



Palestine's Struggle for Statehood in the Pursuit of International Recognition

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Abstract

State recognition is a fundamental aspect of international law that defines a country's sovereignty and legitimacy. Despite fulfilling key criteria such as a permanent population, defined territory, and functioning government, Palestine's recognition as a sovereign state remains debated due to political and legal complexities. This study examines Palestine's efforts to gain recognition, the responses of various states, and the role of international law in shaping its status. Using a qualitative approach, this research analyzes legal documents, international treaties, and diplomatic policies to assess the implications of state recognition. The findings reveal that Palestine's recognition is influenced not only by legal principles but also by geopolitical interests. The study contrasts the constitutive theory, which asserts that statehood requires recognition by other states, with the declarative theory, which holds that a country exists based on its ability to function as a state, regardless of recognition. Despite partial recognition through United Nations resolutions and support from 138 countries, major global powers continue to withhold full recognition, impacting Palestine's political and economic stability. This research underscores the significance of diplomatic efforts and international legal mechanisms in Palestine's ongoing struggle for sovereignty.

Keywords: *Palestine; Sovereignty; State Recognition; International Law; Geopolitics*

Introduction

A state is the most fundamental and primary subject of international law among the many subjects of international law. A state is an organized entity consisting of a group of individuals and governed by legal regulations that apply and are binding on every individual residing within its territory. A state can be recognized as such only if it meets the necessary criteria for state formation, one of which is **recognition**. Recognition is an act performed by other states towards a newly established country through **statements, approvals, and acceptance**, signifying that the newly formed state has already met the three essential elements of statehood: **a permanent population, a defined territory, and a sovereign government**. The acknowledgment by other states affirms that the recognized state possesses sovereignty and has gained independence.

Recognition from other states enhances the visibility of a country and grants it an equal standing with other nations in the international arena. Furthermore, once a state has gained recognition, it can engage in **international cooperation in politics, social affairs, culture, and economics**. Such collaborations may take the form of **regional, bilateral, or multilateral** cooperation.¹ In granting recognition, these states are primarily driven by political motives rather than legal considerations. Although legal regulations exist regarding recognition, the establishment of a new state or government carries certain juridical and political consequences between the recognizing state and the recognized state. For instance, in terms of political consequences, both states are free to establish diplomatic relations.

Meanwhile, the juridical consequences are as follows: first, recognition serves as evidence of a factual situation. Second, recognition arises as a legal consequence of specific laws in establishing diplomatic relations between the recognizing and recognized states. Third, recognition affirms the legal status of the recognized state before the courts of the recognizing state.² Aside from political reasons, when a country gives recognition to another country, it must first be certain that the new country has met the requirements for state formation. The new government must be able to control and lead its territory in accordance with international law. The conditions for granting recognition are as follows: First, the country must be able to take responsibility for other countries; second, the government in the new country must obtain its power through constitutional means.³

A country cannot exist as a subject of international law without recognition. This recognition allows the new country to establish official relations with other countries and with other subjects of international law. In the current international community, the issue of recognition plays a very important role in the life and interactions between countries. Therefore, it cannot be denied that recognition is a very important tool in international relations. If we study the history of international relations, we will see how crucial the institution of international recognition is in the relations between countries, as acknowledged by international law experts.⁴

There are two well-known theories about recognition:

1. Constitutive Theory

According to this theory, under international law, a country comes into existence only when it is recognized by other countries. This means that only through recognition can a new country be accepted as a member of the international community and obtain the status of an international legal subject.⁵

2. Constitutive Theory

In this theory, recognition does not create a state because a state is born or exists based on certain circumstances. The legal capacity of the state is determined by its efforts and the actual conditions, and it does not need to wait for recognition from other countries. When a state is born, it immediately becomes a member of the international community, and recognition merely confirms its birth. According to this

¹ Elsa Libella, Fatimah Z. Salsasbilla, Regika P. E. M. Putri, "Pengakuan Dalam Pembentukan Negara Ditinjau Dari Segi Hukum Internasional". *Journal of Judicial Review* Vol. 22 No. 2, December 2020, hal. 165

² Yulita Pujilestari, "Peranan Pengakuan dalam Hukum Internasional: Teori Lahirnya Suatu Negara dan Ruang Lingkup Pengakuan", *Journal of Civics and Education Studies* Vol. 5 No. 2, September 2018, hal. 168

