observed, its sovereignty does not rest on piety or Islamic knowledge, but simply on the incumbent's ability protect the well-being of the people (Lambton 1981). The result has been a separation of powers between the Caliph's military/administrative authority and a semi-independent class of clerics, intellectuals and theologians (Hassan 2016, 228–9). Grounded upon the *political* need for a home-grown alternative to Western and Iranian neo-colonialism, the social contract implied by al-Baghdadi's resurrection of the Caliphate was thus more temporal, pragmatic and organisational than divine, ecclesiastical and spiritual. Lacking the support of any significant jurists, it is therefore unsurprising that *IS* was led by "former Baathist army officers, rather than ideologues" (Gerges 2014, 342). Its flagship publication, *Dabiq*, for instance, generally stressed the popular accountability of the Caliph's position rather than its theological validity, choosing to introduce al-Baghdadi's inauguration with a lengthy article on the qualities of *imamah* (political leadership). As Mahmood Mamdani points out, such an instrumental use

of faith references tends to work in favour of the temporal, "making it easier to redefine the core content of religion and subordinate it to a political project" (2005, 153). In this way, social identities can be used to bring "people into the political arena [in order] to increase political participation through mass mobilization" and present a stronger connection to the associational lives of the target audience (Shaikh 2007, 100).

In geo-political terms, then, the trans-national narrative of a worldwide Caliphate usefully intensified recruitment pressures on those considering travelling to the putative state and marks a powerful counterpoint to Iran's international doctrine of *Wilayat al-Faqih* (or Guardianship of the Jurists), through which it claims to have authority over the region's Shi'a communities. In both areas, though, *IS* was careful to connect international dynamics to its localised sovereign claim over its citizens, as numerous eye-witness accounts from defectors confirmed (Speckhard and Yayla 2015). Emigration, the dominant theme of *Dabiq*'s third edition, is thus consistently advanced as preferable to fighting the West from within. As Fawaz Gerges observes, its prime objective was to attract "those with prized technical skills, such as doctors and engineers, to travel to the caliphate and help defend it and rebuild it", rather than simply to enlist foot soldiers (2016, 228). Indeed, having learned the lessons of the *ISI*'s previous failure in Anbar, *IS* tried to house its foreign fighters away from local people who continue to dominate the top administrative positions (Caris and Reynolds 2014, 23–24). Similarly, its vituperation of the "safawi" (a pejorative term for Iran) was primarily couched in terms of an existential threat to these Sunni-Arab separatist aspirations, to which only the Caliphate could adequately respond and of which only the Caliphate was truly representative (Mahood and Rane 2017, 27).

In all, it is clear that *IS*'s claim to preside over a permanent population was carefully packaged. Firstly, it aimed to reassure already affiliated Sunni-Arab tribes that their interests would be represented and, secondly, it sent a message to other local leaders that the Caliphate intends to be closer to their concerns than both competing NSAAs and the national governments of Damascus and Baghdad (Günther and Kaden 2016, 8–10). Astutely appointing a Saudi (i.e. ex-patriate) national as Minister of Tribal Affairs, *IS* was thus able to manage the plurality of community life by skilfully mediating between hitherto recalcitrant groups and effecting popular reconciliations, including regular appeals to former armed forces personnel to join the new administration (Hosken 2015, 116–119). This succeeded in out-manoeuvring internal threats to al-Baghdadi's own leadership position, thereby going some way towards resolving one of the most common problems for NSAAs the world over—how to convert military success into a sustainable political direction that might eventually form a basis for a claim of sovereignty (Solomon 2016, 19).

