

THE INTERACTION OF POLITICAL AND LEGAL FACTORS IN THE
RECOGNITION PROCESS OF NEW STATES

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Abstract: This article analyzes the complex interaction between political and legal factors in the recognition process of new states. The research examines the role of formal legal criteria alongside geopolitical interests, economic dependencies, and strategic partnerships in contemporary international practice of state recognition decisions. The article analyzes cases of Kosovo, South Ossetia, Abkhazia, and other new states to demonstrate instances where political motivations prevail over legal foundations. The research findings reveal that pure legal approaches are rarely applied in contemporary recognition practice, and in most cases political expediency supersedes legal principles.

Keywords: state recognition, political factors, legal criteria, geopolitical interests, international law, new states, Kosovo, sovereignty

YANGI DAVLATLARNI TAN OLIISH JARAYONIDA SIYOSIY VA HUQUQIY
OMILLARNING O'ZARO TA'SIRI

Annotatsiya: Ushbu maqola yangi davlatlarni tan olish jarayonida siyosiy va huquqiy omillarning murakkab o'zaro ta'sirini tahlil qiladi. Tadqiqotda zamonaviy xalqaro amaliyotda tan olish qarorlarining qabul qilinishida formal huquqiy mezonlar bilan geosiyosiy manfaatlar, iqtisodiy bog'liqlik va strategik hamkorlik kabi siyosiy omillarning roli o'rganiladi. Maqolada Kosovo, Janubiy Osetiya, Abxaziya va boshqa yangi davlatlar misolida siyosiy motivatsiyalarning huquqiy asoslarga nisbatan ustunlik qilishi holatlari tahlil etiladi. Tadqiqot natijalari shuni ko'rsatadiki, zamonaviy tan olish amaliyotida sof huquqiy yondashuvlar kamdan-kam qo'llaniladi va ko'pgina hollarda siyosiy ekspedientlik huquqiy prinsiplardan ustun turadi.

Kalit so'zlar: davlatlarni tan olish, siyosiy omillar, huquqiy mezonlar, geosiyosiy manfaatlar, xalqaro huquq, yangi davlatlar, Kosovo, suverenitet

ВЗАИМОДЕЙСТВИЕ ПОЛИТИЧЕСКИХ И ПРАВОВЫХ ФАКТОРОВ В
ПРОЦЕССЕ ПРИЗНАНИЯ НОВЫХ ГОСУДАРСТВ

Аннотация: В статье анализируется сложное взаимодействие политико-правовых факторов в процессе признания новых государств. В исследовании рассматривается роль политических факторов, таких как геополитические интересы, экономическая зависимость и стратегическое сотрудничество, в принятии решений о признании в современной международной практике, а также формально-правовых критериев. В статье анализируются случаи преобладания политических мотивов над правовыми основаниями в случае Косово, Южной Осетии, Абхазии и других новых государств. Результаты исследования показывают, что в современной практике признания чисто юридические подходы используются редко, и в большинстве случаев политическая целесообразность преобладает над правовыми принципами.

Ключевые слова: признание государств, политические факторы, правовые критерии, геополитические интересы, международное право, новые государства, Косово, суверенитет

INTRODUCTION

The issue of recognizing new states in international law has become increasingly complex in the 21st century. While theoretically the recognition process should be based on clear legal criteria, in practice these procedures are often carried out under the influence of political factors such as geopolitical interests, economic dependencies, and strategic partnerships [1]. This situation creates a fundamental tension between the normative foundations of international law and the pragmatic realities of international relations. The recognition of new states represents one of the most sensitive areas of international law, where legal doctrine meets political reality, often resulting in inconsistent and contradictory practices.

Contemporary international practice demonstrates that state recognition decisions are made purely on legal grounds. They reflect a complex calculus involving national interests, regional security considerations, alliance obligations, and economic factors [2]. This phenomenon has become particularly evident in recent decades with cases such as Kosovo's declaration of independence in 2008, which received widespread recognition from Western states while being rejected by Russia and its allies, or the recognition of South Ossetia and Abkhazia primarily by Russia and a few aligned states following the 2008 conflict.

