Abstract— In the modern international system, state recognition is given much importance due to the issues relating to statehood. The recognition of states is a legal issue associated with international law. According to the international law, there are traditional and modern criteria to be considered when giving recognition to states. An entity has to be considered as a State in the international system if those criteria are satisfied. The objective of this study is to find out whether Catalonia can be identified as a state in the international system applying the statehood criteria. This research is a qualitative research based on secondary data. The data collection through the case study method. The case that is used in this study is Catalonia which unilaterally declared independence recently despite the objections of Spain and the international community. In analyzing the case, the statehood criteria are applied and assessed to confirm whether Catalonia fulfills those criteria in order to be successfully declaring the independence. The paper concludes that Catalonia did not fully satisfy the international law provisions and statehood criteria regarding statehood, while Spain strongly disagreed the self-declared independence stating that it is an illegal declaration of independence. According to the findings, it is further evident that Catalonia does not fulfill the criteria mentioned in the Montevideo Convention to be identified as an independent state.

Keywords- Recognition of States, International Law, Catalonia, Statehood, Independence

I. INTRODUCTION

The concept of statehood is very subjective. Different people hold different ideas about the concept of state. While some states are giving recognition to states, other states are reluctant to give recognition due to many political reasons. International recognition is immensely important to survive in the world. Therefore, states strive to achieve recognition among the international community since it is essential to conduct relations with others. State recognition is broadly perceived to be a political issue with legal consequences. Therefore state recognition should be based on international law and legal perspective. In this regard, there should be a kind of recognition from other states in the world. Within this context, customs, interstate negotiations and treaties are essential requirements.

Recognition of states can be done expressly or impliedly. The recognition to states does not solely depend on international law. It is always connected with the foreign policy objectives of other states in the world. This means even though a state is given de jure recognition or recognition by law, some states in the international arena are not willing to carry out with relations that state. This includes absence of political, economic and most importantly diplomatic relations with that particular state. This emphasizes the way of handling relations with other states, which influences another state's recognition in the international system. Thus, this can be identified as de facto recognition, which means recognizing a state factually. Therefore, it is important for a state to achieve both de facto and de jure recognition in the international arena. In addition to that, the most important two theories in granting recognition for states are the constitutive and declaratory theories.
The states in the international community have two interests. One is national interests and the other is international interests. Every state try to protect its national interests. Therefore it is necessary to identify the traditional and other additional criteria which make state as an entity in the international arena. “The State is an association of a considerable number of men living within a definite territory, constituted in fact as a political society and subject to the supreme authority of a sovereign, who has the power, ability and means to maintain the political organization of that entity with the assistance of the law. That entity has the power to control and protect the rights of the members of that political entity, conduct relations with other states and to assume responsibility for its acts. If these criteria are satisfied, then that entity is regarded as a state by Fiore.

Baty (1930) called a state as an organized people or an assemblage of human beings among whom the destiny of an ascertainable number usually prevails. This emphasizes on sovereignty as well. The existence of an organized political power over a territory and people is meant as sovereignty. Baty believed that the internal character of the states depends on the culture and traditions of the land people live in. He also proposed a criterion for statehood. It is a characteristic of self-containment which contains the existence among the people, or the bulk of the people.

Being different from other writers, Hans Kelsen attempted to define statehood in terms of law. He believes that the state is not the individuals who live in it, but the assemblage of individuals and this assemblage is the function of the order that regulates their mutual behavior. One of the unique results of the pure theory of law which law has mentioned that the state is an association of a considerable number of men living within a definite territory which is made as a political entity. That entity is the subject to the supreme authority of a sovereign, who has the power, ability and means to maintain the political organization of that entity with the assistance of the law.

This reflects the general acceptance is the basic rule of international law. There are two main aspects on State sovereignty. First is that there are number of attempts in the international community to restrain State sovereignty in favor of international co-operation. The second aspect is the conventional tendency among some states that leads to retain their sovereignty in the face of unfavorable circumstances in the world.