³ *Ibid.*, hal. 169

⁴ Brenda Lengkong, "Fungsi Pengakuan (Recognition) dalam Pelaksanaan Hubungan antar Negara Menurut Kajian Hukum Internasional", *Lex Administratum* Vol. 6 No. 1, Jan-Mar 2018, hal. 22

⁵ A. Masyhur Effendi dan Andri, "Prinsip Pengakuan dalam Pembentukan Negara Baru Ditinjau dari Hukum Internasional", *Lex Jurnalica* Vol. 8 No. 3, Agustus 2011, hal. 216

theory, recognition does not create a state, and it is not a requirement for the establishment of a new state.⁶

We all know that Palestine is one of the countries that has been strongly fighting for recognition of its sovereignty from the international community as an independent state. This has been a long and arduous process to be recognized as a sovereign and independent state. Even today, Palestine is still fighting for its rights to be fully recognized.⁷ The debate over whether Palestine has become a sovereign state or not continues to this day. Supporters argue that Palestine is already a sovereign state because it has a government, territory, flag, and a stable population. Most of Palestine's supporters come from developing countries with a spirit of Islamism, anti-colonialism, and humanitarianism. Palestine is still struggling for independence from Israeli control and full sovereignty.

Every step toward peace between Palestine and Israel often encounters deadlocks and failures due to the imbalance in negotiating positions. On the other hand, those who disagree argue that, although Palestine meets these criteria, it still does not have full control over its territory. Some parts of Palestinian territory remain under Israeli control. Therefore, this group believes that Palestine cannot be categorized as a sovereign state because it does not have full control over its territory.⁸

The adoption of the United Nations General Assembly resolution regarding Non-Member Observer States, which allows the flag of non-member states, including the Palestinian flag, to be flown in front of the UN Headquarters in New York, may indicate that Palestine has been recognized as a sovereign state. The reason is that this resolution has been signed by the international organization (UN), which consists of 193 countries around the world. Therefore, at least based on the declaratory theory, Palestine can be considered a sovereign state.⁹

Problem Formulation

1. What actions has Palestine taken to gain recognition as a state?
2. How has recognition from other countries toward Palestine been?
3. What steps has the Indonesian government taken to support Palestine in its efforts to become independent and a sovereign state like other countries?

Research Methods

The research specification is descriptive-analytical, which describes the applicable international legal regulations related to legal theory and practices related to the problem. The type of data used is secondary data consisting of primary legal materials and secondary legal materials. The data collection technique is through library research, namely collecting documents related to the problem and research objectives. Data is analyzed qualitatively, namely by describing data in the form of logical and non-overlapping sentences, and effectively, to facilitate data interpretation and understanding of the analysis results.

⁶ Ibid., hal 217

⁷ Tito Nugroho, Skripsi :“Pengakuan Takhta Suci (Vatikan) terhadap Palestina sebagai Negara Berdaulat Tahun 2015”(Jakarta : UIN, 2018), hal. 26

⁸ M. Syuib, MH, “*Negara Palestina dalam Perspektif Hukum Internasional*, Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-undangan dan Pranata Sosial Vol. 1 No. 1, hal. 39-40

⁹ Ibid., hal.41

Discussion

A. Efforts of Palestine to Gain Recognition as a State

Palestine has faced a long and difficult journey in its efforts to gain recognition as a state. Various efforts have been made to be recognized internationally, especially to obtain full membership status in the United Nations (UN). Palestine has been striving to achieve this status because the role of the UN is crucial in addressing various global issues. The UN is also known to be an international organization with significant influence in the relationships between countries. Palestine has fought to gain recognition as a non-member observer state through various means, driven by the high fighting spirit of the Palestinian people and President Mahmoud Abbas. This diplomatic struggle eventually yielded results.¹⁰ The UN General Assembly session on November 29, 2012, agreed to upgrade Palestine's status to a non-member observer state through a vote. A total of 138 UN member states supported this move, 41 countries abstained, and 9 countries opposed it. Indonesia was one of the key initiators, actively seeking support for the recognition of Palestine.