A defined territory

From its very inception, the Islamic State was fundamentally, and perhaps principally, driven by a clear territorial claim. Its state-building project was, at its ideological core, a territorialisation of Osama bin Laden and Ayman adh-Dhawahiri's anti-colonial rhetoric. While their "description of the jihad as a metaphysical struggle

between Christianity, Judaism and Islam [was primarily] …an effort to define the terms of global social relations outside the language of state and citizenship" (Devji 2005, 76), *IS* located its struggle firmly within the terms of local Sunni Arab identity and the need for a secure homeland. They argued that, firstly, the arrival of the "far-enemy" within the heart of Muslim civilisation necessitated a more territorialised approach and, secondly, that the fragmentation of the Iraqi, and then Syrian, regimes offered an epochal opportunity to establish a practical example of these redefined social relations—the resurrection of a "sacred state" in the tradition of the Khmer Rouge's Cambodia, as David Guinn puts it (2011, 102).

From the 2003 invasion onwards then, *IS*'s progenitor networks made up a key element of separatist thinking within the otherwise largely national response to the occupation. Abu Mus'ab az-Zarqawi's *Jama'at al-Tawhid w'al Jihad* (The Party of Monotheism and Struggle), for instance, was, by the end of the following year, thought to be responsible for almost half of all suicide bombings, despite only constituting around 14 per cent of the insurgency's overall paramilitary capacity (Weiss and Hassan 2015, 28). The effectiveness of these attracted considerable local support and, in order to emphasise the organisation's growing Iraqi character, az-Zarqawi adopted the name *Tanzim Qaidat al-Jihad fi Bilad ar-Rafidayn* in October 2004. Dubbed *Al-Qaeda in Iraq* by Western policy-makers still keen to link the 2001 attacks on New York and Washington to Baghdad, it actually meant *The Base of the Struggle in the Land of Two Rivers*. Referring to the predominantly Sunni Arab (although also highly mixed) region between the upper Euphrates and Tigris waterways, this choice of title was a direct expression of a separatist territorial claim.

Following the elections of January 2005, which—having been widely boycotted by Sunni Arabs—institutionalised the political power of the Shi'a dominated *United Iraqi Alliance* party, secessionist pressures grew significantly (Visser 2010). This was especially true of the large, sparsely populated governorate of Anbar and its two biggest cities, Ramadi and Fallujah, which, "with a network of sympathetic mosques and safe-houses along the Euphrates river valley" became "a crucial portal through which to infiltrate Iraq from either Syria or Jordan" (Phillips 2009, 71–72). By August 2005, the *Tanzim* and others had become confident enough to establish an independent emirate headquartered in the provincial Anbari town of al-Qa'im, on the upper Euphrates close to the Syrian border (Sengupta 2005). The following year, having gone through a series of mergers with other resistance groups, it relaunched itself as an explicit alternative to the Baghdad regime, *al-Islamiyyah fi al-Iraq* (the Islamic State of Iraq, *ISI*) (Whiteside 2017, 6). Now under the leadership of Abu Umar al-Baghdadi (believed to have been a former police officer from the upper-Euphrates town of Haditha) following the death of az-Zarqawi earlier that year, it had, by September 2006, "become the province's most significant political force" (Marine Corps intelligence officer, Pete Devlin, cited in Ricks 2006).

Its formation was accompanied by a detailed treatise entitled, *Informing the People about the Birth of the Islamic State of Iraq*. This 'established an emir and a cabinet of officials to administer the "state", claimed that Muslims around the world had an obligation to emigrate to within its borders, and demanded the allegiance of all Sunnis in western Iraq' (Fishman 2008, 49). While its authors accepted that such an assertion of sovereignty was limited while the Iraqi regime

continued to operate militarily within what they saw as Sunni-Arab land, they argued that this was no less than many other internationally recognised regimes that cannot fully defend their borders, nor exert bureaucratic control over the entirety of the territory they claim to govern (Hosken 2015, 116–119). Indeed, although circumscribed by an increase in military deployment and the successful co-option of local elites during the Coalition's so-called "surge", its structure of ministries and local emirs emerged with renewed vigour following the withdrawal of United States forces, the collapse of public order in Syria and the growing sectarianism of the al-Maliki government. Amid a reinvigoration of separatist thinking within Iraq's political leadership as two other predominantly Sunni Arab governorates, Saladin and Diyala, publicly declared their intention to secede, *ISI* was able to extend its authority upstream along the Euphrates river during 2012, enlarging its presence in Syria and adding *wa ash-Sham* to its name the following year (Sowell 2014). Henceforth known as *ad-Dawlah al-Islamiyah* (the Islamic State, *IS*) with Abubakr al-Baghdadi (*ISI* leader since the death of Abu Umar in 2010) as its Caliph, it had taken control of more than 100,000 square kilometres of both countries and divided them into 16 administrative divisions by the end of 2014 (Jones et al. 2017, 84–100).