III. CONCEPTUAL FRAMEWORK

A. De Jure Recognition

De jure recognition interlinks with the fulfillment of necessary legal criteria of states. This recognition leads to make extensive relations in many ways. De jure recognition include,

i. The establishment of diplomatic relations with the recognized state.

ii. The participation of the recognized state in international conferences.

iii. The right to be a part of international conventions and agreements.

iv. Respect and recognition for the judicial and administrative organizations of the recognized state by the existing states.

B. De Facto Recognition

De facto is the imperfect position of states. This recognition does not include the exchange of diplomats and establishing of diplomatic missions. At this stage, states are eager to get their recognition by fulfilling de jure recognition. According to scholars, this period of recognition involves uncertainty. For an instance, Soviet Russia was considered as a de facto state in 1921 and in 1942 Soviet Russia was considered as a de jure state.

C. Methodology

The study is a qualitative research which is aimed at gathering in-depth understanding on the discussed phenomenon. A number of secondary sources such as books, journals, articles and news reports were used in this study. The data analysis procedure was done through the case study method. Case studies includes analyses of persons, events, decisions, periods, projects, policies and institutions. The case study method used in this in a descriptive manner to get an in depth analysis of the particular case.

D. Data Presentation and Analysis

Catalonia is a part of Spain where there is a regional government that has received the power through the Spanish constitution. The Catalan regional president, Carles Puigdemont, has mentioned his determination to declare independence for Spain after a unilateral referendum. The country's constitutional court ordered the referendum to be suspended last month. Puigdemont argues his government has been left with no choice but to proceed unilaterally to discuss the matter with the Madrid government. He also said that the referendum results gave him a clear mandate. But this is totally against the Spanish constitution. The constitution is based on the indivisible unity of the Spanish nation, the common and indivisible homeland of all Spaniards. It recognizes and guarantees the right to self-government of the nationalities and regions. In order to find out whether Catalonia has the ability to be declared as an independent state, the statehood criteria should be applied to the case study of Catalonia as mentioned in the Montevideo Convention.
IV. CRITERIA OF STATEHOOD

The word “statehood” has mentioned in the Montevideo Convention on rights and Duties of States introduces basic criteria for statehood.

“The state as a person of international law should possess the following qualifications:
A. A permanent population
B. A defined territory
C. A government
D. Capacity to enter into relations with other states”
- Article 1 Montevideo Convention 1933

A. Permanent Population

This criterion is very important in determining the statehood. Permanent population can be identified as the collection of individuals of both sexes who live together as a community despite the fact that they may differ in race, religion and in color. There is no specific number of people to be acknowledged for a state to be considered as a state.

According to 2017 statistics, Catalonia comprises of 7,496,276 populations out of the 46,528,024 population of Spain which amounts to 16.1% of the total Spanish population. Catalonia consists of four provinces namely Barcelona, Girona, Lleida, and Tarragona. The capital and largest city is Barcelona and it is the second most populated city in Spain and has a huge impact on Spanish economy. It is bordered by France and Andorra to the north, the Mediterranean Sea to the east, and the Spanish autonomous communities of Aragon to the west and Valencia to the south. The official languages are Catalan, Spanish, and the Aranese dialect of Occitan. Likewise it can be argued that since Catalonia has a defined territory it completes the other criteria. But Catalonia does not have their own air space or naval space as suggested by the international law. Therefore the issue regarding defined territory is quite unpredictable.

B. Defined Territory

As shown in the above figures, it can be identified that Catalonia is having a permanent population which fulfills one of the main criteria of the Montevideo Convention.

B. Defined Territory

State is a territorial entity and it is under the exclusive and complete authority of one single state. The authority exercised by one state over its territory is known as the territorial supremacy. This is a vital part of state formation and state sovereignty. As in population, there is no minimum area of territory that requires to be fulfilled to be considered as a state. Also there has to be a reasonably stable political community. For example, Israel was considered as a state despite the issues of territorial borders. State owns its own air, naval and land space. In addition to that the mobile objects such as ships and aircraft too fall under the category of state territory or state jurisdiction.

