



**Institute  
of Global Affairs**

## **Working Paper Series - 7**

*Henry McLaughlin*

### **What Constitutes a State: A Case Study in Micronations**

---

#### **Abstract**

Questions regarding statehood in IR research are plentiful. But the question of micronations and their status in the international system are rarely, if ever discussed. Micronations are a small field that could potentially bring on major consequences and implications for international law and governance. Recognizing the potential consequences, this paper seeks to understand what constitutes a state, if micronations fulfill the criteria of statehood, and critically determine what factors are more or less important for full recognition in the international system. Using the case study of Sealand, off the coast of the United Kingdom, this paper determines that this micronation satisfies most of the essential requirements for statehood set out in the existing literature, yet will likely never be accepted into the current international political system due to it lacking the defining characteristic of formal states--the ability to project power.

#### **Introduction**

Micronations at first glance appear to be simply an amusing facet of

international law, yet upon further inspection reveal much about the history, recognition, and legality of established states. In order to explore the eccentric world of micronations, a short explanation of international law, and conventions of formal statehood is required. Nations are usually defined as a "a community of people composed of one or more nationalities and possessing a more or less defined territory and government" (Merriam-Webster). This definition however, is vague and unsatisfactory when applied to the international community. What comprises a satisfactory community, territory, or government? It is these questions, among many others, that have prompted many to question the very existence of a nation or a state. It "is an imagined political community - and imagined as both inherently limited and sovereign. It is imagined because the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion" (Anderson, 22). According to this view, nations and states are merely social constructions that arise out of necessity, invention, or a combination of the two. Supporting the constructivist argument is the apparent lack of formal nation-states in most of recorded human history, as "Antiquity was not acquainted with them; Egypt, China, or ancient Chaldea were in no way nations. They were herds led by a Son of the Sun or by a Son of Heaven. There were no Egyptian citizens, any more than there were Chinese citizens" (Renan). Even ancient Greek cities with a small sense of patriotism--in the modern understanding--were both limited in size and duration. Athenian democracy lasted less than any other form of political system at the time, and its overall influence continues to be debated today. Despite these realizations, states in one form or another control nearly all

inhabitable areas of Earth, and exert overwhelming control over the lives of the people living in their territory. And in that sense, whether nation-states are constructed or not is irrelevant. The 1933 Montevideo Convention on the Rights and Duties of States provides an internationally accepted framework of how a nation-state ought to be recognized as a state by others, "a permanent population; a defined territory; government; and [the] capacity to enter into relations with the other states" (Montevideo). The convention also recognized the sovereignty of states from interference both external and internal, as well as expounding upon the concept that states are to be treated as sole individuals in international law. The international system is set up traditionally to refer to nations as individuals in legal documentation and interstate organizations.

At this point it becomes important to note that while most states fulfill the above requirements, (territory, government, etc.) there exist other entities that are sovereign--and treated as such by the international system. An excellent example of a non-state state is the Sovereign Order of Malta, established to govern Jerusalem, later Rhodes, and finally Malta. Through many complicated diplomatic and military failures over the many centuries of its existence, the Order currently has no defined territory save for two buildings in Rome, Italy. After losing control of its final territorial possessions in Malta, one would expect the Order to be dissolved and the claims to sovereignty abandoned. And yet the order has continued formal diplomatic relations with 110 established nations to this day, and is considered an individual in international law. "Sovereignty is a complex notion, which international law, from the external point of view, contemplates, so to speak, negatively, having only in view independence

*vis-a-vis* other states. For this reason it is sufficient merely to require proof of the autonomy of the order in its relations with our State [Malta].”

(Farran, 226). Therefore, many believe that sovereignty need not exist positively, and can exist in relation to other states solely.

By understanding the definition of statehood and the existing entities who have sovereignty but not formal statehood, a clear pathway for micronations and their potential is created. Sealand is arguably the most successful micronation to date. For this reason, this paper will use a case study approach to analyze micronations. A case study analysis has been chosen in order to examine how states and potential states attempt to legitimize their place in the international system. Though there are several existing micronations, a quantitative approach was not chosen because the objective of this research was to understand how micronations attempt to utilize criteria of statehood to achieve legitimacy in the international system. A quantitative approach could possibly be used in future studies to analyze successes of micronations and against criteria of statehood like landmass, population, identity etc. but was, however, out of the scope of this paper’s analysis.