Although Palestine has not yet been recognized as a full member state of the UN, the status it has achieved at the UN carries significant meaning. The overwhelming support from 138 countries can be seen as representing the majority of the international community in backing the Palestinian people's struggle for independence as a sovereign state, while also opposing Israel's arbitrary actions, which have thus far gone unchecked. Palestine has carried out diplomatic efforts with various UN member states through both bilateral and multilateral diplomacy to gain support for its independence and to become a non-member observer state at the UN.¹¹

From 2002 to 2012, the Palestinian Authority actively advocated to international organizations to support Palestine's independence and membership in the UN. As a result, Palestine continuously attended international meetings, and over time, the international community began to understand and support Palestine's struggle. After pursuing recognition through multilateral diplomacy, the Palestinian Authority continued its efforts to gain broader support through bilateral diplomacy. This approach proved just as effective as multilateral diplomacy, but bilateral diplomacy is more specific, focusing on UN member states, as it was hoped that this would make it easier for the Palestinian Authority to gain support and recognition. The change in status to a non-member observer state allowed Palestine to join UN organizations and participate in international agreements. This marked a significant step forward for Palestine in its diplomatic efforts to achieve independence. The countries that played the most influential roles in the process of upgrading Palestine's status were Iran, Indonesia, China, South Korea, and Russia. All of these countries are key actors in building international cooperation, which has allowed Palestine to gain widespread support from international forums and organizations, as well as from UN member states.¹²

B. Recognition from Other Countries toward Palestine

In Palestine's efforts to gain recognition from other countries as a condition for becoming a sovereign state, this process has been long and complex. During the process of state recognition, Palestine has successfully gained recognition from international organizations, such as the United Nations, and officially from other countries. Since Palestine's recognition at the UN meeting, several countries began offering official recognition, including Ireland, France, Sweden, Denmark, the Vatican, and many other nations. For each recognition that Palestine receives from these countries, a process of reaching mutual

¹⁰ Badri Alzaky, "Diplomasi Palestina menjadi Negara Pengamat Non- Anggota di PBB Tahun 2011-2012", hal. 11

¹¹ Ibid hlm. 15

¹² Puspita Ratih Dewi, Tesis : "Upaya Palestina Mendapatkan Pengakuan sebagai Negara Pengamat Non Anggota Di Pbb Tahun 2012" (Yogyakarta : UPN, 2014), hal. 1

agreements is necessary.¹³ As of July 2019, according to data from the World Population Review, 138 out of 193 UN member states had recognized Palestine as a sovereign state, including Indonesia. Although most countries worldwide have recognized Palestine as a state, there are still countries that do not recognize Palestine's independence.

At least 55 countries have not recognized Palestine as a state, including the United States, the United Kingdom, France, Japan, Germany, Canada, Eritrea, and Finland.¹⁴ The United States and the United Kingdom, which are responsible for the establishment of the modern state of Israel, have not recognized Palestine as an independent state. Meanwhile, Japan, Germany, France, and Canada support a two-state solution to resolve the Israel-Palestine conflict but state that Palestine's status must be determined through an agreement between both parties. Some European Union countries, such as Belgium and Denmark, have chosen to wait for an official decision from the EU. Eritrea and Finland have openly stated that they do not support the establishment of a Palestinian state.¹⁵ Despite the countries that have yet to recognize Palestine, international support for Palestine continues to grow. On the other hand, recognition of Palestine is steadily increasing. This support reflects the international community's acknowledgment of Palestine's existence as an independent state and provides an opportunity for Palestine to play an active role in various UN forums.

C. Steps Taken by the Indonesian Government to Support Palestine in Becoming a Sovereign State Like Other Countries

Indonesia has been one of the leading countries in advocating for Palestine's independence. This effort began in the early years of Indonesia's independence. The diplomacy for Indonesia's recognition of independence started with Egypt and Palestine. The Indonesian delegation sent to Middle Eastern countries received support from Sheikh Muhammad Amin Al-Husaini, a Palestinian mufti, who helped Indonesia lobby Arab countries to recognize its independence. As a result, Egypt was the first to recognize Indonesia's independence on March 22, 1947, followed by other Arab countries.

Indonesia has consistently been a strong supporter of Palestine in its struggle for sovereignty. The country has actively participated in international forums and organizations to advocate for Palestine's recognition as a sovereign state, including pushing for resolutions within the United Nations to support Palestinian independence. Through these efforts, Indonesia continues to be a steadfast ally of Palestine in its pursuit of full statehood.