Although its leadership remained keen to project an international presence (discussed further below), the central objective of the Caliphate continued to be to secure and retain territory within its "two rivers" heartland. In Syria, for instance, "its goal seems to be not to defeat Assad but to consolidate its own power in rebel-held areas"—where, in other words, existing state structures were weak and the military capacity to obstruct its forces was limited (Ibrahim 2014, 34). So, despite being overwhelmingly led by Iraqi nationals, *IS* chose the Syrian town of Raqqa on the north bank of the upper-Euphrates as its capital. Although its overall area probably halved over the following two years or so as an estimated 50,000 of its operatives were killed by a combined force of 39 countries, *IS* still retained control over much of this region of Syria for the longest (Sharman 2016). Even by early 2017, it amounted to 30,000 square kilometres or 16 per cent of the whole country (an area approximately the size of Belgium) (Dobbins and Jones 2017, 55).

In all then, *IS* pursued its territorial ambitions with a combination of localisation and internationalisation which as, William Zartman notes, is typical of NSAAs with a separatist agenda (1995). Its claim to sovereignty was based on a refutation of post-colonial geo-politics legitimised with discourses on the end of the Sykes-Picot order and the moral duty to reclaim "lands that were unlawfully expropriated from Muslims by Crusaders and colonial powers" (Revkin 2016, 29). The establishment of the Caliphate in 2014 therefore promised to "trample the idol of nationalism" and was accompanied by the release of a video showing the demolition of the sand berm marking the border between Iraq and Syria (see Issue One of *Dabiq*). "By viewing territory not only as a shelter but also an opportunity to engage in administrative activities" then, *IS* aimed to demonstrate that its geopolitical claims went far "beyond the idea of survival and extend[ed] all the way to proto-statehood" (Oktav, Dal and Kurşun 2018, 7).

Government

At the heart of this was an attempt "to supply what a wide community needs, a degree of stability, ideational certainty, and political mobilisation" (Dodge 2014, 5). Crucial was the institutionalisation of functional administrative structures. Hassan Abu Hanieh and Mohammad Abu Rumman describe a nine-part pyramidal format based on Abbasid imperial organisation. The top two tiers were the executive—the Caliph and his cabinet, upon whose support he relied (March and Revkin 2015).[3] Beneath these was a legislative council made up leading civil society figures. Fourthly, and somewhat traversing the upper levels, was a semi-independent religious commission consisting of senior lawyers and intellectuals. Four ministries—finance, security, war and communications—made up the bulk of the civil service. Finally, the governors of the Caliphate's 16 provincial divisions implemented the decisions of the central administration through a network of emirs operating at a highly localised level (Abu Hanieh and Abu Rumman 2015, 268–283). This "bureaucratic, systematized approach to maintaining power" gave rise to an immense amount of documentation providing observers with a thorough understanding of *IS*'s modus operandi (Shapiro and Jung 2014).

Four key aspects of government became apparent. The first was the establishment and maintenance of a functional judiciary. As Mara Revkin noted at the time, "when the Islamic state captures a new city, one of its first moves is to open a court to enforce law and order. Judges play an almost ambassadorial role by communicating Islamic State's policy to the population and listening to local concerns and grievances" (2016, 30). They also received depositions from plaintiffs and evidence from the two branches of the (male and female) police service—one concerned with crime, the other with public morals. A range of sentences were issued, from corporal and capital punishments (undertaken in public) to fines and custodial detention (Revkin 2016, 25–27). While the treatment of prisoners appears to have varied greatly depending on the penal institution and nature of the offence, judgments were reported to be more uniform and, with generous salaries available for most official roles, less corruptible than in territories controlled by other NSAAs (Cais and Reynolds 2014, 18–9). Such a vigorous and uncompromising approach established "security protections that… led to calm in consolidated territory", thereby extending *IS*'s support base amongst the rural poor to urban residents hitherto terrorised by chaos and war (Mecham 2015a, 22; Gerges 2016, 199).