## **Literature Review**

The existing literature surrounding the formation and recognition of states is a vast well of information. This paper will draw extensively from established legal proceedings like the Montevideo convention, Federal Republic of Germany cases, and others as primary sources. The Convention signed in 1933 among the US and Latin American countries is seen by most as the universal criteria available to judge whether or not a state meets the

requirement of statehood. Regarding Sealand, there are few academic sources available, and all present will be utilized to the fullest. In particular, the work of Harry Hobbs and George Williams on micronations offers an incredible insight into what they call a "lacuna in the law." Their thorough analysis of micronations is an invaluable resource that constitutes some of the only academic sources on the topic. The work of Benedict Anderson provides a useful exploration into the origins of states, particularly the social and philosophical elements of their formation. Renan and Giglioli offer a similar account of what a nation actually is, providing the backbone of the criteria to evaluate the case study of Sealand.

### **Analysis**

Most micronations have interesting beginnings, usually stemming from a citizen upset with some regulation or law that decides to secede from the mother country and create a new one. These 'wannabe' states present little more than an inconvenience for the divorced country and act like touristic novelties, selling passports, currency, and other paraphernalia to bemused guests. Yet some of these states present legitimate legal issues for their original country or other states as they attempt to assert their sovereignty. One such nation is The Principality of Sealand.

On the 2nd of September, 1967, a new nation was born. Located some 7 miles offshore the United Kingdom, and outside national waters of three miles, a former anti-aircraft platform in the North Sea would become the setting for perhaps the most famous micronation. "Rough Towers was the first of originally 4 naval forts designed by G. Maunsell to protect the Thames Estuary. The forts consisted of 2 reinforced concrete towers, topped

with a steel platform. The whole fort was constructed on a reinforced concrete pontoon, which was floated into position and then sunk onto an unprepared seabed" (Dennis, 262). Founded by Roy Bates, an ex-major of the British Army, Sealand (as Rough Towers was renamed) has achieved nation-hood, at least according to its eccentric founding family and bizarre history. At first, British government officials described Sealand as a "Cuba off the East of England" and responded by destroying all similar WWII defense towers that stood abandoned to prevent similar incidents and headaches, as well as dispatching a military vessel to evict the residents of Sealand and demolish the structure. According to the official history from Sealand.gov "On several occasions British warships entered the territorial waters claimed by Prince Roy. After several failed attempts to capture the fortress by force (and one time by deception), the British Navy stood down. In a separate incident, an incursion by a UK Government vessel into Sealand's waters led to Prince Michael undertaking decisive defensive measures by way of warning shots across it's bow. Prince Michael was still a British citizen, thus he was charged with extensive crimes upon his return to Britain and summoned to an English court. The result of this lawsuit was a spectacular success for Sealand's claim to sovereignty" (Sealand). "Justice Chapman, presiding over the case, acknowledged the prosecution's argument in his judgment, but ultimately dismissed the three charges because they took place 'outside the jurisdiction of the English Courts.' Summarizing his judgment, Justice Chapman concluded, '[b]reaches of its provisions, even by British subjects, outside those limits are not in my judgment intended to be cognisable [sic] by the British Court' (Lyon, 29). Sealanders took this result as a *de facto* recognition of their country's

sovereignty and status as a fully fledged nation.

Another significant moment in Sealand's quest for recognition occurred amidst the drama of an armed coup and contrecoup. "In 1978, a German man named Alexander Achenbach claimed to be the real "prime minister" of Sealand — and staged something of a coup on the fort. He flew to Sealand by helicopter with a group of mercenaries while Paddy Roy Bates was away, and took Prince Michael hostage" (DeLong). Michel was the son of the nation's founder, and when their esteemed leader found out, he enlisted some loyal supporters, who with the help of a helicopter seized control of the fort. Once order had been restored, the German citizens were tried and sentenced to prison. "When one prisoner's wife reached out to the German Embassy in London, the embassy sent a lawyer to Sealand to investigate" (Lyon). After light negotiations, the German lawyer and former prisoners were on their way. Once again, Sealanders took this as formal recognition, from a foreign, established nation.

