THIRD EDITION

STARTUP STATES

Where countries are built like startups,
and startups become countries.



JULIEN ANDREW STARR

STARTUP STATES SOCIETY · GENEVA

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Founding Director, Startup States Society

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2026

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Contents

Note to the Third Edition vii

Acknowledgements ix

Preface xi

Part One. The Vision 1

Chapter 1. The Ultimate Startup 3

Chapter 2. Defining Startup States 15

Chapter 3. Three Theories of Statehood 31

Interlude I. An Open Letter to Satoshi Nakamoto 49

Part Two. The Landscape 53

Chapter 4. The Limits of Subnational Governance 55

Chapter 5. The Myth of Empty Land 73

Chapter 6. Micronations 87

Chapter 7. The Promise and Perils of Seasteading 97

Chapter 8. Network States 107

Chapter 9. Illegitimate and Failed Pathways 117

Interlude II. A Letter to Readers of The Proprietary State 139

Part Three. The Legal Architecture 141

Chapter 10. Foundations in International Law 143

Chapter 11. Recognition, Estoppel, and Treaty Design 159

Chapter 12. Ethical Land Procurement and Partnership 183

Interlude III. A Letter to the Readers of Farewell to Westphalia 201

Part Four. Building the Startup State 205
Chapter 13. Features, Prototypes, and Archetypes 207
Chapter 14. The Startup State Lifecycle 223
Chapter 15. Governance Models and Public Services 239
Chapter 16. Financial Models and Strategies 253
Chapter 17. Security and Neutrality 269
Chapter 18. Sustainable Development and Innovation 285
Chapter 19. The Comparative Matrix 299
Interlude IV. A Letter to My Free Cities Friends 309

Part Five. The Value Proposition 313
Chapter 20. Benefits for Partnering Host States 315
Chapter 21. Benefits for Individuals and Businesses 331
Chapter 22. Benefits for the International Order 347
Chapter 23. Citizenship and Identity 365
Interlude V. A Letter to My Network State Friends 381

Part Six. Objections and the Path Forward 385
Chapter 24. Addressing Objections and Challenges 387
Chapter 25. The Path Forward: Charting Your Own Destiny 409
Appendix A. Hong Kong: From Revocable Autonomy to Designed Statehood 425
Appendix B. Próspera: A Breakthrough with Bounds 431
Appendix C. Doctrinal Context and Authoritative Foundations 437
Appendix D. The Limits of Orthodoxy: A Systematic Response to the Critique of Intentional State Formation 443
Glossary 449
Bibliography 455
Afterword 465

Note to the Third Edition

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The first edition of *Startup States* set out the case for a new kind of country: deliberately designed, formed by treaty with a willing host state, and governed by the consent of those who choose to join it. The second edition refined and extended that case. This third edition keeps the argument, the structure, and the voice of its predecessors, and adds to them in three ways.

It strengthens the legal foundation. New passages place the Startup States model in the historical record of states created by agreement, from the Free City of Cracow in 1815 to the Republic of Cyprus in 1960, and identify the gap that no precedent yet fills: a state granting its own territory, by treaty, at the initiative of a private actor (Section 11.3). They show, through the contrast between Montenegro and Kosovo, why the consent of the state from which a new country emerges matters more than any other single factor (Section 3.4). A new Section 11.4.7, "When the Bargain Fails", examines what happens if the host state repents, if the new country cannot pay its rent, or if either state is transformed, and what the founding treaty should provide for each case; Section 12.2.3 now addresses the end of a lease term.

It corrects the record. The text has been checked against primary sources and corrected where it was wrong or has been overtaken by events, among other places on the theories of recognition, the cases of *Tinoco*, *North Sea Continental Shelf*, and *Deutsche Continental Gas-Gesellschaft*, the status of the ZEDE regime in Honduras after the Supreme Court's ruling of 2024, Israel's recognition of Somaliland in December 2025, the British Overseas Territories, Malta's neutrality clause, and Monaco's naturalisation rules. The chapters on citizenship, objections, and the path forward are now numbered in the order in which

they appear, and the Contents is generated from the text. Quotations attributed to scholars that could not be verified have been restated as paraphrase.

It has been newly designed and typeset, and loose uses of "sovereign" have been replaced with more precise terms, while defined terms such as the sovereign lease are kept.

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House of Grimaldi, for demonstrating how a small rock can be transformed into one of the most sought-after places through discretion, enduring stewardship, exemplary governance, and a commitment to the quality of life of both citizens and guests, thereby setting a standard worthy of emulation.

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The Rebbe, for serving as the greatest diasporic leader of our generation and a masterful exemplar of how soft power can be exercised to achieve the timeless.

Dad, a clever, talented, thoughtful, and incisive thinker.

My Brother, the most intelligent, knowledgeable, and honest person I know.

Mom, the kindest, sweetest, gentlest, and most generous soul I have ever known; if the world reflected more of her, this book would not need to exist.

To the 6,000,000 who perished, and especially Moïse and Marcel Abouaf, may their memories be a blessing.

Preface

✴

Have you ever thought about starting your own country? Not as a whimsical daydream about wearing a crown and never doing the dishes again, but as a genuine startup challenge: designing a new polity from the ground up.

What would it look like? Who would join you? Where would it live, and what ideals would guide it? It could be almost anything: a sanctuary for endangered species, a carbon-negative community powered entirely by solar energy, a vibrant place for homeschooling and unschooling, a flourishing matriarchy, a safe harbour for minorities, or a place where politics gently steps aside to make room for surfboards and sunsets.

The possibilities are not only limitless but exhilarating. The real question is not whether it can be done, but how.

Founding a country is the ultimate startup. Unlike registering an LLC or launching an app, there is no United Nations form to complete, no "submit" button, and no onboarding wizard. And unlike traditional startups, there are no accelerators, incubators, or launchpads dedicated to helping people found new countries. This frontier remains almost entirely unexplored. There are millions of millionaires and thousands of billionaires, yet only a tiny handful of people in history can say they helped create a nation. That rarity does not make the dream unrealistic; it makes it extraordinary.

This book is not a legal manual, nor is it a fantasy. It is a rigorous, carefully argued account that draws from international law, history, and institutional design to illustrate how new countries can emerge in the twenty-first century. It will not tell you what to build, because that vision belongs to the founding community that builds it. Instead, it offers frameworks that help you think boldly and clearly.

Nothing worthwhile is ever entirely simple, and that is precisely what makes this journey meaningful and deeply rewarding.

If you are someone who believes in turning dreams into reality and refuses to settle for less than what is possible, you are exactly where you need to be. If you sense that the world we inherited is not the final version of the world we can create, then consider this book your invitation to begin.

As Thomas Paine reminded us, "We have it in our power to begin the world over again."

And as the late, great Harry Browne taught, "Because I aimed for the stars, I reached the top of the world."

Julien Andrew Starr

Founding Director, Startup States Society

PART ONE

The Vision



CHAPTER 1

The Ultimate Startup

✷

1.1 Have You Ever Thought About Starting a Country?

Not as a joke. Not as a late-night thought experiment. As a genuine startup challenge.

What would it look like? Who would join you? What would the flag say about the values you actually hold, rather than the ones you inherited? What problem would it solve that no existing government has been willing, or institutionally capable, of solving? What would you build if, for once, you were starting from scratch: no legacy obligations, no entrenched lobbies, no inherited debts, no bureaucracies designed for a different century, and no rules you did not write yourself?

These are not idle questions. They are, arguably, the most important questions in governance today.

Millions of people have built companies. Thousands have built companies worth billions. A small and celebrated number have built companies worth hundreds of billions, transforming entire industries in the process. But across all of recorded history, the number of people who can genuinely say they helped create a new, internationally recognised country can be counted in the hundreds. Perhaps fewer.

Think about that. You can found a unicorn. You can take a company public. You can put a rocket into orbit, sequence a genome, or train an artificial intelligence to pass the bar exam. All of these things, extraordinary as they are, have now been done by dozens or hundreds of people. Founding a country, done lawfully, peacefully, and durably, remains among the rarest things a human being has ever accomplished.

That rarity is not evidence that it cannot be done. It is evidence that almost no one has thought seriously about how to do it well.

This book does.

What follows is not a manifesto for anarchists, nor a fantasy for seasteaders, nor a recruitment document for any particular political tribe. It is a serious, rigorous, and practically oriented account of how new countries can be created in the twenty-first century: lawfully, ethically, durably, and with the genuine cooperation of the international community. It is written for the kind of person who, upon encountering a problem, asks not "who do I petition?" but "what do I build?"

If that is you, keep reading. The frontier is wider than you think.

1.2 The Arc of History

The planet has always been dotted with sovereigns. Long before the word "state" entered the political vocabulary of the West, human beings organised themselves into units of governance: kingdoms, city-states, chieftaincies, merchant republics, tribal confederacies, ecclesiastical principalities, and trading leagues of every conceivable variety. In the Holy Roman Empire alone, at the height of its complexity, historians have counted more than three hundred nominally independent political units, each with its own ruler, its own courts, and its own claim to authority over those who lived within its borders.

Then came the age of empires. Through conquest, colonisation, marriage, and treaty, the political map of the world was progressively consolidated. Hundreds of distinct polities were absorbed into a handful of great powers. By the early twentieth century, the British Empire covered a quarter of the earth's land surface. The French, German, Austro-Hungarian, Ottoman, Russian, and Japanese empires between them controlled most of the rest. What had once been a richly varied ecosystem of political experimentation had been compressed into a small number of vast, centralised administrative machines.

The reaction, when it came, was swift and global. The First World War destroyed three empires outright and fatally weakened a fourth. The principle of national self-determination, articulated at Versailles in 1919, gave political language to what millions of subject peoples had long felt: that governance derives its legitimacy from the consent of those governed, and that consent cannot be perpetually manufactured by a distant metropole.

The Second World War accelerated everything. The collapse of European colonial power across Asia, Africa, the Caribbean, and the Pacific produced one of the most dramatic episodes of state creation in recorded

history. Between 1945 and 1975, more than eighty new states joined the international community.[1] The United Nations, founded with fifty-one members in 1945, had grown to one hundred and forty-four by 1975. Africa alone went from a continent of four independent states in 1945 to one of more than forty by 1975, and fifty-three by 1993.

The second great wave arrived with the end of the Cold War. The dissolution of the Soviet Union in 1991 left fifteen successor states. Yugoslavia fragmented, eventually, into seven. Czechoslovakia became two. The Berlin Wall fell in 1989; by the end of 1993, the membership of the United Nations had grown from 159 to 184.

Taken together, these waves of state creation represent something important: not an aberration, but a pattern. History does not trend inexorably toward consolidation, nor toward fragmentation. It oscillates. Periods of imperial expansion are followed, with something approaching inevitability, by periods of dissolution and decentralisation.[2] The map of the world is not finished. It never has been. And the next chapter in the story of how countries come into being is already being written.

1.3 What We Mean by "Country"

Before going further, a clarification is essential, because the word "country" carries considerable historical baggage, and much of that baggage does not apply to the model advanced in this book.

The nation-state, as political theorists understand it today, is a relatively recent invention. Its intellectual origins are generally traced to the Peace of Westphalia in 1648, which established the principles of territorial sovereignty and non-interference in the domestic affairs of other states that still underpin international law.[3] Its practical consolidation took several more centuries. The idea that a state's borders should correspond to the boundaries of a single cultural or ethnic "nation" gained currency only in the nineteenth century, and was always more aspiration than reality: almost every state that claimed to embody a single nation in fact contained several.

The polities of antiquity and the mediaeval period operated on entirely different premises. The Roman Empire cared nothing for the ethnic identity of its citizens; it cared about legal status, fiscal obligation, and military service. The city-states of Renaissance Italy competed fiercely for territory, but none imagined that their borders should correspond to the limits of a single language or culture. The Hanseatic League was not a state at all in any modern sense; it was a commercial alliance of

cities whose governance innovations were driven entirely by the practical needs of long-distance trade.

What all of these forms of political organisation shared was a claim to legitimate authority over a defined territory and the people within it. That is the irreducible core of what a country is. A Startup State is not a nation-state in the nineteenth-century sense. It does not claim to be the political expression of a single people, defined by shared ancestry, language, or religion. It is something closer to what political philosophers call a "civic polity": a community defined not by who its members are, but by what they have chosen to build together.[4] This distinction is not merely semantic. It is the feature that makes the Startup State both legally achievable and ethically defensible in the contemporary international order.