The second key area of government for the Caliphate was the management of economic activity. With 2014 estimates ranging from $2–3billion of annual income, it controlled a gross domestic product greater than that of countries like Belize or Central African Republic (Salama 206, 48). Although much of this originated in the battlefield dynamics of looting and asset seizure, *IS* also succeeded in "creat[ing] a self-sufficient economic model based on its territorial control" (Oktav, Dal and

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[3] "The ISIS legal system has purported to establish a relationship between government and the people that is based on accountability and Islamic justice, according to which the Caliph himself can be removed by the *Shura* Council if he fails to fill his obligations" (March and Revkin 2015).

Kurşun 2018, 11). For instance, it imposed an effective regime regulating property rights, separating war-spoils eligible for redistribution from legitimately held private wealth and placing infra-structural amenities (such as food storage, oil extraction and power generation) under state control (Revkin 2014, 19–20). "In its quest to establish administrative and civil control over its conquered territory", *IS* also "implemented taxes on a variety of commercial activities" (Brisard and Martinez 2014, 4). These included deductions from salaries still being paid by the Syrian and Iraqi states to its employees, corporation taxes on telecommunication companies and road tolls. "Surprisingly professional", the system involved the issuing of receipts, the keeping of meticulous records and, from mid-2015 onwards, transactions in *IS*'s own gold currency (Lister 2014, 24; Abu Hanieh and Abu Rumman 2015, 277). By then, some estimates were putting annual taxation returns at over \$600million, six times that of its estimated income from oil and greater than the revenues of the Gambia, Tonga and St Lucia combined (Almukhtar 2015).

While, as Charles Tilly famously noted, there is a fine line between the protection racquets of organised crime and the proceeds of state-making, the Caliphate was more complex than the kind of extraction security syndicate that might typify NSAAs more broadly.[4] In a third key area of governance, it focussed on the provision of public goods. At its crudest, this involved the distribution of cash to secure "strategic surrenders and pledges of allegiance", but the bulk of its welfare social expenditure is thought to have gone into "mundane state-like behaviours"—food subsidies, maintaining free healthcare facilities, paying pensions, restoring postal and public transit services, opening soup kitchens and schools, street lighting and other public goods (Lister 2014, 28; Mecham 2015a; Lister 2015, 41). It also proved able to manage large utilities, such as the Kuweiris thermal power plant near Aleppo and the Tabqa dam which still had half of its eight hydro-electric turbines operational when Syrian Democratic Forces began military operations to retake it in early 2017 (Caris and Reynolds 2014, 22). This ensured that many residents experienced "a noticeable increase in services such as electricity" once incorporated into the Caliphate (Gerges 2016, 198).

As part of a fourth key area of government, it centralised broadcasting systems within the territory it controlled—*IS*'s Communications Ministry assiduously presented life under its auspices as ordinary, routine and improving. Having realised in the days of *ISI* that achieving its separatist agenda was "a war of ideologies as much as it [wa]s a physical war", its leadership put in place a complex structure of multilingual media outlets combining considerable productivity with fastidious quality control (Stern and Berger 2015, 147). Much like government information services elsewhere, war reporting included the use of embedded journalists, such as the captive British photographer John Cantlie, and carefully constructed narratives emphasising local endeavour and enemy disingenuousness. A glossy magazine (initially

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[4] "Since governments themselves commonly simulate, stimulate, or even fabricate threats of external war and since the repressive and extractive activities of governments often constitute the largest current threats to the livelihoods of their own citizens, many governments operate in essentially the same ways as racketeers" (Tilly 1985, 171).