The theoretical framework for state recognition has traditionally been divided between constitutive and declarative theories, with the Montevideo Convention of 1933 establishing four key criteria for statehood: permanent population, defined territory, government, and capacity to enter into relations with other states [3]. However, the application of these seemingly objective criteria in practice reveals significant subjective interpretation and political considerations. The interaction between legal standards and political motivations creates a dynamic tension that shapes contemporary recognition practices and challenges traditional understanding of international law's role in state formation processes.

METHODOLOGY AND LITERATURE REVIEW

This research employs comparative legal analysis, normative analysis, and historical methodology to examine the interaction between political and legal factors in state recognition processes. The literature review encompasses classical works on international law, contemporary academic research, and case studies of recent recognition disputes. The analysis of political factors in recognition processes begins with Hans Morgenthau's classical work on international politics, which emphasizes the primacy of power and interest in international relations [4]. Morgenthau's realist approach provides a framework for understanding how states prioritize their national interests over abstract legal principles when making recognition decisions.

Legal scholars have long recognized the tension between legal criteria and political considerations in recognition processes. James Crawford's comprehensive analysis of state creation in international law acknowledges that while legal criteria provide important guidance, political factors inevitably influence recognition decisions [5]. Crawford argues that the declarative theory of recognition, while theoretically sound, cannot fully account for the political realities that shape state practice. Russian scholar A.A. Moiseev has extensively analyzed the role of geopolitical factors in recognition processes, particularly examining how great power competition influences recognition patterns in post-Soviet spaces [6].

The role of international organizations in recognition processes has been examined by several scholars, with particular attention to the European Union's approach to state recognition. Uzbek legal scholar B.T. Ergashev has analyzed the intersection of legal norms and political considerations in Central Asian context, demonstrating how regional powers influence

recognition dynamics [7]. His work highlights the importance of understanding recognition not just as a legal process but as a political tool used to advance state interests.

Contemporary literature increasingly focuses on the concept of "conditional recognition," where recognition is tied to specific political conditions rather than purely legal criteria [8]. This approach represents a significant departure from traditional recognition theory and demonstrates the growing influence of political factors in what was traditionally considered a legal process. German scholar Stefan Talmon has extensively documented cases where collective non-recognition has been used as a political tool, showing how legal principles can be subordinated to political objectives [9].

The literature also reveals significant attention to the role of regional organizations and great powers in shaping recognition patterns. Thomas Grant's work on the admission of states to international organizations demonstrates how political considerations often override legal criteria in membership decisions [10]. This body of literature provides essential background for understanding how political and legal factors interact in contemporary recognition practices.

RESULTS AND DISCUSSION

The comprehensive analysis of contemporary state recognition practices and literature review reveals a fundamental transformation in how political and legal factors interact within the recognition process of new states. The research findings demonstrate that while traditional legal criteria established by international law continue to serve as formal reference points, they have been increasingly overshadowed by political considerations that reflect strategic interests, geopolitical alignments, and regional power dynamics. This empirical analysis of recent recognition cases shows a consistent pattern where states prioritize their national interests, alliance obligations, and regional stability concerns over strict adherence to legal principles such as those outlined in the Montevideo Convention. The evidence suggests that contemporary recognition practices have evolved into a predominantly political process where legal criteria are selectively applied or interpreted to justify decisions that have already been made on political grounds, fundamentally challenging the traditional understanding of international law's role in determining statehood and creating significant implications for the predictability and consistency of international legal principles.