1.4 The Equal and Opposite Reaction

The world is currently in the grip of two apparently contradictory forces, and understanding both is essential to understanding why the moment for Startup States has arrived.

The first force is consolidation. Regional and transnational blocs are accumulating power at a rate not seen since the height of empire. The European Union now encompasses twenty-seven member states and exercises regulatory authority over matters ranging from data privacy to agricultural subsidies to competition law.[5] The International Monetary Fund, the World Trade Organisation, the World Bank, and the Basel Committee on Banking Supervision set parameters within which most governments must operate, whether or not they have chosen to. Across virtually every domain of policy, the effective freedom of the nominally independent state has been narrowed by the accumulation of international commitments.

The second force is an equal and opposite reaction. As transnational institutions accumulate authority, the demand for local control, local identity, and local governance intensifies. The Brexit referendum of 2016, whatever one thinks of its outcome, was a dramatic expression of the sentiment that a layer of governance had placed itself too far from those it governed. The Catalan independence movement in Spain, which achieved a contested referendum in 2017 notwithstanding the fierce opposition of the central government in Madrid, reflects a similar impulse: the desire of a community to govern itself on its own terms, to write its own rules, and to make its own choices.

It is important to be clear about what this book does and does not say about such movements. It does not advocate for secession. On the contrary, one of the central arguments of this volume is that secession is an unnecessarily confrontational, legally precarious, and historically dangerous pathway to self-governance, one that has produced far more suffering than it has resolved. The Catalan example illustrates the point precisely: a movement with genuine popular support, operating within one of the world's oldest and most stable democracies, found itself unable to achieve its goals through a unilateral declaration of independence, and the attempt generated significant social and constitutional upheaval in its wake.

The insight this book offers is more radical in its implications precisely because it is more measured in its methods: secession is not necessary. The desire for self-governance, for a polity that reflects one's own values and responds to one's own needs, can be satisfied without confrontation, without breaking up existing states, and without any of the legal and political hazards that attend separatist movements. A new country can be created, from scratch, with the full consent and cooperation of an existing sovereign. The Startup State model shows how.

This is why Startup States should be understood as riding the arc of history rather than resisting it. The gravitational pull toward localism, toward smaller and more responsive units of governance, toward communities organised around shared values rather than inherited borders, is one of the defining political dynamics of the early twenty-first century. Startup States offer a legal, ethical, and practical vehicle through which that impulse can be channelled constructively rather than destructively.

1.5 The Airbnb Insight

Before proceeding to the mechanics of how a Startup State is built, it is worth dwelling on an analogy that illuminates the underlying logic with considerable force.

Airbnb is, by most measures, the world's largest hospitality company. At its peak, it listed more rooms globally than the top five hotel chains combined. It has hosted hundreds of millions of guests in virtually every country on earth. It owns not a single hotel, resort, villa, or apartment. Its asset base consists almost entirely of software, brand, and trust.

Uber transformed urban transport in dozens of countries without owning a meaningful fleet of vehicles. Alibaba became the world's largest retailer without maintaining a significant inventory. WeWork built a

global network of office environments without owning the buildings it occupied. The pattern is consistent and consequential: the most disruptive companies of the past two decades demonstrated, repeatedly, that asset ownership is not a prerequisite for asset utilisation. What matters is the relationship, the protocol, the governance framework that coordinates the use of assets in ways that create value for all parties.

Now apply that insight to statecraft.[6]

The conventional assumption about how countries come into being is that they must possess territory in the most absolute sense: land owned outright, title held without encumbrance, borders defended by force if necessary. This assumption is understandable, given that most of the world's existing states were created through conquest, colonisation, or the forcible assertion of territorial claims. But it is not required by international law. What international law requires for statehood is effective governmental control over a defined territory, not freehold ownership of the underlying land.

A Startup State, therefore, need not acquire land in the way that traditional states have acquired it. What it requires is a long-term, legally secure, and freely negotiated arrangement with a willing host state: a sovereign lease, a treaty-based agreement, or a condominium framework through which the Startup State exercises full governmental authority over a defined area, whilst the underlying land title remains with the host.[7] This is not a hypothetical construct. Treaty-based jurisdictional arrangements, entered into freely by both parties and underpinned by clear mutual benefit, have a well-established place in international legal practice. The detailed mechanisms through which such arrangements are designed, negotiated, and secured are examined at length in Chapters 10 and 11 of this volume.

The Airbnb analogy points toward something deeper than a clever financial structure. It suggests a fundamentally different way of thinking about the relationship between a country and the land it governs: not as a property relationship, but as a governance relationship. The country does not need to own the hotel. It needs to run it well, to the genuine benefit of both those who live within it and the host state from which the arrangement derives, under a framework that gives all parties confidence in the durability of the arrangement. Do that, and the question of ultimate land title becomes, in the practical sense, secondary.

1.6 The Startup Analogy, and Why It Is More Than a Metaphor

When Jeff Bezos launched Amazon in 1994, he was selling books from a garage in Bellevue, Washington. When Elon Musk founded SpaceX in 2002, the received wisdom held that private orbital launch was simply not achievable; rockets were a state monopoly, a residue of superpower competition, not something a startup could build from the ground up. When Jan Koum and Brian Acton created WhatsApp, they did so with a team so lean that for several years the service had more users than the company had employees.

The startup mentality, defined by disciplined vision, rapid iteration, first-principles thinking, and a fundamental willingness to challenge the inherited assumptions of incumbents, has proved itself as perhaps the most generative intellectual framework of the past half-century. It has disrupted finance, transport, communications, healthcare, and energy. It has minted new fortunes and, far more importantly, delivered genuinely new value to hundreds of millions of people.

Applied to statecraft, the question becomes: why should countries be exempt?

The answer, until quite recently, was that they had to be. The world had been carved up. The rules of international law, crystallised after the Second World War, gave primacy to the territorial integrity of existing states and left little formal room for the deliberate, consensual creation of new ones. The options available to those who found their country's governance wanting were limited: lobby for reform, emigrate, or in the most extreme circumstances, revolt.

A fourth option has been taking shape, quietly and without sufficient attention, in the interstices of international law. It is neither revolution nor emigration. It is, in the most precise sense, entrepreneurship applied to the art of statecraft: the deliberate, lawful, and consensual creation of a new state through treaty, negotiation, and partnership with a willing host country. That is the Startup State. That is what this book is about.

1.7 The Numbers, and What They Tell Us

There are, at the time of writing, approximately two hundred fully independent states recognised by the international community. Against a global population of more than eight billion people, that yields a ratio of roughly one state for every forty million inhabitants. For all the talk of governance innovation, of regulatory sandboxes and special economic

zones and digital nomad visas, the fundamental unit of global order has remained almost entirely static in number for several decades.

By contrast, the Forbes Global 2000 lists two thousand publicly traded companies with a combined market capitalisation in the tens of trillions of dollars. The number of active startups worldwide runs into the millions. There are more hedge funds than there are states; more cryptocurrency tokens than there are members of the United Nations.

This is not merely a curiosity. It is a market signal. The supply of independent polities has not kept pace with the demand for governance diversity, and that divergence creates an opportunity that no serious thinker about the future of the state can afford to ignore.[8]

The people most likely to see it clearly are those who have already built something from nothing: the founders, the builders, the investors who backed them, and the operators who scaled them. They know what it means to stare at a blank canvas and see a finished product. They understand the disciplines that separate a durable institution from a flash in the pan. And they know, perhaps better than anyone, that the most transformative ideas are almost always the ones that were, for a time, dismissed as absurd.

Founding a company is extraordinary. It is also increasingly common. Founding a country remains, by a considerable margin, the rarest thing a human being can do. That rarity is not a reason for despair. It is a reason for ambition.

1.8 Before the How: The Question of Why

Before the how comes the why. And the why, for a Startup State, is not optional. It is foundational.

History is littered with the wreckage of state-building projects that failed because they could not answer this question convincingly. Their founders had the drive, the capital, and in some cases even the territory. What they lacked was a clear and honest account of what problem they were solving, for whom, on what terms, and with whose consent.

The Startup State model insists on clarity of purpose as a prerequisite to everything else. A new country is not a vanity project, nor an exercise in tax optimisation dressed in the language of sovereignty. It is a purpose-built polity: a human community organised around shared values, voluntary participation, and a constitutional commitment to the wellbeing of those who choose to join it.

The purposes a Startup State might serve are as varied as the people who might build one. It might be a haven for the stateless, whose number the United Nations High Commissioner for Refugees has estimated at as many as ten million, although only some four million are formally recorded: individuals who exist, legally speaking, in a kind of permanent limbo, unable to access the most basic instruments of international life.[9] It might be a laboratory for sustainable governance, a polity that, from its first day, is carbon-neutral, water-secure, and built around regenerative economic principles. It might be a jurisdiction designed to attract the world's most talented researchers and engineers, offering a regulatory environment calibrated for breakthrough rather than incumbency protection. It might be a sanctuary for a persecuted cultural or religious community. It might be a model of fiscal clarity: a state with no income tax, no hidden levies, no discretionary enforcement, where the rules are stated plainly and changed only through transparent democratic process.

None of these purposes requires a revolution. None requires the annexation of anyone else's territory. None requires the removal of an existing government or the displacement of an existing population. Each of them requires something more difficult and more interesting: the imagination to design a better polity, the discipline to build it correctly, and the patience to do so within the framework of international law.

1.9 The Consent Advantage

One of the defining features of a Startup State, the one that most clearly distinguishes it from every political experiment that has come before, is its radical commitment to consent.

In majoritarian democracies, even when reforms are popular, a substantial minority frequently finds itself governed against its expressed preferences. Dissenters, however principled, are subject to the same laws and the same burdens as everyone else. Winners impose; losers endure. The legitimacy of such outcomes is transactional, temporary, and entirely dependent on future electoral results.

The Startup State departs from this logic at the root. Participation is voluntary from the outset. Aligned individuals and businesses choose to join; if dissatisfied, they may exit. The legitimacy of the arrangement is not imposed by a majority upon a reluctant minority; it is built into the foundation through the very mechanism by which the state comes into being: consensual treaty, transparent governance, and constitutional commitment to the rights of all who choose to participate.

This is not a minor refinement to existing models of governance. It is a fundamental shift in the relationship between the state and those it serves. Governance becomes, in the most literal sense, an opt-in proposition. The implications of that shift, for accountability, for innovation, and for human freedom, are profound.

1.10 The Clean Cap Table

Entrepreneurs will recognise a concept that applies as readily to countries as it does to companies: the clean cap table.

Every established state carries with it an accumulated weight of legacy obligations, institutional inertia, entrenched interests, and inherited debts, both fiscal and political. These are not merely inconveniences; they are structural constraints that limit what any administration, however energetic, can actually achieve. Reforming an existing state is a long, arduous, and frequently unrewarding process, precisely because the reformer must work against the grain of everything that came before.

A Startup State begins clean. Its constitutional foundation is free of crippling debts, entrenched lobbies, and inherited conflicts. It can adopt, from day one, the governance architecture that the best scholarship, the most rigorous comparative evidence, and the most thoughtful institutional design can produce, unconstrained by the need to accommodate what already exists. It can choose its legal system, its fiscal framework, its citizenship regime, and its regulatory philosophy without the friction of path dependency.

This is not naivety about complexity. Building a new state is enormously complex. But the complexity is of a different, and in important respects more tractable, kind than the complexity of reforming an existing one. It is the complexity of design, not the complexity of dismantling a legacy structure before you can begin constructing something better.

The opportunities this creates are extraordinary. A Startup State could provide sanctuary to the stateless. It could serve as a testbed for sustainable technology, for experimental legal systems, for pioneering healthcare models. It could offer global citizens something that has become, in the twenty-first century, genuinely rare: a country designed with consent, care, and clarity of purpose.[10]

1.11 An Invitation to Build

This book is addressed, in the first instance, to a particular kind of reader.