entitled *Dabiq* and later renamed *Rumiyah*) offering political editorials, current affairs and recruitment drives appeared every few weeks in faultless English (as well as Spanish, German and Russian) alongside mass messaging from each of the Caliphate's 16 provincial news agencies.[5] Much of the high-resolution imagery these showcased was subsequently sold to major international press agencies searching for better quality alternatives to the blurry footage on offer elsewhere (Günther and Kaden 2016, 17). Such was the Caliphate's capability in this regard that the United States recruited former *Time* magazine editor, Richard Stengel, to manage one of Operation Inherent Resolve's five strategic objectives—"exposing ISIL/Daesh's true nature"—in December 2014 (McGurk 2014).

Capacity to enter into relations with other states

Neither hosting diplomatic missions nor maintaining embassies overseas, *IS* appeared not to be able to meet this criterion. As Quinn Mecham concluded at the time, "the Islamic State acts least like a state when it comes to international affairs" (2015a, 22). However, while it is true that its progress in this area was less advanced than the other three of Montevideo's stipulations, care needs to be taken not to confuse a consequence of statehood (i.e. a functional place within the international system) with a prerequisite of statehood (the actual focus of the 1933 Convention). It is, in other words, the *capacity* to enter into relations which needs to be a basis for evaluation, not the level of reciprocity achieved. For Alina Kaczorowska-Ireland, "such capacity derives from the control a government exercises over a given territory, which in turn is based on the actual independence of that State" (2015, 176). The European Court of Human Rights' 2002 decision not to recognise the Turkish Republic of Northern Cyprus was, for instance, not because the territory had been acquired by force nor that it was claimed on the basis of an exclusive ethnic/cultural identity (two factors that might be relevant to *IS*), but a result of the fact that its "continuous existence depends on foreign support" (Kaczorowska-Ireland 2015, 178). The Caliphate was not so encumbered. Far from being controlled from without, its *sui generis* combination of public relations know-how, overseas recruitment and international bellicosity gave rise to a sophisticated set of foreign policies aimed not only at retaining control over its territorial heartland, but also at "conducting outreach" programmes (as Aaron Zelin puts it) which projected its power abroad— *baqiya wa tatmaddad* (remaining and expanding) according to its motto (2015b, 25).

These took a number of forms. One was the capture of foreign nationals in order to open bargaining talks directly with overseas governments. This included both civilians and those who might be classed as combatants, such as the private military contractor Haruna Yukawa. For his and another Japanese citizen's return, *IS* demanded $200 million. Widely reported as ludicrously exorbitant, it was actually the precise amount that Tokyo had committed to Operation Inherent Resolve (Fifield

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[5] A survey of a single week's output revealed 123 media releases in six languages, 24 of which were videos (Zelin 2015a).

and Murphy 2015). Similar communications preceded the murder of James Foley in 2014 when *IS* claimed that it had "given many chances" to the State Department to negotiate his release "via cash transactions as other governments have accepted" or through "prisoner exchanges" (Callimachi 2014a). The same year, both the French and the Italian governments were widely reported to have paid ransoms—said to be \$18 million and \$7 million respectively—for the return of their citizens held by *IS* forces in Syria (McGrath 2015). Former captives later commented that "the kidnappers knew which countries would be the most amenable to their demands, and they created an order based on the ease with which they thought they could negotiate" (Callimachi 2014b). While Paris and Rome have consistently denied that such transactions took place, the Jordanian government did publicly agree to free an Iraqi prisoner, Sajida ar-Rishawi, who had been sentenced to death for her part in the 2005 Amman hotel bombings in exchange for the return of its pilot, Muadh al-Kasasbeh—the talks ultimately broke down and she was executed after the latter was murdered by *IS* in early 2015 (McCurry and Weaver 2015).