Table 1. Analysis of Political vs. Legal Factors in Recent Recognition Cases

State/ Territory	Year of Independence	Legal Criteria Met	Primary Political Supporters	Primary Political Opponents	Recognition Based On	Legal vs Political Factor Dominance
Kosovo	2008	Disputed	EU, USA, NATO members	Russia, Serbia, China	Humanitarian intervention	Political dominance
South Ossetia	2008	Partially	Russia, Nicaragua, Venezuela	USA, EU, Georgia	Geopolitical alignment	Political dominance
Abkhazia	1999/2008	Partially	Russia, Nicaragua, Venezuela	USA, EU, Georgia	Geopolitical alignment	Political dominance
Northern	1983	Partially	Turkey only	Greece,	Ethnic	Political

Cyprus				EU, UN	solidarity	dominance
Taiwan	1949	Yes	USA (informal), few allies	China, most UN members	Cold War legacy	Political dominance
Somaliland	1991	Yes	None officially	African Union, Somalia	Regional stability concerns	Legal factors ignored

The analysis reveals that contemporary state recognition practices are fundamentally shaped by the complex interplay between political motivations and legal criteria, with political factors frequently taking precedence over formal legal requirements. The examination of recent cases demonstrates that states rarely make recognition decisions based purely on whether a political entity meets the traditional legal criteria for statehood as established by the Montevideo Convention. Instead, recognition patterns reflect broader geopolitical alignments, strategic interests, and regional security considerations that often override legal principles.

The case of Kosovo exemplifies this dynamic tension between legal and political factors. While Kosovo's legal claim to statehood remains disputed due to questions about the legality of its secession from Serbia under international law, it has been recognized by over 100 states, primarily those aligned with NATO and the European Union [1]. The recognition of Kosovo was primarily driven by political considerations including humanitarian intervention justifications, regional stability concerns, and Western geopolitical interests in the Balkans. Conversely, states opposing Kosovo's recognition, particularly Russia and China, base their position not on detailed legal analysis but on their own political interests regarding territorial integrity and potential precedent effects on their own territorial disputes.

The recognition patterns of South Ossetia and Abkhazia present a mirror image of the Kosovo case, where similar legal arguments about self-determination and statehood have been rejected by Western states while being accepted by Russia and a small number of its allies. This divergence demonstrates that identical legal arguments can be evaluated differently depending on the political context and the interests of the recognizing states. The limited recognition of these territories reflects not their failure to meet legal criteria, but rather the geopolitical isolation of their primary patron, Russia, and the unwillingness of most states to support Russian foreign policy objectives in the post-Soviet space.

The role of economic factors in recognition decisions has become increasingly evident in contemporary practice. States often consider the economic implications of recognition, including trade relationships, investment opportunities, and access to natural resources. The recognition or non-recognition of new states can significantly impact economic relationships and regional integration processes. For instance, the European Union's approach to recognition in the Western Balkans has been closely tied to enlargement policies and economic integration objectives, demonstrating how recognition serves broader political and economic strategies rather than pure legal determinations.

Regional organizations have emerged as crucial actors in shaping recognition patterns, often prioritizing political solidarity and regional stability over strict adherence to legal criteria. The African Union's opposition to recognizing Somaliland, despite its arguably strong legal claim to statehood, reflects concerns about encouraging movements across Africa rather than legal deficiencies in Somaliland's case. Similarly, the Organization of American States' positions on recognition issues often reflect regional political dynamics rather than purely legal assessments.

CONCLUSION

The analysis of contemporary state recognition practices reveals that the interaction between political and legal factors has fundamentally altered the traditional understanding of how new states gain international legitimacy. While legal criteria established by instruments such as the Montevideo Convention continue to provide important reference points, they are increasingly subordinated to political considerations in actual recognition decisions. This trend represents a significant departure from the theoretical foundations of international law and creates substantial challenges for legal predictability and consistency in international relations.

The dominance of political factors over legal criteria has created a system where recognition patterns primarily reflect geopolitical alignments rather than objective assessments of statehood criteria. This development has important implications for international law, as it undermines the normative force of legal principles and creates incentives for states to prioritize political relationships over legal obligations. The resulting inconsistencies in recognition practice contribute to uncertainty about the requirements for statehood and may encourage problematic precedents in international relations.

Future developments in state recognition will likely continue to be shaped by this complex interaction between legal and political factors. As geopolitical competition intensifies and new challenges emerge, states will face increasing pressure to align their recognition policies with their broader strategic objectives rather than strict legal principles. For emerging states, understanding this dynamic is crucial for navigating the complex landscape of international recognition and building effective foreign policy strategies that account for both legal requirements and political realities in contemporary international relations.

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