You may be a founder who has built something significant and is asking, for the first time, what comes next: what frontier remains after the product is shipped, the company is scaled, and the exit is complete. You may be an investor who has backed transformative ventures in technology, life sciences, or infrastructure, and who is beginning to consider whether governance itself might be the next and most important asset class to be disrupted. You may be a lawyer, a diplomat, or a policy architect who has spent a career working within existing systems and suspects that the most consequential work lies outside them.

You may be a philosopher, an ethicist, or a political theorist who has long believed that better polities are achievable and is searching for a practical pathway to them. Or you may simply be someone who has looked at the state of the world, at its paralysed democracies, its captured institutions, its governance gaps, and its humanitarian catastrophes, and concluded: there must be a better way.

There is. And this book will show you where to find it.

What follows is not a manifesto. It is a serious, rigorously sourced, and practically oriented account of how new countries can be created in the twenty-first century: lawfully, ethically, durably, and with the full cooperation of the international community. It draws on international law, comparative political science, economic history, and the lessons of every significant experiment in alternative governance attempted in the modern era. It will be honest about the challenges, because there are many. State creation is not easy, and this book will not pretend otherwise. But it will argue, with evidence and precision, that the challenges are surmountable by those with the vision to see the pathway and the discipline to follow it.

One final observation belongs here, at the very outset. Amongst the thousands of books published each year on governance, politics, and the future of the state, very few take seriously the possibility that the most important institutional innovation of the coming decades might not be a reform of existing countries, but the creation of new ones. This book takes that possibility seriously, because the evidence, both historical and contemporary, compels it.

The most important startups are not the ones that disrupt existing markets. They are the ones that create entirely new ones.

The map of the world is not finished. It never has been.

It is time to start building.

✷

NOTES

1 Between 1945 and 1975, the number of UN member states grew from 51 to 144. See: Nils Gilman, "The New International Economic Order: A Reintroduction," *Humanity: An International Journal of Human Rights*, 6(1), 2015, pp. 1-16; and Rupert Emerson, *From Empire to Nation: The Rise to Self-Assertion of Asian and African Peoples* (Cambridge, MA: Harvard University Press, 1960).

2 On the historical oscillation between state fragmentation and consolidation, see: Charles Tilly, *Coercion, Capital, and European States, AD 990-1992* (Oxford: Blackwell, 1992); and Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-First Century* (London: Atlantic Books, 2003).

3 On the Peace of Westphalia and its constitutive role in modern international law, see: Leo Gross, "The Peace of Westphalia, 1648-1948," *American Journal of International Law*, 42(1), 1948, pp. 20-41; and Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," *International Organisation*, 55(2), 2001, pp. 251-287.

4 On civic as opposed to ethnic conceptions of political community, see: Jurgen Habermas, *The Inclusion of the Other: Studies in Political Theory* (Cambridge, MA: MIT Press, 1998); and Michael Ignatieff, *Blood and Belonging: Journeys into the New Nationalism* (London: BBC Books/Chatto and Windus, 1993).

5 On the expansion of EU regulatory authority, see: Simon Hix and Bjorn Hoyland, *The Political System of the European Union*, 3rd edn (Basingstoke: Palgrave Macmillan, 2011); and Giandomenico Majone, *Regulating Europe* (London: Routledge, 1996).

6 The asset-light governance model as applied to Startup States, including the treaty lease mechanism and condominium frameworks through which sovereignty is exercised without outright land ownership, is developed in detail in Chapters 12 and 13 of this volume.

7 The legal basis for treaty-based jurisdictional arrangements and the precise instruments through which full governmental authority can be exercised over leased or jointly administered territory is examined in Chapters 10 and 11 of this volume, with reference to the relevant provisions of the Vienna Convention on the Law of Treaties (1969) and the Montevideo Convention on the Rights and Duties of States (1933).

8 On governance diversity as a demand-side phenomenon, see: Dani Rodrik, *The Globalisation Paradox: Democracy and the Future of the World Economy* (New York: W.W. Norton, 2011), Chapter 9; and Parag Khanna, *Connectography: Mapping the Future of Global Civilisation* (London: Weidenfeld and Nicolson, 2016).

9 UNHCR estimates that statelessness formally affected approximately 4.4 million people across ninety-five countries with available data in 2023, with the true global figure considerably higher. See: UNHCR, *Global Trends: Forced Displacement in 2023* (Geneva: UNHCR, 2024), p. 44.

10 The full taxonomy of purposes for which Startup States may be founded, including sanctuary states, technology hubs, sustainable development laboratories, and lifestyle destinations, is developed in Chapter 13 of this volume.

CHAPTER 2

Defining Startup States

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The previous chapter ended with an invitation: it is time to start building. Before anything can be built, however, something must be understood. Chapter One made the case that new countries can and should be created. This chapter answers the question that naturally follows: what, precisely, is a Startup State? And what is it not?

These are not academic questions. In any domain where legitimacy matters, and few domains are more sensitive to legitimacy than the creation of a new country, precision of language is not a luxury. Words determine whether an idea is taken seriously by governments, by investors, by international lawyers, and by the people who might one day choose to live within the institutions those words describe. The following definition is therefore offered not as a starting point for philosophical debate but as a working specification for a practical enterprise.

2.1 The Definition

The Startup States Society, the Geneva-based institute through which this work is advanced, defines the concept as follows:

Startup States are new, deliberately designed, treaty-formed independent countries established to promote individual human liberty and the natural environment.

Each word in that sentence is doing work. "New" means that a Startup State is not a reformed version of an existing country, nor a rebranded territory, nor a subnational enclave dressed up in the language of nationhood. It is genuinely new: a political entity that did not previously exist. "Deliberately designed" distinguishes it from the vast majority of the world's current countries, which came into being through conquest, colonial fiat, the collapse of empires, or the accidents of war. A Startup State is the product of intention and careful institutional architecture. "Treaty-formed" is the legal cornerstone: it is brought into being through a freely negotiated agreement with an existing, recognised country, not through a unilateral declaration, a military operation, or a demographic manoeuvre. "Independent" means what it says: a Startup State is not a protectorate, not a special economic zone, not an autonomous region. It exercises the full range of governmental functions in its own right. And the twin purposes, individual human liberty and the care of the natural environment, provide the ethical foundation from which everything else flows.

A fuller formulation, drawing on the expanded definition developed through the work of the Startup States Society, reads as follows:

A Startup State is a new, fully independent, internationally recognised country, brought into being through voluntary treaty with an existing recognised state, designed from first principles, governed by the explicit consent of those who choose to join it, and built with the same entrepreneurial discipline, institutional rigour, and long-term ambition that the best startups bring to transforming industries.

Both formulations will be used throughout this book. The first, shorter definition is the Society's official statement; the second gives the operational detail that guides the chapters that follow.

2.2 What a Startup State Is Not

Terminological clarity requires not only a positive definition but a clear account of what the concept excludes. Three ideas are most frequently confused with the Startup State, and each deserves a careful distinction.

The first is the "Startup Nation." Popularised by Dan Senor and Saul Singer's celebrated 2009 book of that title, the phrase refers principally to Israel: a country celebrated for its extraordinary culture of entrepreneurship, military innovation, and technological achievement.[1] Israel is an inspiring example of how ingenuity can flourish within an existing governmental framework. But it is not a newly created polity in the sense envisioned here. The distinction lies in origin and design: Israel innovates within an already-established country; a Startup State is the deliberate creation of a brand-new independent entity from the ground up. One is historically inherited and territorially rooted; the other is intentional, treaty-enabled, and forward-looking.

The second is the "Startup Society." These communities experiment with novel governance arrangements, social models, or economic systems, and they can serve as useful laboratories for new ideas. But they are typically confined to subnational or private initiatives. They stop short of the definitive step: becoming fully independent, internationally recognised countries with the capacity to sign treaties, exchange ambassadors, and hold seats in international institutions. Startup Societies are sketches; Startup States are the completed and legally binding construction.

The third is the "Network State" as theorised by Balaji Srinivasan.[2] The Network State model begins with a digitally organised community that progressively acquires land and eventually seeks diplomatic recognition. This book engages with that model in depth in Chapter 8. The key distinction is structural: a Startup State secures recognition through treaty at the very moment of its creation. Legitimacy is not the eventual destination of a long journey; it is the foundation upon which the journey begins.

2.3 Etymology: Startup Meets Statecraft

The deliberate juxtaposition of "startup" and "state" is not a marketing exercise. It is a conceptual claim that merits careful unpacking.

The concept of a "startup" originates in the twentieth-century lexicon of Silicon Valley and the broader culture of technological entrepreneurship. From its earliest use, the word evoked ventures that thrived not on inherited advantages or entrenched hierarchies, but on agility, creativity, and bold experimentation. Startups embraced the idea that small, nimble teams could achieve breakthroughs by challenging orthodoxy, iterating quickly, and scaling rapidly.[3] At their heart lay a commitment to solving real problems and creating genuine value: turning vision into reality through lean methods, private initiative, and disciplined execution.

The term "state," by contrast, carries centuries of accumulated weight. Derived from the Latin *status*, meaning condition, standing, or political order, it gained sharper political meaning during the mediaeval and Renaissance periods, crystallising in its modern form after the Peace of Westphalia in 1648.[4] From that point forward, the state became the foundational unit of international order, endowed with governmental authority, a defined territory, and the capacity for diplomacy. This understanding remains the bedrock of contemporary international law.

To combine these two terms is to make an argument: that the methods, the discipline, and the ethos of the world's most successful new ventures can and should be applied to the creation of new countries. Not to replace existing countries, not to destabilise the international order, and not to indulge in the kind of speculative adventurism that has historically given alternative statecraft a poor reputation. The goal is to build something new, lawfully and durably, within the framework of the international system as it actually exists.

This is a pragmatic position, not an ideological one. The Startup States model makes no grand claims about the ultimate nature of the state, or whether the nation-state will endure as the primary unit of human politi-

cal organisation for another century. It may. It may not. What can be said with confidence is that the nation-state remains, for the foreseeable future, the framework within which the rights and obligations of individuals and organisations are principally determined: the vessel through which legal identity is conferred, through which international agreements are concluded, and through which human communities achieve recognised status in the world. Working within that framework is not a concession; it is the only path that leads to a durable result.

2.4 No Value Judgement on Existing Countries

Before proceeding further, a point of intellectual honesty deserves emphasis, because it has practical consequences for how this book should be read.

Nothing in the Startup States framework constitutes a judgement on the legitimacy or the value of existing countries. The fact that most of the world's current nations came into being through conquest, colonial fiat, or the accidents of history does not make them illegitimate in the present. They are, in the language of international law, grandfathered into the system: recognised by their peers, possessed of institutions that function to varying degrees, home to populations that have built lives, cultures, and communities within their borders. The case for Startup States is not that existing countries have failed, though many face serious governance challenges. It is simply that more countries, designed more carefully and constituted more consensually, would be a good thing for the world.

This is a realpolitik argument as much as an idealistic one. It does not require the reader to hold any particular view about the ideal organisation of human political life. It requires only the recognition that governance quality varies enormously across the current roster of nations, that millions of people live under institutions they find deeply unsatisfactory, and that the tools now exist to do something constructive about that: not by overthrowing what exists, but by adding something better.

The Startup States framework is, in this sense, a complement to the existing international order rather than a challenge to it. It takes the world as it is, works within the rules that actually govern the recognition and operation of new countries, and asks what can be built within those rules by people with the imagination and the discipline to try.

2.5 Three Theories of Statehood

International lawyers have long debated what, precisely, makes an entity a country in law. The answer has profound consequences: it determines which entities have rights and obligations under international law, which can sign treaties, and which are entitled to recognised status in international institutions. For anyone designing a Startup State, this debate is not academic. It is a practical necessity.

The classical debate has been conducted between two positions. The first is the Declaratory Theory: the view that independent statehood arises automatically once a defined set of objective criteria are satisfied, regardless of whether other countries acknowledge it. The second is the Constitutive Theory: the view that an entity becomes a state only when it is formally recognised as such by existing members of the international community. The Startup States framework engages seriously with both, and then advances a third position: the Consensual Theory, which is the Society's own original contribution to the jurisprudence of state formation. It is both legally more rigorous and strategically more sound than either of its predecessors.

