

Roots of Legitimacy and Recognition.

Recognition De Facto

This is an “indefinite and provisional recognition by the government of one state that a particular regime in fact exercises authoritative control over the territory or a second state . . . De Facto recognition is extended pending evidence of the stability of the new regime, or for some practical consideration such as the maintenance of trade. The legality of the assumption of authority by the regime so recognized is immaterial, and as such recognition is not necessarily a precondition for the establishment of de jure or formal diplomatic relations.”

Recognition De Jure

This is a “complete, unqualified recognition of one government by another. Once de jure recognition has been granted and trouble arises with the government so recognized, its representative character is not denied and recognition withdrawn. Indeed diplomatic relations with the offending government are broken . . . De jure recognition always involves the establishment of normal diplomatic relations. Such recognition is termed express when it is accomplished by a formal act such as an exchange of notes expressing both desire and readiness to engage in regular diplomatic relations. De jure recognition is termed tacit when accomplished by an act that implies intention to recognize, such as a consular convention.”

To further elaborate this point; “Although historically the United States granted recognition to new governments that demonstrated effective control, during the Wilson administration the United States made ‘constitutionality’ or ‘legitimacy’ of a new regime the prerequisite for American recognition. In a statement of doctrine associated with his name, Mexican Foreign Minister Don Genaro Estrada in 1930 held that the granting or withholding of recognition for political purposes constituted an improper and insulting intervention in the domestic affairs of another sovereign state since it constituted an external judgment as to the legal qualifications of a foreign regime. Opponents of the Estrada Doctrine point out that the purpose of recognition is not passing judgment but merely the unavoidable necessity of establishing the essential representative character of a new regime.”

Recognition of States

“The process by which a political entity becomes an international person in international law and is accepted by existing states as a new member of the community. Once recognition of statehood has occurred, this status continues regardless of internal changes in government so long as the sovereign character of the state continues.”