



## "Nascent State" The Re'ut Institute – Concepts and Terms

### **Definition:**

The Re'ut Institute defines the concept of "Nascent State" (*in statu nascendi*) as referring to a status under international law of:

1. A **political entity**, which aspires for political independence and recognition of its status of statehood;
2. Whose **future political status** of statehood **has been recognized** by the **relevant members and organs of the international community**, primarily the UN;  
*although*
3. This status of statehood has not yet been fully realized.

The Re'ut Institute distinguishes between the concepts of Nascent State, "Quasi-State" and "State-in-the-Making".

### **Background – Statehood**

In international law, a state can come into being either *de jure*: ("by law"), or *de facto*, ("in fact") (See "Accession to Statehood"):

- *De facto* - According to the "Montevideo Conference" (1933), a state must have (a) a permanent population; (b) a defined territory; (c) effective governance; and (d) capacity to enter into relations with other states.<sup>1</sup> Hence, a political entity that meets these criteria is, *de-facto*, a state.
- *De jure* - the two main theories of statehood are:
  - *The Declarative Approach* – Statehood arises through declaration of independence.<sup>2</sup> However, this declaration may not be recognized by other members of the international community if the entity does not possess *de-facto* powers of statehood (see above). In other words, self-proclaimed statehood does not necessarily equal sovereignty;

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<sup>1</sup> *Montevideo Convention on the Rights and Duties of States in 1933*.

<sup>2</sup> Dajani Omar, "Stalled between Seasons: the International Legal Status of Palestine during the Interim Process", **Denver Journal of International Law and Policy**, Fall 1997, Volume 26. pp. 7-92.

- *The Constitutive Approach* – Statehood arises when an entity declares itself as a state and this declaration is recognized by other states.

A Nascent State is a concept that refers to a status under international law of a political entity that:

1. Embodies the **international recognition of the "right to self-determination"** of a population in a specific territory; *but*
2. **Does not exercise full sovereign powers** and lacks other necessary attributes of statehood; however
3. The **international community**, primarily the United Nations and other relevant parties, **has established** that this entity **will eventually become a full-fledged nation-state**; and
4. The political entity enjoys and is subject to some of the rights and obligations of states under international law.

The term of Nascent State – *in statu nascendi* – has few historical precedents.

- The best known example is **East Timor**. UN Security Council Resolution 1272 (10/99) recognized the State of East Timor, though full-fledged statehood would only be realized upon its induction into the UN (5/02). During this interim period, the UN Transition Authority in East Timor was designated to prepare East Timor for statehood.<sup>3</sup>
- The State of Israel between “UN General Assembly Resolution 181” (“Partition Plan”) (11/47) and the end of the British Mandate (5/14/48).<sup>4</sup>

### **Nascent-State, State in the Making and Quasi-State**

The Re'ut Institute distinguishes between the concepts of Nascent State, "Quasi-State" and "State-in-the-Making" as follows:

	Nascent State	State in the Making	Quasi State
Prominent Examples	East Timor (10/99-5/02); Israel (11/47-5/48)	Palestinian Authority (5/94-4/03)	Taiwan
Criteria of intl law (Population, territory, government and	Meets the criteria of territory and population <i>but not</i> all measures of government or capacity for intl relations.	Meets the criteria of population and territory, <i>but not</i> all measures of government or intl relations.	A Quasi State meets the criteria of territory, population <b>and governance</b> <i>but not</i> all powers of intl relations.

<sup>3</sup> For additional reading about the formation of East Timor see:  
<http://www.un.org/peace/etimor/etimor.htm>

<sup>4</sup> Smith Charles. **Palestine and the Arab-Israeli Conflict**, Bedford/St. Martin's; Boston, 2004. pg. 185-190.

	Nascent State	State in the Making	Quasi State
capacity for intl relations)			
International recognition in statehood	Formal recognition by relevant organs of the intl community (primarily the UN) of statehood as the permanent political status to be realized at a later phase	No formal recognition. Informal intl relations may exist.	No formal recognition. Informal intl relations may exist.
Attributes of jurisdiction – internal affairs	Partial de-jure powers in internal affairs; possibly also de-facto powers.	No or partial powers over internal affairs.	Full de-facto jurisdiction over internal affairs.
Capacity to Conduct international relations	No / partial de-jure (internationally recognized) or de-facto powers until the realization of statehood.	No / partial de-jure (internationally recognized) or de-facto powers	Capacity to engage in international relations emanates from trade agreements and admittance to some international bodies, though not from full recognition of status of statehood. <sup>5</sup>

## The Palestinian Authority

In this context, the status of the Palestinian Authority may be considered as a:

- State-in-the-Making between 5/94 and 4/03 having a territory, population, a legitimate claim to representation, yet no agreement by the relevant political actors – which may be seen as Israel, US or the United Nations – regarding its permanent political status as a state.
- Nascent State as of 4/2003 with the ratification of the Roadmap by the United Nations, which explicitly determines that the permanent political status of the Palestinian Authority will be full-fledged statehood. However, it currently lacks the necessary attributes of sovereignty, primarily, in this context, powers of international representation and exercise of its jurisdiction over its sovereign space. These powers should be agreed upon and realized during the implementation of the Roadmap. (See “[Roadmap](#)”).<sup>6</sup>

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<sup>5</sup> Taiwan was admitted to the World Trade Organization under the name “Chinese Taipei” (09/01). The WTO website has more information regarding Taiwan’s current trade status: [http://www.wto.org/english/news\\_e/pres01\\_e/pr244\\_e.htm](http://www.wto.org/english/news_e/pres01_e/pr244_e.htm)

<sup>6</sup> The acknowledged future existence of a Palestinian state by **all** of the relevant actors distinguishes 2003 from the 1988 “[Algiers Declaration](#)”. Although close to 100 countries recognized the “[PLC](#)” declaration of an independent, Palestinian state, Israel, which

## **Additional Sources**

1. Shaw Malcolm. **International Law**. Cambridge University Press; Cambridge, 2003. See specifically: Chapter 5 – The Subjects of International Law; Chapter 8 – Recognition; Chapter 12 – Jurisdiction.
2. Clapham Christopher. “Degrees of Statehood”, **Review of International Studies**, April 1998, Volume 24. pp. 143-157.

End.

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administered to the areas in question, did not acknowledge the declaration nor cede control as a result of it. In contrast, Israel agreed in principle to the Roadmap’s explicit call for a Palestinian State (04/03).