2.5.1 The Declaratory Theory

The Declaratory Theory was codified in modern form by Article 1 of the Montevideo Convention on the Rights and Duties of States (1933), which remains the most widely cited enumeration of the criteria for statehood. Under that instrument, a state must possess: a permanent population; a defined territory; an effective government; and the capacity to enter into relations with other states.[5] The Declaratory Theory holds that once these conditions are satisfied in fact, the entity is a state in law, irrespective of whether other countries choose to acknowledge it.

Leading authorities have reinforced this position. The Arbitration Commission of the Conference on Yugoslavia stated in 1992 that recognition "is not a prerequisite for the foundation of a State and is purely declaratory in its impact", and James Crawford, in his authoritative *The Creation of States in International Law* (2006), treats the criteria for statehood as primarily factual.[6] The doctrine affirms a vision of statehood rooted in objective conditions rather than political favour.

For Startup States, this theory provides important grounding. By engineering themselves to satisfy the Montevideo criteria from inception, securing defined territory through lawful treaty, attracting a voluntary permanent population, establishing effective governmental institutions,

and acquiring treaty-making capacity through their founding agreement with a host country, Startup States possess legal statehood as a fact from the moment of their creation. They do not hover in juridical limbo awaiting the discretionary approval of existing powers.

The practical limitation of the Declaratory Theory is, however, well understood: legal existence does not guarantee political integration. An entity that satisfies all four Montevideo criteria but commands no diplomatic recognition will find itself unable to participate in international institutions, trade freely, or exercise the full range of governmental functions in practice. Formal legal recognition is necessary but not sufficient.

2.5.2 The Constitutive Theory

The Constitutive Theory holds that the legal existence of a state is contingent upon recognition by other states. A polity becomes a subject of international law only when existing members of the international community extend that recognition. The paradigmatic illustration is Taiwan: an entity that satisfies all four Montevideo criteria, governs itself effectively, and sustains a sophisticated economy, yet remains excluded from the United Nations and many formal international bodies because a majority of countries do not formally recognise it.[7] Taiwan is perhaps the clearest demonstration that, whatever the theory says, political reality imposes its own demands.

Most modern scholarship treats statehood as arising from facts rather than recognition, following Crawford and the general trajectory of post-war international jurisprudence. But the political reality remains: without recognition, there is no seat in international institutions, no access to international dispute-resolution mechanisms, and severely constrained ability to operate as a full participant in world affairs. For any serious state-building project, recognition is not an afterthought. It is a foundational strategic objective.

Startup States therefore adopt a "treaty-first" approach, designed to meet both declaratory and constitutive requirements simultaneously. The founding bilateral treaty with a recognised host country functions at once as the instrument that confers territorial and jurisdictional authority and as the primary act of recognition. Recognition is embedded in the formation of the new country, not pursued retrospectively. From that foundation, phased diplomatic engagement with additional countries builds the recognition base progressively.

2.5.3 The Consensual Theory: An Original Framework

Beyond the Declaratory and Constitutive frameworks, the Consensual Theory of Statehood represents both a refinement and a genuine advance. It is the Startup States Society's original contribution to the theory of how new countries come into being. As such, it is the intellectual heart of everything this book proposes.

The Consensual Theory begins from a simple observation: the two classical theories, taken together, are necessary but not sufficient for legitimate statehood. The Declaratory Theory correctly identifies the factual conditions that must be met; the Constitutive Theory correctly recognises that political acceptance by the international community is indispensable in practice. But neither theory requires that the formation of the new country rest upon the genuine, informed, and voluntary agreement of all the parties it affects. History demonstrates, with painful consistency, that countries can satisfy both the factual criteria of the Declaratory Theory and the political criteria of the Constitutive Theory whilst still being built on coercion, deception, or the exploitation of weaker parties. The Consensual Theory closes that gap.

Its central claim is this: the legitimate formation of a new country requires the explicit, informed, and voluntary consent of all relevant parties at every critical point of the formation process. This consent operates on four distinct levels.

First, the consent of those who will live within the new country. Membership is an act of choice, not a consequence of birth or circumstance. A person becomes a citizen of a Startup State because they have chosen to affiliate with it, on terms they understand and have accepted. This creates a community of genuinely willing participants rather than a captive population.

Second, the consent of the host country. The existing, recognised country that makes territory available for the new state, whether through a long-term lease, a treaty-based transfer, or another freely negotiated arrangement, must do so knowingly and willingly. Its government must understand what it is agreeing to, and the arrangement must reflect genuine mutual benefit rather than the pressure of an unequal bargaining position.

Third, consent in the form of international recognition. The Startup State's legitimacy is co-created through treaties with other countries, affirming its legal standing within the international order. Recognition

is not an optional garnish; it is a structural requirement, built into the process of formation from the outset.

Fourth, consent in the acquisition of territory. The land upon which the new country is founded must be obtained through mutually executed agreements, involving territory that is uncontested and either uninhabited or whose existing residents are full and willing participants in the new arrangement. No displacement. No coercion. No demographic manipulation.

The Consensual Theory does not repudiate the earlier frameworks; it synthesises and transcends them. It acknowledges that statehood requires factual sufficiency and political acceptance, and it adds a third requirement: consensual legitimacy at every stage. This is not merely a higher ethical standard, though it is that. It is also a more durable legal one. A country formed with the genuine agreement of all affected parties gains stronger diplomatic standing, greater institutional credibility, and more resilient foundations than any entity that has attempted to shortcut the process.

This framework also represents a direct repudiation of how most of the world's current countries came into being. With some honourable exceptions, the historical record of state formation is a record of conquest, imposition, and the assertion of power over weaker parties.[8] The Consensual Theory insists that this history need not be repeated, and that the tools of contemporary international law are sufficient, when properly deployed, to ensure that it is not.

2.6 The Legal Architecture

The credibility of any new country rests, before everything else, on a juridical foundation. The international community does not extend recognition to polities on the basis of sentiment or aspiration, but by reference to established criteria grounded in positive law and customary international practice. Startup States are therefore designed to meet and exceed those criteria.

2.6.1 The Montevideo Convention (1933)

The Montevideo Convention provides the canonical fourfold test of statehood under international law, and Startup States are structured from the outset to satisfy each element robustly.[9]

A permanent population is required. Startup States attract and cultivate a settled, stable, and engaged citizen body who voluntarily affiliate

with the new country. Citizenship is grounded in consent rather than compulsion, producing a demographic base that is permanent, participatory, and genuinely invested in the success of the new institution.

A defined territory is required. Startup States obtain their land lawfully and unambiguously, through treaty-based transfers, leases, or purchases of uninhabited and uncontested territory from recognised countries. This avoids the legal defect of unilateral territorial claims and ensures that the geographical foundation of the new country is free from any dispute over title.

An effective government is required. Startup States establish robust constitutional frameworks and institutional structures capable of exercising genuine authority over their population and territory. Their governments are designed from inception for efficiency, transparency, and accountability, embedding the rule of law as the organising principle. This satisfies not only the Montevideo standard but also the requirements of effective control affirmed in the Tinoco Arbitration of 1923.

The capacity to enter into relations with other countries is required. Startup States achieve this from the moment of their creation through the treaty-first approach. The founding treaty with a recognised country immediately confers international legal standing. The new country is not a juridical aspirant awaiting recognition; it is a full participant in the international order from day one, capable of concluding treaties, sending envoys, and engaging in diplomacy.

2.6.2 The UN Charter and the Vienna Convention

Startup States are conceived in explicit alignment with the foundational principles of the United Nations Charter.[10] Article 2(4) prohibits the use of force against the territorial integrity of any state; the Startup State model, grounded in voluntary treaty rather than coercion, is fully consistent with this. Article 1(2) establishes the right of peoples to self-determination; Startup States operationalise that right in a peaceful and constructive way, offering communities an opt-in pathway to design new institutions that reflect their shared values, without fracturing existing countries.

The Vienna Convention on the Law of Treaties (1969) provides the doctrinal backbone for the founding instruments.[11] The founding treaty formalises the lawful transfer or long-term leasing of territory, the allocation of governmental authority, and the framework for mutual recognition and cooperation. The principle of *pacta sunt servanda*, agreements must be kept, ensures long-term stability; and the doctrine of estoppel

prevents the host country from repudiating the arrangement unilaterally, insulating the new country against political reversals in the host capital.

2.7 The Antithesis of Colonialism

No aspect of the Startup States framework requires more direct engagement than its relationship to the history of colonialism. That history casts a long shadow over any project that involves the creation of a new governmental entity, particularly one associated with nationals of wealthy countries establishing authority over new territories.

The colonial model, in its classical form, rested on features that are entirely absent from the Startup State framework. Colonial authority was imposed without the consent of those subject to it, frequently through military force or grossly unequal treaty. Colonial territories were inhabited, and their existing populations were displaced, subjugated, or worse. Colonial economic arrangements were designed to extract value from the subject territory for the benefit of a distant metropole, with little or no reciprocal benefit for those governed. And colonial governance was not accountable to those governed; it served the interests of the power that imposed it.

The Startup State inverts every one of these features. Consent is not an afterthought; it is the constitutive principle of the entire enterprise. The territory upon which a new country is founded is uninhabited, or is made available through freely negotiated agreement with a country whose population is neither displaced nor disadvantaged. The economic arrangements are designed for genuine mutual benefit. And the governance is constitutionally constrained and accountable to those who have freely chosen to participate.

The formal legal expression of this distinction is the maxim *ex injuria jus non oritur*: law does not arise from injustice.[12] A Startup State's legal standing must be grounded in ethical and consensual foundations from its very first day. Any arrangement involving coercion, deception, or the exploitation of an unequal bargaining position is not a Startup State. It is colonialism repackaged.

2.8 The Startup State Lifecycle

The creation of a Startup State is not a messy accident of history. It is a deliberate build, designed with the same precision as a major insti-

tutional launch. The process moves through six distinct phases, each compounding on the last.

2.8.1 *Idea and Vision Formulation*

Every serious venture begins with a compelling reason to exist, and new countries are no different. The founding team must define the new country's core mission: what problem does it solve? What does it offer that no existing country is willing or able to provide? For whom is it designed, and what will attract the citizens, investors, and partner countries who are essential to its success? A Startup State is a solution to a real governance problem, not a personal hobby or an exercise in ego.

2.8.2 *Treaty Negotiation and Co-Creation*

No unilateral declarations. No flag-planting on unclaimed beaches. The founding treaty is the term sheet: the instrument that locks in the explicit consent and co-creation of a host country, establishes genuinely mutual arrangements, and sets the long-term incentive structure so that all parties continue to gain from the relationship. It is the cornerstone of legal legitimacy. Without it, the project remains an aspiration rather than a country.

2.8.3 *Land Securitisation*

Every country needs a defined territory. The Startup State secures uninhabited, uncontested land through a long-term lease, a clean transfer, or a purchase negotiated transparently with the country that holds the relevant title. No displacement of existing residents. No legacy disputes over ownership. The geographical foundation must be legally clean from the outset, because everything that follows depends upon it.

2.8.4 *International Notification and Provisional Governance*

Before scaling, the new country demonstrates that it is serious. Relevant states and international institutions are notified; provisional governance is established; basic public services are delivered; and the rule of law is enforced from the first day of operation. This is the minimum viable product of governance: not elaborate, but functional and credible.

2.8.5 *Phased Recognition and Diplomatic Engagement*

Diplomatic recognition is not a one-shot event. It is a cumulative process, built through demonstrated competence, good faith, and sustained en-

gagement with the international community.[13] Early recognising countries are brought on board through clear mutual benefit, including trade arrangements, investment partnerships, and regional cooperation. Momentum builds through a coalition of recognising states, and the new country's legitimacy deepens with each addition to that coalition.

2.8.6 Growth and Self-Sustainability

Recognition is the launch; growth is the long game. The mature Startup State builds a diversified economic base, invests in social infrastructure and civic institutions, and cultivates a civil society that makes its citizens proud, its investors confident, and its partner countries secure. The goal is not to exist on paper but to operate as a self-sustaining, fully integrated member of the international community, valued not merely for its flag but for the quality of what it delivers.

2.9 Building Within the System

A note of clarification belongs here, because it is fundamental to understanding what Startup States are and what they are not.