C. Government

A government of a state consists of executive, legislature and judiciary. This is the best example for a stable political community. Unless all these three components are completed, it won’t be considered as a state. A government should have effective control over the citizens of the state. Otherwise the state fails and riots may take place by tarnishing the image of that particular state within the international arena. For instance Libya can be mentioned. This can be identified as the most crucial part of the Catalanian issue. Catalonia has a regional government which already enjoys considerable freedom, and runs its own police and exercises much control over health and education. Still, taxes, foreign affairs, defense, ports, airports and trains are in the hands of Spain's government in Madrid. Therefore it cannot be identified as a separate state which can rule alone. Because the separate governmental powers has given to Catalonia by the Spanish government statute by binding Catalonia under the statute of Spain.

D. Competence to build relations with other states

Ability to enter in to relations with other states can be identified as another component of statehood. This is the decisive criteria for statehood. Foreign relations with other actors in the international system are a criterion for state formulation. A state cannot exist in the international system without its relations with other countries. On the contrary, in the contemporary world it is visible that states enter in to relations even when they do not have a defined territory or a population. Therefore it can be said that foreign relations of states is a prerequisite in formulating their statehood rather than a criterion for state formulation as in the case of Somalia. Most importantly this allows states to enter in to relations by their free will especially with international organizations such as the United Nations and World Health Organization.

Catalonia accounts for nearly a fifth of Spain's economy, and leads all regions in producing 23% of the country's exports. It can be identified as the power house of Spain. It contributes much more taxes (21% of the country's total) than receive from the government. Independence supporters have seized on the inequity, arguing that stopping of transfers to Madrid would turn Catalonia's budget deficit into a surplus. As an example Barcelona is the regional capital that attracts investments and Volkswagen (VILKAY) and Nissan (NSANF) have plants near Barcelona.

If Catalonia considers itself as an independent state, there will be issues regarding on the membership European Union. Catalonia was forced to apply for EU membership independently. But all of the current members have to agree for that including Spain. They believe that getting EU membership will be difficult to Catalonia. Moreover the exclusion from the block will raise the cost of exports produced in Catalonia.

F. Independence

Without the freedom or independence of a state, they cannot enter in to relations with the world. Crawford describes freedom as one of the main criteria for statehood. Independence of a state should prove the ability to enter in to relations with the world independently. It
emphasized the fact that state can exist as a separate entity in the world. An independent state consists of two basic characteristics.

i. Not being subject to the authority of any other state.

ii. Separate existence of an entity

Crawford further states that the independence of a state is twofold. They are formal independence and actual independence.

In applying this for the case of Catalonia, it can be identified that Catalonia is not actually independent as it is a part of Spain under the Spanish constitution that gives the power as a regional government. It is indicated in the Article 155 of the 1978 Constitution of Spain, that if a regional government “doesn’t comply with the obligations of the Constitution or other laws, it imposes or acts in a way that seriously undermines the interests of Spain”. The Constitution states that an absolute majority must approve the article’s use. If this happens, the national government may adopt the “necessary methods” to force a regional government to comply in order to protect “said interests”. Article 155 allows the national government to take over a regional government, including its finances and police. Therefore Catalonia is not an independent state.

F. Sovereignty

The most important criterion for statehood is sovereignty. According to Crawford, a state cannot exist without sovereignty. State sovereignty can be defined as the right of states. There are arguments whether those states neglect the idea of self-determination. This position it cannot be accepted as an independent state. An independent state, but is a region governs under the Spanish constitution.

VI. REFERENCES


VI. CONCLUSION

After analyzing all above mentioned facts regarding the Catalanist statehood, it can be made a conclusion that Catalonia does not have the ability to be declare as an individual state in the international system as it does not fulfill all the 4 criteria of statehood as stated in the Montevideo Convention. Catalonia doesn’t have a specific territory as it is a part of Spain and also Catalonia does not have a separate independent government as the government which is already there is instituted by the Spanish government. Also with regard to the additional statehood criteria, Catalonia does not have independence and the right to declare self-determination without the consent of host state as it is violation of law. Due to these reasons it can be identified that Catalonia is not