There have also been reports that *IS* has benefitted from the covert backing of other regional powers. A substantial proportion of its income, for instance, came from taxing diesel smuggling networks which appear to have been tacitly supported by state officials from its neighbours. Reports have even claimed that crude oil was openly transported from the Caliphate's directly operated wells to refineries such as Qoshtapa—30 kms from the Kurdistan Regional Government (KRG) capital, Erbil—in order to be processed for the global market (Salama 2016, 46). Facing an acute economic recession, the KRG's authorities were said to be "unwilling to shut them down because it would have to raise the price of gasoline" and therefore increase public sector salaries (Daragahi and Solomon 2014). Washington also believes that *IS* was assisted by Gulf States attempting to roll back Iranian influence. Although never openly acknowledged, a leaked memo from former Counselor to President Obama, John Podesta, accused Qatar and Saudi Arabia of "providing clandestine financial and logistic support to Isis and other radical groups in the region" (Stanley 2016). Indeed, the State Department had long suspected that members of the former's royal family had facilitated *IS* operations with documentation and funding through a former government advisor, Abd al-Rahman bin Umayr al-Nuaymi, who was classified as a Specially Designated Global Terrorist by the United States Treasury in December 2013 (Mendick 2014). According to Patrick Cockburn, a factor here might have been that *IS* "was blackmailing the Gulf states by threatening violence on their territory unless they paid up" (2016).

It is certainly true that the Caliphate dispatched operatives, or incited others, to attack overseas targets predominantly within the 39 states that supported military action in Syria and/or Iraq—of which both Qatar and Saudi Arabia were a part. While it is difficult to distinguish between centrally commanded missions and independent local cells seeking to connect themselves to the *IS* brand post-hoc, it appears that at least 17 of these (as far apart as Canada, Sweden, Iran and Indonesia) were targeted between 2014 and 2016. Many operations included violence against state officials or were undertaken at government locations which, coupled with accompanying messages specifically directed at their political leadership, suggested that *IS* saw itself as involved in war of self-defence against an adversarial international

alliance. This point was repeatedly underlined in the "military operations" section which appeared in the final four issues of *Dabiq*, published between November 2015 and July 2016. The 2016 Bastille Day killing of 86 people in Nice was, for instance, presented as a "response to the Islamic State's calls to target nations participating in the Crusader coalition fighting the Caliphate" (Issue 15, 43).

In many cases, this involved signing agreements with overseas NSAAs. Although mostly ignored by existing al-Qa'eda affiliates, *IS*'s attempt to build an effective counter-coalition was more than merely accepting the pledged allegiance of small, inconsequential cells. Instead, it particularly focused on organisations that were able to lay some claim to territorial control. Some proved short-lived, but others, like the incorporation of Boko Haram controlled Gwoza Local Government Area or a new province along Pakistan's north-west border in January 2015, involved pacts with paramilitary forces capable of holding substantial amounts of terrain. The latter, for instance, followed visits to Iraq from senior *Tehrik-i-Taliban* commanders who, later that year, took control of almost a third of Afghanistan's Nangarhar district (Shalizi 2015). By then, *IS* had announced an alliance with *Imarat Kavkaz*, another large insurgent network that has been fighting a separatist war against Russia in the north Caucasus since 2007. In these cases, it seems that the NSAAs it chose to partner "must have enough power to provide a viable military presence and ultimately a state-like representation in the area in which they operate" (Salama 2016, 33–4). As such, *IS* clearly did "play into international norms by directly challenging outside states, and therefore engage[d] directly in international relations, if in hostile ways" (Mecham 2015a, 22).

Conclusion

This paper has attempted to analyse *IS* on its own terms. Rather than focusing on the more established topics of its transactional qualities, its ideological proclivities or the destructiveness of its violence, it has considered its core claim—to be "*ad-Dawlah" al-Islamiya*, the Islamic "State". As such, it not only raises significant questions regarding how best to understand institution-building NSAAs more broadly (as Anicée Van Engeland has recently noted (2017, 75)), but also demonstrates the limitations of concluding that *IS* was "certainly not a state" simply on the grounds that it was "recognized by no government", as President Obama asserted in his national address of September 2014. Instead, in order to understand both how *IS* might compare to other NSAAs (particularly the "non-state" element of this analytical category) and how it related to its own citizens, it is vital to get beyond the "constitutive" idea that sovereign institutions can only appear as a result of international processes of legitimisation and status creation. After all, *IS*'s social provisions are far from unusual. Contrary to Chuck Hagel's claim that its combination of military and governmental capacity made it "like nothing we've seen before" (quoted

in Phillips 2015, 203), it is estimated that more than one-third of all insurgencies between 1945 and 2003 established healthcare and educational provisions (Stewart 2018).[6]