This is not a call to break the existing international order. It is not an invitation to hack the system, to ask forgiveness rather than permission, or to treat the rules of international law as obstacles to be routed around by sufficiently clever lawyers. The Startup States framework is emphatically not that. It is, instead, an argument that the existing international system, properly understood and carefully engaged with, already contains the legal tools necessary to create new countries through entirely lawful means. The rules are not the enemy. They are the architecture within which something durable can be built.

This matters for a practical reason as well as a principled one. Countries created through legally questionable means, through unilateral declarations, demographic manipulation, or the exploitation of political vacuums, are fragile. They attract the hostility of the international community, struggle to secure the recognition they need to function, and tend to collapse under the weight of their own illegitimacy. Countries created through lawful, consensual, and transparent processes are durable. They command respect. They attract investment. They function.

The Startup States model is, in this sense, a conservative approach to a radical idea. The idea, that new countries can and should be created in the twenty-first century, is genuinely radical. The method, working within the established framework of international law, is orthodox.[14]

That combination, radical vision and orthodox method, is precisely what makes it viable.

One further observation: this book makes no claim about the ultimate future of the nation-state as a form of human organisation. It may be that, a century from now, the world will have developed modes of political organisation that make the nation-state look as antiquated as the city-state or the feudal principality looks to us today. If so, that transition will be driven by developments that lie well beyond the scope of this work. For the foreseeable future, the nation-state remains the framework within which legal identity is conferred, international agreements are concluded, and human communities achieve recognised standing in the world. The Startup States framework takes that reality as its starting point, and works constructively within it.

The chapters that follow examine, in turn, the full landscape of alternatives that preceded this model, the legal architecture that makes it possible, the governance structures that sustain it, and the value it creates for every party to the arrangement. The foundation has now been laid. A Startup State is a new country, built like a venture, grounded in consent, and designed to endure.

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NOTES

1 Dan Senor and Saul Singer, *Start-up Nation: The Story of Israel's Economic Miracle* (New York: Twelve, 2009).

2 Balaji Srinivasan, *The Network State: How to Start a New Country* (self-published, 2022). The Network State model is examined critically in Chapter 8 of this volume.

3 On the startup ethos and its intellectual genealogy, see: Eric Ries, *The Lean Startup* (New York: Crown Business, 2011); and Peter Thiel with Blake Masters, *Zero to One: Notes on Startups, or How to Build the Future* (New York: Crown Business, 2014).

4 On the Westphalian settlement and the emergence of the modern state system, see: Leo Gross, "The Peace of Westphalia, 1648-1948," *American Journal of International Law*, 42(1), 1948, pp. 20-41; and Daniel Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton: Princeton University Press, 2001).

5 Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19, Article 1. The Convention entered into force on 26 December 1934.

6 James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), p. 37; Arbitration Commission of the Conference on Yugoslavia, Opinion No 10 (4 July 1992) para 4, 92 ILR 206; Lauterpacht's own view, set out in *Recognition in International Law* (Cambridge: Cambridge University Press, 1947), was constitutive.

7 On Taiwan's position in international law, see: Crawford, *The Creation of States in International Law*, pp. 198-221; and Jacques deLisle, "Taiwan's Anomalous Status," in Richard C. Bush (ed), *Taiwan's Democracy* (Washington, DC: Brookings Institution Press, 2003).

8 On the history of state formation by conquest and coercion, see: Charles Tilly, *Coercion, Capital, and European States, AD 990-1992* (Oxford: Blackwell, 1992); and Mark Mazower, *Governing the World: The History of an Idea* (London: Allen Lane, 2012).

9 Montevideo Convention, Article 1. For the application of the Montevideo criteria in contemporary international jurisprudence, see: Crawford, *The Creation of States in International Law*, Chapters 2-3; and Matthew Craven, "Statehood, Self-Determination, and Recognition," in Malcolm Evans (ed), *International Law*, 5th edn (Oxford: Oxford University Press, 2018), pp. 203-251.

10 Charter of the United Nations, 26 June 1945, 1 UNTS XVI.

11 Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331.

12 The principle of *ex injuria jus non oritur* was articulated most influentially in the context of the Stimson Doctrine (1932) and has since been affirmed in numerous UN General Assembly resolutions, including Resolution 2625 (XXV) on Friendly Relations (1970). See: Ian Brownlie, *Principles of Public International Law*, 8th edn (Oxford: Oxford University Press, 2012), pp. 493-496.

13 On the mechanics of phased diplomatic recognition, see: Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999).

14 The legal architecture of the treaty-first approach, including the specific instruments through which governmental authority is exercised over leased or transferred territory under the Vienna Convention on the Law of Treaties, is examined in Chapters 10 and 11 of this volume.

CHAPTER 3

Three Theories of Statehood

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Chapter Two introduced, in the course of defining the Startup State, three distinct theories of how countries come into being and acquire legal standing in the international order. That introduction was deliberately concise: its purpose was to establish the conceptual framework within which the Startup State model operates, not to examine the theories in depth. That examination is the work of this chapter.

The three theories are not merely academic positions. They determine, in concrete and consequential ways, how a new country must be designed and built if it is to be taken seriously by the international community. A founding team that misunderstands the relationship between these frameworks will make avoidable errors: structuring a new country as if recognition were irrelevant, or conversely, as if legal criteria did not matter so long as enough governments agreed to extend recognition. Both errors have been made, repeatedly, by those who have attempted to build new polities in the past. This chapter explains why, and shows how the Consensual Theory offers a more rigorous and more durable approach than either of its predecessors.

3.1 Why Theory Matters in Practice

It is tempting to treat questions of legal theory as the exclusive concern of international lawyers and to regard them as largely irrelevant to the practical enterprise of building a new country. That temptation should be firmly resisted.

The question of what, legally speaking, makes an entity a state has direct consequences for every aspect of a new country's existence. It determines whether the founding treaty is enforceable, whether the new

country can open a bank account, whether its passports will be accepted at borders, whether its citizens can own property with secure legal title, whether foreign investors can rely on its courts and arbitral mechanisms, and whether it can join the international bodies that govern trade, aviation, postal services, and a hundred other practical necessities of modern life.

These are not remote hypotheticals. The Turkish Republic of Northern Cyprus has governed a defined territory with a functioning administration since 1983, yet remains unrecognised by every country except Turkey. The practical consequences are severe: its citizens travel on documents that most countries refuse to honour; its businesses cannot participate in international trade on normal terms; its courts' judgements carry no weight outside its territory; and its international participation is confined to observer status in the Organisation of Islamic Cooperation and the Organization of Turkic States.[1] Northern Cyprus satisfies the factual criteria for statehood but has failed the test of political recognition. The result is a polity trapped in juridical limbo, demonstrating more vividly than any academic argument can that theory and practice are inseparable.

Kosovo presents the opposite challenge. It declared independence from Serbia in 2008, secured recognition from over one hundred countries including the United States and most of the European Union, and has operated as a functioning independent entity since then. Yet the prospect of Russian and Chinese vetoes in the Security Council has kept it from UN membership, and a substantial minority of states, including five members of the European Union, continues to withhold recognition.[2] Kosovo has passed the test of widespread recognition but remains constrained by incomplete legal integration into the international system.

Between these two cases lies the challenge that any serious founding team must navigate: building a new country that is legally robust under the factual criteria and diplomatically successful in securing the recognition it needs to operate. Understanding how those two requirements interact, and how they can be satisfied simultaneously rather than sequentially, is the central practical value of the theoretical framework examined in this chapter.

3.2 The Declaratory Theory: Statehood from Facts

The Declaratory Theory is the older and, in the doctrinal sense, the more intellectually austere of the two classical positions. It holds that statehood is a legal status that arises automatically once certain objective conditions

are satisfied, regardless of whether other members of the international community choose to acknowledge it. Statehood, on this view, is not a gift to be awarded by existing powers; it is a condition to be earned by meeting defined criteria.

The most authoritative modern statement of those criteria is Article 1 of the Montevideo Convention on the Rights and Duties of States, concluded in 1933 at the Seventh International Conference of American States. The Convention stipulates that a state must possess: a permanent population; a defined territory; an effective government; and the capacity to enter into relations with other states.[3] Article 3 goes further, providing that "the political existence of the state is independent of recognition by the other states," and Article 6 affirms that recognition is unconditional and irrevocable. The Declaratory character of the Convention could scarcely be stated more plainly.

3.2.1 The Jurisprudential Foundation

The doctrinal underpinning of the Declaratory Theory was laid in a series of arbitral and judicial decisions that preceded and informed the Montevideo text. The Tinoco Arbitration of 1923 is the most frequently cited. Following the fall of the Tinoco government in Costa Rica, Britain pressed claims on behalf of British companies arising from transactions with Tinoco's government. Costa Rica argued that Tinoco's government had never been recognised by Britain and therefore had no legal standing to conclude binding treaties. Chief Justice William Howard Taft, sitting as sole arbitrator, rejected that argument.[4] Recognition, he held, was irrelevant to the binding character of a government's acts; what mattered was whether it exercised effective control. The principle was established: factual effectiveness, not diplomatic acknowledgment, is the source of legal standing.

The Island of Palmas case, decided by the Permanent Court of Arbitration in 1928, reinforced this approach from a territorial perspective.[5] The arbitrator, Max Huber, held that the decisive criterion for territorial title was the continuous and peaceful display of state authority, what international lawyers call *effectivités*. Formal legal instruments could be relevant evidence of title, but the underlying question was always one of fact: who actually governed? The same logic extended to statehood more broadly: the decisive question was not what documents said, but what governments did.

The North Sea Continental Shelf cases before the International Court of Justice in 1969 considered whether a state could become bound by its conduct without a formal treaty commitment, and set a demanding test: conduct that clearly and consistently evinced acceptance of a regime, and reliance by another state to its detriment.[6] The cumulative effect of these decisions was to establish factual effectiveness as the primary criterion of legal standing in international law, a position that strongly supports the Declaratory Theory.

The clearest modern statement of the Declaratory position came from the Arbitration Commission of the Conference on Yugoslavia, which held in 1992 that recognition "is not a prerequisite for the foundation of a State and is purely declaratory in its impact". James Crawford's comprehensive analysis in *The Creation of States in International Law* (2006), the leading modern authority on the subject, reaches a similar conclusion: the criteria for statehood are primarily factual, and recognition serves to acknowledge, not to create, a legal status that has already come into existence.[7]

3.2.2 Strengths and Limitations

The Declaratory Theory has considerable virtues. It insulates the creation of new countries from the purely political calculations of existing powers, preventing a situation in which any group of states can simply veto the existence of a new entity by withholding recognition regardless of how effectively it governs. It also provides a degree of legal certainty: founding teams know what they need to achieve, and the criteria are in principle objective and verifiable.

Its limitation, however, is equally clear and is demonstrated with painful regularity by the experience of entities that satisfy all four Montevideo criteria whilst remaining locked out of the international system for political reasons. Taiwan governs effectively, maintains a permanent population, controls a defined territory, and has extensive capacity for international relations in practice, even if that capacity is formally constrained. Yet its exclusion from the United Nations and most intergovernmental organisations illustrates the gap between legal sufficiency and operational functionality.

For those designing a Startup State, the lesson is that satisfying the Montevideo criteria is necessary but not sufficient. A new country that meets all four criteria but commands no diplomatic recognition will be legally a state and practically unable to function as one. The Declaratory

Theory tells the founding team what it must achieve; it does not tell it how to operate once achieved.

3.3 The Constitutive Theory: Statehood from Recognition

The Constitutive Theory begins from the opposite premise. It holds that an entity becomes a state, in the legal sense, only when it is formally recognised as such by the existing members of the international community. Without that recognition, no matter how effectively the entity governs, how large its population, or how clearly defined its territory, it remains outside the legal order that recognition alone can admit it to.

The theory has deep intellectual roots. The German jurist Georg Jellinek, writing in the late nineteenth century, argued that the state is fundamentally a social fact whose legal significance depends upon its acknowledgment by others.[8] For Jellinek, states exist within a community of states, and membership of that community is not automatic but conferred. The legal philosopher L.F.L. Oppenheim, whose treatise on international law was the standard English-language reference for the first half of the twentieth century, adopted a similar position: "A state is, and becomes, an International Person through recognition only and exclusively."[9] Sir Hersch Lauterpacht gave the theory its most sophisticated modern form, arguing in 1947 that existing states are under a legal duty to recognise an entity that meets the criteria of statehood.