While both of the aforementioned incidents that occurred on a 4,000 meters square platform may seem farcical to most, both situations resulted in at least an informal recognition of the territory as *not* controlled by the government of the United Kingdom. Despite the trappings of statehood adopted by Sealand, and the incidents mentioned, Sealand is not legitimately, formally, recognized as an independent state by any nation-- Germany and the UK included. There are quite a few reasons for this, including many solid legal arguments. Chief among those is that Sealand is unable to sustain a permanent population, having no arable land or source of naturally occurring freshwater, aside from storms.

Applying the Montevideo Convention from earlier in this work sheds

additional light on the validity of Sealand's claim. The first covenant refers to a 'permanent population', and as Sealand has 582 nationals, including full time caretakers, it covers this criteria. Yet "Opponents of Sealand's sovereignty also claim the nationals of Sealand have not acquired the requisite 'nationality,' and have associated with each other merely to support their common 'commercial and tax affairs" (Lyon). This does not provide a firm legal basis that they do not constitute a population however. The second requirement of statehood is possession of a defined territory. Sealand, despite only occupying .004 of a square kilometer is not disqualified, as numerous examples of 'micro-states' like Monaco or Vatican City abound, and are internationally recognized. This claim has been repudiated by German federal courts, who contend the artificial platform "is not situated on any fixed point of the surface of the earth. Rather, the miniature island has been constructed on concrete pillars. The preponderant view of legal writers is that only a part of the surface of the earth can be regarded as State territory."(*Federal Republic of Germany, Case No. 9 K 2565/77*). While Sealand does have a defined location and territory, the court ruled that artificial platforms do not constitute the requirements necessary for statehood. However there are many differing interpretations of 'territory'-- some of which make no mention of artificial or natural processes. Additionally, critics of Sealand's claim to independence often argue that the platform belongs to the constructors, i.e. the government of Britain. Yet Sealanders argue the area is "Res Nullius, or 'property of no one'"-- an old Roman legal term to allow settlement and occupation of deserted land (Ruddy, 1). The precedent that followed allowed European States the legal excuse to colonize even inhabited lands by claiming Res



Nullius (generally in relation to other colonial states, as they refused to recognize indigenous power structures as legitimate). The third criteria set out in the Montevideo Convention concerns the government of a state. According to the official history of Sealand, "on the 25th of September 1975, Prince Roy proclaimed the Constitution of the Principality of Sealand"(Sealand.gov). With a defined constitution and ruling members, (descendants of the founder, and still under the Bates surname) Sealand has a government. The convention does not explicitly name the type or composition of a government, and as such Sealand fulfills that requirement. The fourth and final criteria concerns recognition, to which Sealanders believe the cases brought forward by the English courts, as well as diplomatic talks between Sealand's government and the German embassy satisfies this clause. Moreover, as Article Three of the Montevideo Convention states, "the political existence of the state is independent of recognition by the other States. Even before recognition the State has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts"(Montevideo, Art. 3). Separate from the constitutive theory, (where other states must recognize any additions) this declarative statement indeed covers the case of Sealand. Overall, there is an impressive argument brought by the advocates of Sealand, one that highlights the deficiencies endemic to international law. The structural issues with laws concerning nations always seem to stem from the difficulty in creating, and enforcing, legislation among sovereign states. Moreover, existing states simply do not trifle themselves with

establishing or maintaining ties to a tiny platform off the coast of the UK. To have a better chance of becoming a nation, Sealand would need a sizable population, (and a correspondingly large market) significant natural resources, control of a strategic area, or be grandfathered in (like the Knights of Malta). Unfortunately for the dreams of Sealanders who wish for the recognition that comes with statehood, this is not the case. They should content themselves with at least partial autonomy, and scant recognition. "The defining characteristic of the international system is anarchy, and the most important empirical reality is that national power, including but not limited to the ability to wage war, matters more than anything else"(Krasner, 265). Sealand, with miniscule national power, stands little chance of recognition from states that have nothing to gain from acknowledgment or acceptance.