Indonesia has always been active in opposing Israel's occupation of Palestine. Although Israel recognized Indonesia's independence in January 1950, Indonesia has not recognized Israel's independence. In 1974, the Palestine Liberation Organization (PLO), led by Yasser Arafat as a representative of the Palestinian people on the international stage, was recognized by Indonesia. In 1988, Palestine declared its independence on November 15 in Algiers, the capital of Algeria. The following day, on November 16, Indonesia recognized Palestine's independence and established diplomatic relations with Palestine. Meanwhile, Indonesia refused to establish diplomatic relations with Israel as long as

¹³ VOAIndonesia.com, "*PBB Akui Palestina Sebagai Negara Berdaulat*", (<https://www.voaindonesia.com/a/pbb-akui-palestina-sebagai-negara-berdaulat/1555724.html>, Diakses pada 29 Februari 2025)

¹⁴ 13CNN, "Daftar Negara yang Tidak Mengakui Kemerdekaan Palestina" (<https://www.google.co.id/amp/s/www.cnnindonesia.com/internasional/20210517160554-125-643391/daftar-negara-yang-tidak-mengakui-kemerdekaan-palestina/amp> , Diakses pada 26 Februari 2025)

¹⁵ CNN, "*137 Negara PBB Akui Palestina sebagai Negara Berdaulat*" (<https://www.cnnindonesia.com/internasional/20180812120910-120-321608/137-negara-pbb-akui-palestina-sebagai-negara-berdaulat> , Diakses pada 26 Februari 2025)

Palestine remained under occupation. In 1991, the Palestinian Embassy office was officially opened in Jakarta. In 1993, the President of Palestine visited Indonesia and met with President Soeharto.¹⁶

The steps taken by the Indonesian government to support Palestine in its efforts to gain independence and become a sovereign state have been carried out in various forms:

1. **The Asia-Africa Conference:** In 1955, Indonesia actively initiated and hosted the Asia-Africa Conference in Bandung. This conference aimed to serve as a platform for consolidation among Asian and African countries to unite in the struggle for welfare, anti-colonial movements, and to support countries that had not yet gained independence, including Palestine.
2. **The 1962 Asian Games:** In 1962, Indonesia hosted the Asian Games. Indonesia demonstrated its solidarity in supporting Palestine by refusing to grant visas to Israeli athletes who wished to participate in the event.
3. **The Non-Aligned Movement (NAM):** In March 2011, Indonesia hosted the 16th Ministerial Meeting of the Non-Aligned Movement (NAM) in Bali. During this event, Indonesia, along with member countries, strengthened its commitment to supporting Palestine's independence. Indonesia proposed a vote to support Palestine's full membership in the United Nations. NAM then conducted a vote for Palestine's recognition as a UN member state, with Palestine receiving support from 112 countries.
4. **Organization of Islamic Cooperation (OIC):** The issue of Palestine is a central agenda for the OIC. In September 2011, the 66th United Nations General Assembly session was held in New York, where the Palestine-Israel issue was discussed. During the session, an OIC meeting was held, and Indonesia urged OIC countries and the international community to support Palestine's bid to become the 194th member of the UN. President Jokowi called on all OIC countries to unite and put aside their differences to defend Palestine. The Palestine issue should reconnect Indonesia with the international community, especially after President Trump's decision to recognize Jerusalem as Israel's capital, which not only hurt the hearts of Muslims but also wounded the sense of justice for humanity. President Jokowi also presented six key points for the stance of OIC member countries. First, the OIC must firmly reject the unilateral recognition. The two-state solution is the only solution, with East Jerusalem as the capital of Palestine. Second, the President urged all countries with embassies in Tel Aviv, Israel, not to follow the U.S. decision to move their embassies to Jerusalem.