3.3.1 The Evidence from State Practice

The case for the Constitutive Theory rests less on abstract argument than on the observable pattern of international practice, which consistently treats recognition as doing more than merely acknowledging an existing fact. Four contemporary cases illustrate this with particular force.

Kosovo's Advisory Opinion from the International Court of Justice in 2010 is the most analytically rich recent example. The Court held that Kosovo's unilateral declaration of independence did not violate international law. Crucially, however, the Court declined to rule on whether Kosovo was a state.[10] That question, the Court implied, was determined by the political facts of recognition rather than by any legal criteria it could adjudicate. The opinion is often cited as an endorsement of the Declaratory Theory, since it confirmed that declarations of independence are not in themselves unlawful. But it equally confirms the Constitutive insight: the legal status of the declared entity depends on what follows, not on what is declared.

The Turkish Republic of Northern Cyprus, established in 1983 following Turkey's military intervention in Cyprus, presents the starkest illustration of what Constitutive failure looks like.[11] The TRNC exercises effective control over approximately one-third of the island of Cyprus. It has a functioning government, a defined territory, a permanent population, and the practical capacity to conduct external relations through Turkish intermediaries. By the criteria of the Declaratory Theory, it is a state. Yet UN Security Council Resolutions 541 (1983) and 550 (1984) condemned that declaration as legally invalid and called on all states to withhold recognition. Four decades later, the TRNC remains recognised by only one country. The practical consequences, outlined at the beginning of this chapter, are severe. Constitutive failure, in this case, has been total.

Abkhazia and South Ossetia were recognised by Russia following the Russo-Georgian war of 2008, and by a small number of other states.[12] The vast majority of the international community, including the European Union, the United States, and the United Nations, continues to regard both territories as integral parts of Georgia. Recognition by a single major power has not translated into functional integration into the international order; it has instead deepened the territories' status as frozen-conflict zones, excluded from international organisations and dependent on a single patron for their external existence. The Constitutive lesson is plain: recognition by one state, even a powerful one, is not the same as recognition by the international community.

Taiwan, discussed in the preceding chapter, completes the picture. It is the most sophisticated and productive example of the gap between Declaratory sufficiency and Constitutive adequacy. Taiwan governs twenty-three million people with a fully developed democratic constitutional order, a high-income economy, and extensive international engagement through unofficial channels. By every factual criterion, it is a state. Yet political pressure has kept it outside the United Nations since 1971, and fewer than fifteen states maintain formal diplomatic relations with it. Taiwan demonstrates that legal sufficiency and functional effectiveness are not self-implementing; they require the political framework of recognition to become fully operational.

3.3.2 Strengths and Limitations

The Constitutive Theory captures something that the Declaratory Theory risks overlooking: the essentially political character of the international order. Countries do not live in a legal vacuum. They exist within a

community of states, and that community's response to a new member shapes, in concrete and consequential ways, what the new member can actually do. Recognition is not merely ceremonial; it is the mechanism by which a new country gains access to the full range of international institutions, bilateral relationships, and legal frameworks that make modern statehood functional.

Its limitation is equally serious, however. If taken to its logical conclusion, the Constitutive Theory implies that existing powers can simply deny the existence of a new country regardless of how effectively it governs or how legitimately it was formed. This would give the major powers a veto over state creation that is incompatible with the principle of sovereign equality and would, in practice, allow the current configuration of the international system to be preserved indefinitely against the wishes of peoples who might legitimately seek to organise themselves differently. The theory provides the community of states with too much power and new entrants with too little protection.

3.4 The Hybrid Reality: How the Two Theories Interact

In practice, neither theory operates in isolation. The international community has, over the post-war period, developed something closer to a hybrid approach: factual criteria matter, recognition matters, and the interaction between them determines outcomes. The experience of South Sudan, the world's most recently admitted UN member state, illustrates this hybrid operation at its most successful.

South Sudan's independence, declared on 9 July 2011, was the product of a long process that satisfied both sets of requirements simultaneously.[13] The Comprehensive Peace Agreement of 2005, concluded between the Government of Sudan and the Sudan People's Liberation Movement, provided the foundational treaty framework. The referendum of January 2011, in which approximately ninety-nine per cent of southern Sudanese voted for independence, provided overwhelming evidence of popular consent and effective governmental capacity. And the advance agreement of Sudan to accept the result, secured through the treaty process, ensured that the new state's creation would not be treated as a unilateral secession. South Sudan was admitted to the United Nations within a week of its declaration of independence, and to the African Union within three weeks, an outcome made possible precisely because both the factual and the political conditions had been met in advance.

The South Sudan case is instructive not merely as a success story but as a template. The factual criteria were satisfied: there was a permanent population, a defined territory, a government capable of exercising authority, and a clear capacity for international relations. The political criteria were satisfied: recognition was secured in advance through a multilateral treaty framework, and the consent of the host state, Sudan, was explicit and enforceable. The result was a new country that entered the international system with full standing from its first day of existence.

For those designing a Startup State, South Sudan offers a more immediately useful model than any of the failed cases examined in the previous section. It demonstrates that simultaneous satisfaction of both the factual and the political requirements is achievable, and that the key to achieving it lies in the treaty framework that precedes, rather than follows, the declaration of independence. This insight is the direct ancestor of the treaty-first approach that defines the Startup States model.

Montenegro shows the same principle from a different angle. The Constitutional Charter of the State Union of Serbia and Montenegro of 2003 provided, in Article 60, that after three years either member state could leave the union following a referendum, and that the state leaving would not inherit the union's international personality. Montenegro held that referendum on 21 May 2006, declared independence on 3 June, and was admitted to the United Nations on 28 June, while Serbia's National Assembly, on 5 June, declared Serbia the continuator of the union.[14] Kosovo, whose parent state has never consented, declared independence two years later and has spent the years since defending the manner of its birth. The difference between the two cases is not the quality of their governance. It is parent state permission: a new country formed with the consent of the state from which it emerges begins from the cleanest foundation available, and one formed without it must defend its origins for as long as it exists.

3.5 The Consensual Theory: The Startup States Contribution

The Consensual Theory of Statehood, advanced here as the Startup States Society's original contribution to the jurisprudence of state formation, does not replace the Declaratory and Constitutive frameworks. It synthesises them, and then imposes a further requirement that neither of them contains: that the formation of a new country must rest upon the explicit, informed, and voluntary agreement of every party it affects, at every stage of the process.

The argument for this additional requirement is both ethical and strategic. On the ethical side: the history of state formation, as surveyed in the preceding chapters, is largely a history of imposition. States have been created by conquest, by the collapse of empires, by the drawing of lines on maps in chancelleries far from the territories they described, and by the demographic manoeuvres of dominant populations seeking to establish political facts on the ground. The Consensual Theory insists that none of these methods is acceptable, and that a new country created in the twenty-first century must be able to demonstrate that it came into being through the genuine agreement of all affected parties.

On the strategic side: consensually formed states are more durable. This is not merely an assertion; it is a pattern that the historical record supports. States created through lawful, consensual, and transparent processes attract recognition more readily, secure investment more confidently, and maintain institutional stability more reliably than those created through coercion or unilateral assertion. Legitimacy, properly established, compounds over time.

3.5.1 The Four Levels of Consent

The Consensual Theory operates on four distinct levels, each of which must be satisfied for a new country to claim full consensual legitimacy.

The first is the consent of those who will live within the new country. Membership is an act of choice. A person affiliates with a Startup State because they have chosen to do so, on terms they understand and have accepted. This is not merely a philosophical point; it has direct legal implications. A country whose population was gathered through coercion, deception, or demographic manipulation has no consensual foundation and cannot claim the legitimacy that flows from voluntary affiliation.

The second is the consent of the host country. The existing, recognised state that makes territory available for the new country must do so knowingly, willingly, and through a validly concluded treaty that reflects genuine mutual benefit. The host government must understand what it is agreeing to. Its population must not be deceived about the nature of the arrangement. And the terms must be genuinely advantageous to the host: not merely the appearance of advantage, but real, measurable, and durable benefit that gives the host country every incentive to honour the arrangement over time.

The third is the consent of the international community, expressed through formal recognition. A new country that has satisfied the factual

criteria of the Declaratory Theory and secured the co-operation of a host state is not yet fully legitimate under the Consensual Theory if it has failed to pursue diplomatic recognition through transparent and good-faith engagement with the broader international community. Recognition is not merely a practical necessity; it is a form of consent by the international community to the new country's existence, and it must be sought through proper diplomatic channels rather than assumed.

The fourth is consent in the acquisition of territory. The land upon which the new country is founded must be obtained through mutually executed agreements, involving territory that is uncontested, and either uninhabited or whose existing residents are full and willing participants in the new arrangement. No displacement. No demographic manipulation. No exploitation of political vacuums or legal grey zones.

3.5.2 Historical Parallels

The Consensual Theory, whilst original in its systematic articulation, draws on historical episodes that illuminate the legitimacy-generating power of voluntary affiliation. None of these episodes perfectly mirrors the Startup State model, but each reveals how consent, when genuinely operative, produces more stable and more widely accepted political outcomes than imposition.[15]

The first is the aftermath of the American War of Independence. Following the Treaty of Paris of 1783, sovereignty over the former thirteen colonies shifted to the new United States. For thousands of Loyalists, allegiance to the Crown remained non-negotiable; rather than accept automatic American citizenship, they chose to emigrate to British North America, affirming their continued political identity through active choice. This exercise of what might be called proto-consensuality, the right to choose between competing political communities at a moment of fundamental transition, demonstrates that voluntary affiliation has deep roots in the Anglo-American legal tradition.

The dissolution of the Soviet Union in 1991 provides a more recent and more complex illustration. As fifteen republics asserted independence, millions of individuals confronted the question of political identity in an acute form. Many were afforded the formal right to choose their nationality, electing between the citizenship of their republic of residence and Russian citizenship.[16] This process, uneven and often constrained by practical circumstances, nonetheless highlighted how the availability of genuine choice, even imperfect choice, generates a degree of legitimacy

that imposed outcomes cannot replicate. The republics whose populations most clearly chose independence, the Baltic states, secured the most rapid and uncontested international recognition. The correlation between visible popular consent and recognition speed was not coincidental.

The Compacts of Free Association between the United States and the Pacific island nations of Palau, the Marshall Islands, and Micronesia provide a third and particularly instructive example, because they involve the deliberate design of a new constitutional relationship through treaty rather than its discovery in the aftermath of conflict.[17] Under these compacts, the island nations exercise full independence whilst sharing certain defence and other arrangements with the United States by treaty. Crucially, each compact has been subject to periodic renegotiation, ensuring that the arrangement continues to reflect the genuine agreement of both parties. The result is a set of relationships that have proved remarkably stable and that are widely regarded as legitimate both by the parties and by the wider international community.

The Consensual Theory extrapolates from these precedents. Where history demonstrates that voluntary affiliation, even imperfect and incomplete, generates more stable and more widely accepted political outcomes than imposition, the theory takes that principle and makes it systematic: consent is not merely an occasional feature of legitimate state formation, but its foundational requirement.

3.5.3 Institutionalising Consent

One of the most important features of the Consensual Theory is its insistence that consent is not a one-time event but a continuous relationship. The founding treaty establishes the initial consensual basis; the mechanisms of governance must sustain it over time.

Citizenship in a Startup State is, accordingly, always opt-in. Civic membership arises not from birth within the territory, but from the deliberate choice to affiliate with the new country on terms that are publicly stated and verifiable. There must be clear and accessible pathways for entry and, equally importantly, for exit. A polity that makes exit difficult or costly is not truly consensual, however voluntary its founding may have been.

Governance by covenant is the second institutional expression of the Consensual Theory. The constitutional order of a Startup State must reflect the active and continuing will of its participants, not merely the preferences of its founders at the moment of creation. This requires

mechanisms of consultation and democratic participation that ensure consent is renewed and refreshed through the ordinary processes of political life.

The founding treaty itself, and every subsequent treaty concluded by the new country, functions as a double affirmation: of the new country's standing in the international order, and of the partner state's continued consent to its existence. Consent is not assumed or taken for granted; it is continuously expressed through the formal instruments of international law.