## **Conclusion**

The study of Sealand, (and other micronations) initially seems frivolous at best, yet as demonstrated above, allows for important insights into nation-building, characteristics of the international system, and the implications of power. While these tiny 'nations' have not yet made it to statehood, their struggle demonstrates the way any aspirant state can become a fully fledged nation, recognized by others. The trappings of authority outlined in the Montevideo Convention, and other international agreements matter little in the power focused world order. Legal lacunas-- exceptions like Sealand, illuminate a complicated web of laws and practices that govern the world we know today.

## Bibliography/References

Anderson, Benedict. *Imagined Communities Reflections on the Origin and Spread of Nationalism*. Verso, 2006,  
[https://is.muni.cz/el/1423/jaro2016/SOC757/um/61816961/Benedict\\_Anderson\\_Imagined\\_Communities.pdf](https://is.muni.cz/el/1423/jaro2016/SOC757/um/61816961/Benedict_Anderson_Imagined_Communities.pdf)

*Definition of Nation*. 16 Feb. 2023, <https://www.merriam-webster.com/dictionary/nation>

DeLong, William. "Why This Concrete Island Might Be The Smallest Country On Earth." *All That's Interesting*, 9 June 2021,  
<https://allthatsinteresting.com/sealand>

Dennis, Trevor. *The Pricipality of Seland: Nation Building by Individuals*. no. 1, 2002, pp. 261–96,  
<https://digitalcommons.law.utulsa.edu/tjCIL/vol10/iss1/9/>

Farran, C. d'Olivier. "The Sovereign Order of Malta in International Law." *The International and Comparative Law Quarterly*, vol. 3, no. 2, 1954, pp. 217–34, <https://www.jstor.org/stable/755534>

Federal Republic of Germany, Administrative Court of Cologne. *In Re Duchy of Sealand*. 9 K 2565/77, 3 May 1978, p. 510.

Hobbs, Harry, and George Williams. *Micronations: A Lacuna in the Law*. 13 Jan. 2021, <https://papers.ssrn.com/abstract=4007776>  
---. *Micronations and the Search for Sovereignty*. 1st ed., Cambridge University Press, 2021, <https://doi.org/10.1017/9781009150132>

Krasner, Stephen D. "Realist Views of International Law." *Proceedings of the Annual Meeting (American Society of International Law)*, vol. 96, 2002, pp. 265–68, <https://www.jstor.org/stable/25659786>

Lyon, Andrew. "The Principality of Sealand, and Its Case for Sovereign." *Emory Law Review*, vol. 29, no. 3, 2015, pp. 637–71,  
[https://scholarlycommons.law.emory.edu/eilr/vol29/iss3/4?utm\\_source=scholarlycommons.law.emory.edu%2Feilr%2Fvol29%2Fiss3%2F4&utm\\_medium=PDF&utm\\_campaign=PDFCoverPages](https://scholarlycommons.law.emory.edu/eilr/vol29/iss3/4?utm_source=scholarlycommons.law.emory.edu%2Feilr%2Fvol29%2Fiss3%2F4&utm_medium=PDF&utm_campaign=PDFCoverPages)

"Montevideo Convention on the Rights and Duties of States." *Rights and Duties of States*, 1933,  
<https://www.ilsa.org/Jessup/Jessup15/Montevideo%20Convention.pdf>

Renan, Ernest, and M. F. N. Giglioli. *What Is a Nation? And Other Political Writings*. Columbia University Press, 2018,  
<https://www.jstor.org/stable/10.7312/rena17430>

Ruddy, F. S. "Res Nullius and Occupation in Roman and International Law." *University of Missouri at Kansas City Law Review*, vol. 36, 1968, p. 274,  
<https://heinonline.org/HOL/Page?handle=hein.journals/umkc36&id=280&div=&collection=>

"Sealand Official | Principality Of Sealand." *Sealand*,  
<https://sealandgov.org/>. Accessed 22 Feb. 2023.