

What is Recognition? Discuss De jure and De facto recognitions.
Also explain the constitutive and declaratory theories.
Discuss the disabilities of unrecognized states.

Day: _____

Date: _____

Use markers, add flowcharts
where required, proper
handwriting is required.

Q No: 01

ANSWER.

Work on your presentation

I. INTRODUCTION.

Recognition is a voluntary act of states to acknowledge any other political entity possess all essential attributes of statehood or not. There are two major kinds of recognition: De Jure and De facto. De Jure means states exists legally with all essential features of statehood. While De facto means states exists but legally recognized. In this regard, declarative theory suggests recognition is ^{not} mandatory while constitutive theory suggests it is compulsory. Unrecognized states have many disabilities like they cannot enter into treaties, claim damages or sue any other state in ICJ.

II CONCEPT OF RECOGNITION.

According to Prof. Schwarzenberger:

Recognition is an act of existing states that whether a certain political entity possesses all essential attributes of statehood or not.

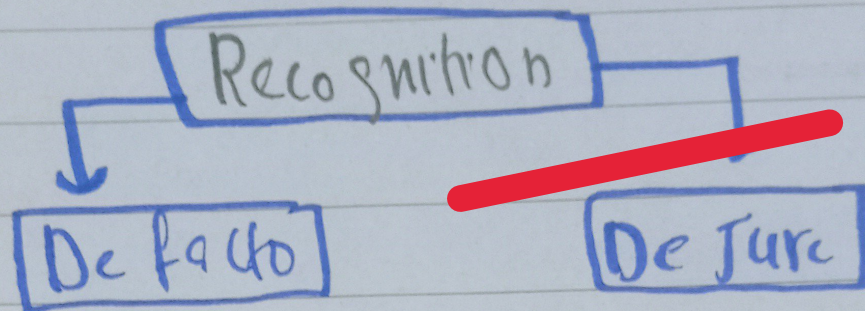
Prof. Schwarzenberger

Recognition is an important concept in international law. It is debated that states become international members through recognition or not.

III TYPES OF RECOGNITION:

There are two major

types of recognition: De Jure
and De facto.



De Facto:

De facto recognition means a state exists physically but not legally. According to Prof. Oppenheim.

When states delay De Jure recognition then they may grant De facto recognition first to establish relation.

Prof. Oppenheim;

Why states grant De facto recognition:

When states doubt about stability and permanence of a state then they grant De facto recognition.

When states try to initiate bilateral relations with any state then they may grant them De facto recognition.

When a recognizing state is suspicious of recognized states capability to fulfill international obligations then it grants De facto recognition instead of De Jure.

De Jure recognition:

De Jure recognition

is granted when states are sure about permanence and capabilities of a state to be member of international community.

De Jure recognition is grant when a recognizing state perceives that a particular state is fit to be member of international community.

(Prof: Oppenheim)

Conditions for granting De Jure recognition:

A. H. Smith, a British Jurist, describes following three major conditions for granting De Jure recognition.

① A State has sufficient support of its population.

② A state is able to fulfill legal obligations.

③ A state has enough control over its territory

IV THEORIES OF RECOGNITION:

① Constitutive Theory of recognition.

This theory suggests that for a political entity to be a state, recognition is mandatory. Without recognition a state cannot become member of nations.

= States become

Member of international community through recognition only and exclusively.

(Prof. Oppenheim)

② Declarative theory of recognition:

This theory proposes that recognition is merely a act of acknowledgement of states existence. States become member of nation right after their independence.

~~A~~ political existence of a state is independent of recognition

(Montevideo Convention)
1933, Article 1

IV

DISABILITIES OF AN

UNRECOGNIZED STATE:

Following are major disabilities of unrecognized state.

— An unrecognized state cannot enter into treaties with other states.

— An unrecognized state cannot claim damages in ICT or UNO.

— An unrecognized state cannot initiate relations with other states.

— An unrecognized state cannot receive diplomatic missions in other states.

CONCLUSION.

You have got potential
Good luck!

It is clear from above discussion that recognition is an important concept of international law. It has two types De Facto which is temporary and De Jure which is permanent. Moreover, declarative theory of recognition views recognition just as mere declaration while constitutive considers it mandatory.

Concise your conclusion