3.6 Legal Durability: Estoppel and Peremptory Norms

A theory of state formation is only as valuable as the durability it produces. The Consensual Theory addresses durability through two doctrines of international law that together provide a powerful guarantee of permanence: estoppel and the category of peremptory norms, known in Latin as *jus cogens*.

3.6.1 The Doctrine of Estoppel

Estoppel, derived from both common law and international jurisprudence, operates to prevent a state from retracting or contradicting a formal agreement in a manner that would unjustly prejudice another party who has relied upon that agreement. In international law, it functions as a shield for territorial arrangements, reinforcing the foundational principle that agreements must be honoured.[18]

The Temple of Preah Vihear case, decided by the International Court of Justice in 1962, is the leading authority on estoppel in international territorial law.[19] Cambodia successfully invoked estoppel to prevent Thailand from contesting a territorial boundary that Thai authorities had previously accepted on maps, even though those maps had been produced by French cartographers under the colonial administration. Thailand's prolonged conduct in treating the boundary as settled, the Court held, precluded it from subsequently contesting that settlement. The principle was clear: a state that has, through its conduct, induced another state to rely on a particular understanding of their relationship cannot later resile from that understanding when it suits its political interests to do so.

Applied to the Startup State context, estoppel provides a crucial legal guarantee. Once a recognised country has concluded a treaty transferring or leasing territory for the purpose of creating a new country, it is legally precluded from unilaterally retracting that grant. A subsequent govern-

ment in the host country, elected on a different political platform, cannot simply repudiate the founding treaty without incurring international legal liability. The new country's legal standing is protected against the ordinary vicissitudes of the host country's domestic politics.

This protection is not absolute: international law recognises certain circumstances in which treaties may be modified or terminated, and those provisions of the Vienna Convention on the Law of Treaties would apply. But the doctrine of estoppel significantly raises the threshold for any attempt to undo the founding arrangement, and any such attempt would trigger the full range of international dispute-resolution mechanisms to which the founding treaty would, by design, give access.

3.6.2 Peremptory Norms and the Prohibition on Force

The second line of legal durability is provided by *jus cogens*: the category of peremptory norms in international law from which no derogation is permitted, and which override any conflicting treaty or customary rule. The prohibition on the use of force to alter territorial arrangements is among the most firmly established of these norms.[20] Any attempt by a host country to reclaim territory granted to a Startup State by force would not merely breach the founding treaty; it would violate a peremptory norm of international law, exposing the aggressor to the full range of collective countermeasures available under Chapter VII of the UN Charter.

The combination of estoppel and peremptory norms means that the legal foundation of a Startup State, if properly constructed, is not merely binding as between the parties to the founding treaty. It is, in important respects, binding on the international community as a whole. The new country's territorial integrity is protected not only by its own treaty but by the general law of nations.

3.7 Triple Legitimacy: Legal, Political, and Moral

The Consensual Theory, properly implemented, furnishes a new country with what might be called triple legitimacy: a simultaneous grounding in the legal, the political, and the moral dimensions of international standing. Each dimension is necessary; none is sufficient alone; and together they produce a foundation of unusual strength and durability.

Legal legitimacy is the foundation. By satisfying the Montevideo criteria from inception, the new country establishes its existence as a matter of objective legal fact. By grounding that existence in a validly concluded treaty under the Vienna Convention, it ensures that its territorial and

jurisdictional basis is legally impeccable. And by invoking the protections of estoppel and *jus cogens*, it insulates that basis against political reversal. Legal legitimacy, properly established, does not erode over time; it accumulates.

Political legitimacy is the practical dimension. A new country that has secured recognition from its host state and from a growing coalition of other countries possesses political legitimacy in the most concrete sense: it can participate in international institutions, conclude bilateral agreements, and exercise the full range of governmental functions that make statehood meaningful in practice. Political legitimacy is the mechanism by which legal existence is translated into operational capacity.

Moral legitimacy is the dimension that the Declaratory and Constitutive theories, taken alone, cannot provide. It arises from the demonstrable fact that the new country came into being through the genuine, informed, and voluntary agreement of every party it affects: its citizens, its host country, and the broader international community. A country with moral legitimacy is not merely legally recognised and practically functional; it is ethically defensible. It can justify its existence not only on technical legal grounds but on the substantive ground that its creation was a good thing for all concerned.

The importance of moral legitimacy should not be underestimated. In the long run, it is the dimension that determines whether a new country is treated as a valued partner by the international community or merely tolerated as a legal curiosity. It shapes how its citizens relate to their new polity, whether they regard it as genuinely their own or merely as a convenient arrangement. And it determines whether the founding treaty is honoured in spirit as well as letter by the host country, or gradually undermined as political winds shift.

These three dimensions of legitimacy are not merely desirable attributes. For a new country formed in the twenty-first century, they are strategic imperatives. The international system has become, over the post-war period, increasingly attentive to questions of process as well as outcome: not only whether a country exists in fact, but how it came into existence, and whether that process met the standards the international community expects.[21] A Startup State that can answer those questions affirmatively, at every level of the triple legitimacy framework, is in a position that no unilaterally declared, demographically engineered, or coercively established entity can match.

3.8 Implications for Design

The three theories examined in this chapter are not merely of historical or academic interest. They impose specific requirements on the design of a Startup State, and those requirements shape every aspect of the founding process.

From the Declaratory Theory, the design requirement is clear: satisfy the Montevideo criteria from the outset. Secure genuine territorial title through a validly concluded treaty. Attract a permanent population through voluntary affiliation rather than demographic engineering. Establish governmental institutions capable of exercising effective authority from day one. And ensure, through the founding treaty itself, that the new country has the capacity to conduct international relations immediately upon creation.

From the Constitutive Theory, the design requirement is equally clear: do not treat recognition as an afterthought. The founding treaty must itself function as the primary act of recognition, embedding diplomatic acknowledgment into the legal instrument that creates the new country. And from that foundation, a systematic programme of diplomatic engagement must build the recognition base progressively, ensuring that the new country is not merely legally sufficient but politically integrated.

From the Consensual Theory, the design requirements are the most demanding but also the most rewarding. Every element of the founding process must be structured around genuine consent: the treaty with the host country must reflect real mutual benefit and be concluded with full transparency; the citizenship regime must be opt-in at every stage; the governance mechanisms must embed participatory processes that renew consent over time; and the territorial basis must be established without any displacement, coercion, or manipulation of any kind.

The reward for meeting these requirements is the triple legitimacy described in the preceding section: a legal, political, and moral foundation that is stronger, more durable, and more internationally respected than any alternative approach can produce. It is, in this precise and important sense, not merely the right way to build a new country. It is the most effective way.

The next chapter turns from theory to landscape, examining the full range of existing models and historical experiments in alternative governance, and asking what each of them achieved and why each of them ultimately fell short of what the Startup State model proposes to accomplish.

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NOTES

1 On the practical consequences of non-recognition for the Turkish Republic of Northern Cyprus, see: Nathalie Tocci, *The EU and Conflict Resolution: Promoting Peace in the Backyard* (London: Routledge, 2007), pp. 97-120; and James Ker-Lindsay, *The Cyprus Problem: What Everyone Needs to Know* (Oxford: Oxford University Press, 2011).

2 On Kosovo's contested international status, see: Marc Weller, *Contested Statehood: Kosovo's Struggle for Independence* (Oxford: Oxford University Press, 2009); and James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), pp. 390-401.

3 Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19, Articles 1, 3, and 6.

4 Great Britain v. Costa Rica (Tinoco Arbitration), Award of 18 October 1923, 1 RIAA 369. Chief Justice Taft (sole arbitrator) held that effective control, not recognition, determined the legal standing of a government and the binding character of its acts.

5 Island of Palmas Case (Netherlands v. United States), Award of 4 April 1928, 2 RIAA 829. Arbitrator Max Huber established the principle that continuous and peaceful display of state authority (*effectivités*) is the decisive criterion of territorial title.

6 North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands), ICJ Reports 1969, p. 3.

7 Crawford, *The Creation of States in International Law*, p. 37; Arbitration Commission of the Conference on Yugoslavia, Opinion No 10 (4 July 1992) para 4, 92 ILR 206. On Lauterpacht's constitutive position, see his *Recognition in International Law* (Cambridge: Cambridge University Press, 1947).

8 Georg Jellinek, *Allgemeine Staatslehre* (Berlin: O. Haering, 1900), Part II. For a discussion of Jellinek's influence on recognition doctrine, see: Crawford, *The Creation of States in International Law*, pp. 4-6.

9 L.F.L. Oppenheim, *International Law: A Treatise*, vol. 1 (London: Longmans, Green, 1905), Section 71. The quotation is from the first edition; later editions edited by Lauterpacht substantially revised this position.

10 Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, ICJ Reports 2010, p. 403. The Court held, by ten votes to four, that Kosovo's declaration of independence of 17 February 2008 did not violate international law.

11 SC Res. 541 (1983), 18 November 1983; SC Res. 550 (1984), 11 May 1984. Both resolutions called upon all states not to recognise the Turkish Cypriot state.

12 On Abkhazia and South Ossetia, see: David Lukas, "Abkhazia: A Precedent for Kosovo?" *International Peacekeeping*, 15(5), 2008, pp. 631-644; and the ICJ's observation in the Kosovo Advisory Opinion that the Russian and Serbian positions represent opposing applications of the same legal frameworks.

13 Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army, 9 January 2005. On South Sudan's accession to the UN, see: UNGA Res. 65/308, 14 July 2011.

14 Constitutional Charter of the State Union of Serbia and Montenegro (4 February 2003) art 60 https://www.refworld.org/legal/legislation/natlegbod/2003/en/36611; Decision of the National Assembly of the Republic of Serbia (5 June 2006) https://www.srbija.gov.rs/vest/en/23938/serbia-inherits-state-and-legal-continuity-of-serbia-montenegro.php; UNGA Res 60/264 (28 June 2006) (admission of the Republic of Montenegro to membership in the United Nations) https://www.refworld.org/legal/resolution/unga/2006/10651.

15 The concept of consensual legitimacy in state formation is explored in: Allen Buchanan, *Justice, Legitimacy, and Self-Determination: Moral Foundations for International Law* (Oxford: Oxford University Press, 2004); and Christopher Heath Wellman, *A Theory of Secession: The Case for Political Self-Determination* (Cambridge: Cambridge University Press, 2005).

16 On the dissolution of the Soviet Union and the exercise of nationality options, see: Paul Kolsto, *Political Construction Sites: Nation-Building in Russia and the Post-Soviet States* (Boulder, CO: Westview Press, 2000); and Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge: Cambridge University Press, 1996).

17 On the Compacts of Free Association, see: Howard P. Hills, *The Three United States Freely Associated States: The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau* (Honolulu: University Press of the Pacific, 2002).

18 On estoppel in international law generally, see: Ian MacGibbon, "Estoppel in International Law," *International and Comparative Law Quarterly*, 7(3), 1958, pp. 468-513; and Derek Bowett, "Estoppel Before International Tribunals and Its Relation to Acquiescence," *British Year Book of International Law*, 33, 1957, pp. 176-202.

19 Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand), ICJ Reports 1962, p. 6.

20 The prohibition on the use of force as a *jus cogens* norm is established in Article 2(4) of the UN Charter and affirmed in the ICJ's judgment in *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States), ICJ Reports 1986, p. 14, at para. 190.

21 On the increasing importance of process legitimacy in the international recognition of new states, see: Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999), Chapter 6; and Brad R. Roth, *Governmental Illegitimacy in International Law* (Oxford: Clarendon Press, 1999).

INTERLUDE I

An Open Letter to Satoshi Nakamoto

✴

Satoshi,

You never asked for monuments. You never asked for statues, flags, or holidays. You did not ask for conferences, slogans, or the kind of messianic devotion that has accrued around your name in the years since you disappeared. You asked a far quieter question, and in doing so you split history in two: what if money did not require permission?

Bitcoin was your answer. And like all answers that are too honest, it unsettled empires.