Third, OIC member countries should act as a driving force to encourage those nations that have not yet recognized Palestine's independence to do so immediately. Fourth, for OIC member countries that have relations with Israel, they should take diplomatic steps, including the possibility of reassessing their relations with Israel in line with various OIC resolutions. Fifth, OIC members should take collective action to increase humanitarian aid, enhance capacity-building, and foster economic cooperation with Palestine. Sixth, the President hopes that the OIC should be able to serve as a driving force for movements in various international and multilateral forums to support Palestine, including in the UN Security Council and General Assembly.¹⁷

¹⁶ Saibatul Aslamiah, "Diplomasi Indonesia dalam Mendukung Palestina Menjadi Negara Peninjau Di PBB Tahun 2012", Jom FISIP Vol. 2 No. 2, Oktober 2015, hal. 8

¹⁷ Hendra Maujana Saragih, "Kebijakan Luar Negeri Indonesia dalam Mendukung Palestina sebagai Negara Merdeka pada Masa Pemerintahan Joko Widodo", Jurnal Kajian Keislaman dan Kemasyarakatan, Vol.3 No. 02, Desember 2018, hal. 140-141

5. **UN Security Council 2007-2008:** In 2007-2008, Indonesia served as a non-permanent member of the UN Security Council. Indonesia consistently urged the Security Council to issue decisions regarding the Palestine issue, including in the form of a presidential statement (PRST) or a resolution.
6. **NAASP (New Asian African Strategic Partnership):** Indonesia is part of the regional cooperation in the New Asian African Strategic Partnership (NAASP). Indonesia initiated the NAASP Ministerial Conference on Capacity Building for Palestine, which was held in Jakarta on July 14-15, 2008. Indonesia expressed its commitment to supporting the establishment of an independent and sovereign Palestinian state, not only politically but also through technical cooperation in the form of capacity-building programs for 1,000 Palestinian citizens. This program ran from 2008 to 2013.
7. **Financial Aid and Hospital Construction in Gaza:** Indonesia has also provided financial assistance to Palestine, including pledges made at the 2007 Paris Donor Conference and during the Gaza Crisis of 2008-2009, each amounting to USD 1 million. Additionally, the Indonesian Embassy in Cairo delivered humanitarian aid to the people of Gaza in January 2011, consisting of medical equipment worth USD 83,325.21, donated by the Indonesian Committee for Palestinian Solidarity (KISPA). Indonesia also allocated funds of IDR 20 billion to build the Indonesia Cardiac Center at Al-Shifa Hospital in Gaza. Through the Medical Emergency Rescue Committee (MER-C), a humanitarian organization based in Jakarta, the people of Indonesia established the Indonesia Hospital on land donated by the Palestinian government.
8. **Indonesian Parliament (DPR RI) Visit to Palestine:** On November 29, 2012, eight members of the Indonesian House of Representatives (DPR RI) Commission I, along with several members of NGOs and journalists, visited Palestine, specifically the Gaza Strip. This visit was a political gesture and humanitarian support for the Palestinian people. The visit also aimed to provide moral support to Palestine and to urge Israel to stop its attacks on Palestinian territories.¹⁸

Conclusion

From the explanation above, it can be concluded that a country can be considered as a state if it meets the criteria for state formation, one of which is recognition. Every country wants to be recognized as a sovereign state in the eyes of the international community, including Palestine. Palestine is one of the countries that has strongly fought for international recognition of its sovereignty as an independent state. This process has been a long and challenging journey, and even until today, Palestine continues to fight for its rights to be fully recognized.

For those who support Palestine, they argue that Palestine is already a sovereign state because it has a government, territory, flag, and a permanent population. On the other hand, those who disagree argue that although Palestine meets the criteria of a state, it still does not have full control over its territory, as some parts are still under Israeli control. Therefore, this group considers that Palestine cannot be categorized as a fully sovereign state because it does not have complete control over its territory.

The emergence of the United Nations General Assembly resolution on Non-Member Observer States, which allows the flag of these non-member countries, including Palestine's flag, to be flown in front of the UN headquarters in New York, indicates that Palestine has been recognized as a sovereign state. The reason for this is that the resolution was signed by the international organization (UN),

¹⁸ Aries Setiawan. "Rumah Sakit Indonesia di Gaza Secantik Hati Rakyat Indonesia" (<http://nasional.news.viva.co.id/news/read/368533-rumah-sakit-indonesia-di-gaza-secantik-hati-rakyat-indonesia>), Diakses pada 30 Februari 2025)

consisting of 193 countries around the world. Based on the declarative theory, Palestine can be considered a sovereign state. However, some major countries, such as the United States and the United Kingdom, have not yet recognized Palestine as a state. This lack of recognition indicates that the recognition from these superpower countries is still not fully established, which suggests that the issue is not related to normative criteria but rather to political aspects. Therefore, in this context, Palestine must also engage in political approaches to gain recognition from other superpower countries.

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