In order to assess these emergent forces of state formation, this paper has deployed the widely used and comprehensive Montevideo Convention. In terms of its first criterion, *IS* used what Charles Lister calls "a popular desire for a workable and stable form of Sunni [Arab] governance" within parts of Iraq and Syria to underline its claim to represent a permanent population (2015, 44). Its evocation of the Caliphate couched in a narrative of sovereign rights, representation and the restoration of local authority was more than mere atavism. It allowed *IS*'s leadership to connect its otherwise relatively unattractive theology to a logic of geo-political struggle against foreign encroachment (from both east and west). This helped to ameliorate the "in, but not of, the people" problem (set out at the start of this paper) that is common to NSAAs with highly transcendental political agenda.

Closely connected to this is the second of Montevideo's criteria—a defined territory. Although *IS* accepted neither the existing structure of the Middle East nor the notion of national determination, its vision of a trans-border, multi-ethnic homeland was firmly grounded on a sustained claim to the *jazirah* territory between the Euphrates and the Tigris. Predominantly led by Iraqis from this region and driven by a separatist logic not very different from other insurgent responses to foreign occupation, *IS* did not emerge in 2014 as suddenly it might have appeared. It gradually evolved as a territorialised form of resistance, slowly establishing both a military and social presence upstream of Fallujah following the catastrophic Coalition intervention there in 2004.

The form of governance *IS* developed within its territory (the third of Montevideo's criteria) "offered [its] civilians much of what nation-state systems do" (Lister 2014, 26). The four areas of municipal administration it focussed on—law and order, the regulation of the market, the provision of public goods and mass communication—were well institutionalised and, as Tim Arango observed, perhaps more efficiently managed than local people had been used to (2015). Indeed, Quinn Mecham calculates that, at the height of *IS*'s organisational acumen, it would have ranked as stronger than 16 fully recognised sovereign states on the Fragile States Index—including Syria and Iraq, as well as examples such as Chad, Guinea and Central African Republic which have not been home to recent civil wars (2015b). While these regimes do not commonly claim responsibility for mass casualty attacks on other countries as *IS* did, many have similarly parlous human rights records. This raises important questions over to the extent to which the territory *IS* controlled might be regarded as a "differently governed space" (as the current literature on the sovereignty claims of NSAAs frequently holds).

Given *IS*'s combination of domestic strength and international bellicosity, it is very likely that it was able to meet the fourth of Montevideo's criteria, the capacity

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[6] For a useful historicization of how the forces of proto-state formation may arise in opposition to the extractive pressures of imperial Powers—as well as how these logics of sovereign territoriality conflict with broader ecclesiastical narratives—see Spruyt (1994).

to enter into relations with other states. Numerous reports talk of its "indirect coop-eration" with the Assad regime, its shrewdness in trading hydrocarbons with its neighbours, its efforts to extort payments for the foreign citizens it captured and its attempts to establish and sponsor franchises overseas (Becker 2015, 95). *IS*, itself, also repeatedly called on other states to recognise its sovereignty. In a two-part article entitled "Paradigm Shift" its spokesman, John Cantlie, for instance, argued that, because *IS* "is a country—whether recognized by anyone or not"—it cannot be destroyed by air power alone and therefore "some kind of truce" will ultimately need to be reached (2015a, 67). Later that year, he warmly cited Johnathan Powell's call to pave the way for future talks by "establishing a basic conversation" with *IS*, reiterating its openness to a ceasefire and quoting Brigadier-General Mangum's sug-gestion that the West might be forced to "ultimately negotiate with it as a sovereign state" (2015b, 49).

Compliance with ethical standards

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