From the beginning, Bitcoin attracted critics who mistook surface friction for fundamental failure. They complained that it was insufficiently private by default, that its throughput was limited, that its fees were not trivial, that it did not lend itself easily to asset tokenisation or to sprawling smart contract ecosystems. Some insisted it had failed as peer-to-peer cash, reducing it instead to a digital relic, a store of value, inert and slow. Yet through all of this, Bitcoin endured. Not by adapting to every demand, but by refusing to compromise its core. Scarcity. Immutability. Neutrality. Unforgeable cost.

Bitcoin became something no marketing department could manufacture and no state could decree into existence: a global monetary constant. A name with near-universal recognition. A market capitalisation rivalling the gross domestic products of major countries. It crossed a threshold that most political entities spend centuries chasing and never reach. It became legal tender not through conquest, but through consent.

By every functional measure, Bitcoin already behaves like a country. It has borders, though they are cryptographic. It has citizenship, though it is voluntary. It has laws, though they are enforced by mathematics

rather than by men with guns. It has a monetary constitution and an incorruptible issuance policy that no central bank and no legislature can override. What it lacks is territory.

And so the question follows naturally, not as a rebellion against Bitcoin, but as its logical continuation: what if a country were built by Bitcoin, and with Bitcoin in mind? Not a country that merely tolerates it. Not a country that flirts with cryptocurrency for headlines. Not a regulatory sandbox that can be revoked, rewritten, or reclaimed when political winds shift. But a country designed from first principles to protect the right to hold, to transact, and to build on Bitcoin absolutely.

A jurisdiction where mining is not a loophole but a constitutional right. Where self-custody is not a regulatory concession but a legal guarantee. Where no future election, emergency decree, or international pressure campaign can place Bitcoin in legal limbo. This would not be a flag of convenience or a meme nation. It would be a place where Bitcoin is not a hobby or an asset class but a way of life: a country where energy policy is written with miners in mind, where property rights are aligned with key custody, and where governance is built to complement cryptographic systems without congesting the base layer.

Bitcoin does not need a nation to survive. It already won. But people do. And as Bitcoin continues to absorb value, attention, and conviction, its community will increasingly face a genuine choice: remain nomadic within hostile or ambivalent jurisdictions, or deliberately construct a polity where Bitcoin is not merely permitted but foundational.

Such a country would not compete with Bitcoin. It would crystallise its ethos in physical space. A country without monetary inflation. Without arbitrary confiscation. Without financial speech crimes. Without the constant threat that yesterday's legality becomes tomorrow's prosecution. A country whose legitimacy rests not on mythology or inherited flags but on law, treaties, and voluntary participation. A country whose neutrality mirrors Bitcoin's own: aligned with no military bloc, entangled with no great power's strategic interests, committed to the peaceful resolution of all disputes.

A country that understands, as Bitcoin's own design encodes, that custody must never be delegated to those whose interests are not your own.

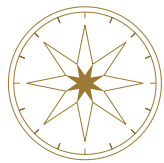
You disappeared so that Bitcoin could live. Perhaps the next step is for a place to exist where those who live by Bitcoin can finally live without fear of its revocation. Not louder. Not flashier. Just permanent.

If Bitcoin was the separation of money from the state, then a Bitcoin-anchored Startup State would be the separation of Bitcoiners from legal uncertainty itself. Not a rebellion. A completion.

With profound respect for the question you asked, and for the answer you built.

PART TWO

The Landscape



CHAPTER 4

The Limits of Subnational Governance

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Part One of this book established what a Startup State is: its definition, its legal theory, and its relationship to the existing international order. Part Two turns to the landscape of what has already been tried. Before a new model can be properly evaluated, the alternatives must be understood, what they achieved, why they appealed to their designers, and why, in the end, each of them stopped short of what the Startup State model proposes.

This chapter examines the most significant family of alternatives: the various forms of subnational governance that have been attempted over the past century, from Charter Cities and Special Economic Zones to the British Overseas Territories and the most ambitious modern experiments in jurisdictional autonomy. All of these models share a common feature, and a common limitation: they operate beneath the threshold of full independent statehood, which means that their continued existence depends on the goodwill of a higher authority they do not and cannot control. That structural vulnerability is not a deficiency that better drafting or stronger treaties can fully cure. It is intrinsic to the subnational condition.

This is not a reason to dismiss these models. Many of them have delivered remarkable results, and the Startup State framework learns from them directly. But it is a reason to understand their limits clearly, because those limits define precisely the problem that a fully independent new country is designed to solve.

4.1 The Appeal of Half-Measures

There is a reason why Charter Cities, Special Economic Zones, and analogous arrangements have attracted serious thinkers and serious investment over the past several decades. They are, in important respects,

genuinely useful instruments of governance innovation. They allow new rules to be tested in defined spaces without requiring the reform of an entire national system. They attract foreign capital and expertise that would not otherwise enter a given jurisdiction. They create employment, stimulate exports, and can serve as demonstration projects for wider policy reform. And they do all of this without requiring any modification of the fundamental constitutional arrangements of the host country, which makes them politically far easier to pursue than the creation of a fully independent new country.

The economic evidence for their effectiveness, at least in the right conditions, is substantial. Since Shenzhen became one of China's first Special Economic Zones in 1980, the model has proliferated to more than one hundred and forty countries.[1] The United Nations Conference on Trade and Development counted some 5,400 such zones in 147 economies in 2019, ranging from small export processing facilities to vast integrated economic cities covering hundreds of square kilometres. Their record includes some of the most striking development successes of the past half-century: Shenzhen transformed from a fishing village into a metropolis of more than seventeen million people and one of the world's leading technology manufacturing hubs within four decades.

Charter Cities, a more recent and more ambitious variant of the same idea, add a governance dimension that pure economic zones typically lack. The intellectual case for Charter Cities was developed most influentially by the economist Paul Romer, who proposed that a developing country could dramatically accelerate the quality of its institutions by creating a new city governed under rules drawn from a high-performing jurisdiction, administered by a credible external guarantor. The model offered a way around the deep-rooted institutional inertia that prevents many countries from reforming their legal and regulatory systems through normal political processes.

Both models rest on a sound intuition: that rules matter more than resources for economic outcomes, and that the inability to change inherited rules in an existing jurisdiction is one of the most significant barriers to development.[2] If you cannot reform the whole system, create a pocket where better rules apply. Demonstrate the results. Let the evidence spread.

The intuition is correct. The implementation, however, runs into a structural problem that no amount of careful design can fully overcome: the pocket exists within someone else's system, at someone else's suffer-

ance, and can be dismantled by someone else's decision. That decision, when it arrives, tends to come at precisely the moment when the pocket has become successful enough to be threatening to entrenched interests elsewhere in the host country.

4.2 Special Economic Zones: Promise and the Policy Reversal Problem

The history of Special Economic Zones is, in significant part, a history of policy reversal. Zones are established when governments need investment and are willing to offer attractive conditions to secure it. They are curtailed, restructured, or abolished when political circumstances change, when the investment they attracted has become sufficiently embedded that it no longer needs the original incentives, or when the preferences of the zone begin to conflict with those of the national government.

India provides a clear illustration. Zones operating under the Special Economic Zones Act of 2005 had long benefited from a robust package of fiscal incentives. The Finance Act 2016 provided that the income tax holiday under section 10AA of the Income-tax Act would not be available to units beginning operations after 31 March 2020, removing the flagship incentive for new entrants.[3] Existing units retained grandfathered benefits, but the episode demonstrated how swiftly a central government can reshape the fiscal foundation of a zone, and how little recourse zone operators have when that happens. The incentive that had attracted billions of dollars of investment was removed by the same authority that had created it, without any requirement to seek the consent of those who had relied upon it.

Nigeria's Tinapa Free Trade Zone offers a more extreme illustration. Designed as a flagship model of public-private development integrating commerce, tourism, and retail, it was conceived as a pan-African trade hub.[4] It failed under prolonged policy uncertainty, overlapping legal regimes, and chronic inconsistency between federal and state authorities. What had been announced as a transformation of Nigeria's economic geography became instead a monument to the risks of building ambitious commercial infrastructure on a foundation of unresolved jurisdictional ambiguity.

The Philippines' Corporate Recovery and Tax Incentives for Enterprises Act of 2021 restructured the country's investment promotion landscape, introducing time-bound and performance-based regimes that imposed significant transitional uncertainty on businesses operating across existing economic zones.[5] Kazakhstan revoked its early zone designa-

tions outright by presidential decree after they failed to meet expectations. Russia undertook a wave of zone cancellations in the 2010s. Poland progressively curtailed its zones during EU accession, as Brussels' state aid rules proved incompatible with the fiscal privileges the zones had been built upon.

The pattern across all these cases is the same: economic zones are creatures of domestic statute, not of any arrangement that their operators or residents can enforce against the host government. They can be curtailed, restructured, or abolished when the political or fiscal calculus shifts. Even the most successful zones, those that have unambiguously delivered on their economic promises, are not immune to this vulnerability.

The overriding drawback of subnational status lies in its revocability and its exposure to the changing priorities of a higher authority.

There is a further limitation worth noting: the narrow functional scope of most economic zones. They are typically sector-specific enclaves, designed for manufacturing, logistics, or financial services. Even the most celebrated successes, Shenzhen, Jebel Ali in Dubai, Mauritius's Export Processing Zones, were conceived as commercial engines rather than comprehensive communities. Workers may live adjacent to these zones, but the zones themselves rarely provide the full range of civic infrastructure, housing, healthcare, courts, cultural life, and political representation that constitutes a genuine place to live rather than merely a place to work.

4.3 Hong Kong: Born of Coercion, Undone by Its Origins

Hong Kong is, by any measure, one of the most remarkable governance achievements of the modern era. It is also, for those thinking carefully about the future of new polities, one of the most instructive cautionary cases in the entire historical record. Both things are equally true, and both deserve honest examination.

The territory's modern political life begins not with consent but with coercion. Hong Kong Island was ceded to Britain in 1842 under the Treaty of Nanking, signed at the conclusion of the First Opium War, a conflict

initiated specifically to force China to accept the import of opium from British India.[6] Kowloon followed in 1860 under the Convention of Peking, concluded after the Second Opium War. The New Territories, comprising the largest portion of what became the colony, were leased in 1898 under the Convention for the Extension of Hong Kong Territory: a ninety-nine-year lease extracted under the same pattern of unequal treaties that constituted one of the defining humiliations of China's engagement with Western powers in the nineteenth and early twentieth centuries.

This history is not a footnote to the governance story that followed; it is its foundation, and it is precisely the kind of origin that the Startup States model is designed to make unnecessary and obsolete. Coerced concessions, unequal treaties, and the use of commercial and military power to extract territorial arrangements from weaker parties are the antithesis of everything the Consensual Theory of Statehood stands for. What was done to China in the nineteenth century was wrong by any ethical standard, and it remained structurally fragile for exactly that reason: an arrangement built on coercion cannot be made genuinely durable, because the party that was coerced retains, as a matter of principle and ultimately of practice, the intention to undo it.

With that essential context established, the governance achievement that followed is all the more striking. Under British colonial administration, and then through the first two decades of Chinese rule under the One Country, Two Systems framework, Hong Kong developed a distinctive legal and administrative identity that came to be regarded as one of the most sophisticated governance environments anywhere in the world. The territory operated under English common law, maintained its own customs and immigration controls, and constructed a framework of rule of law, judicial independence, and open markets that generated extraordinary prosperity. By the 1980s it was one of the foremost financial centres on earth.

The transition from British to Chinese administration was formalised in the Sino-British Joint Declaration of 1984, a binding international treaty registered with the United Nations.[7] The agreement established the One Country, Two Systems framework, under which Hong Kong would retain a high degree of autonomy for fifty years after the 1997 handover. For over two decades after that handover, the framework appeared to work. Hong Kong continued to attract investment, to produce legal and financial innovation, and to function as the primary gateway between the global economy and mainland China.

The structural fragility of the arrangement became unmistakable in 2020, when Beijing promulgated the National Security Law for Hong Kong directly through the National People's Congress Standing Committee, without reference to the local legislature.[8] The law imposed restrictions on political activity and civil society that were widely regarded as incompatible with the Joint Declaration's commitments, and it was implemented well before the 2047 date at which the One Country, Two Systems arrangement was scheduled to expire. The constitutional analysis is straightforward: Hong Kong's autonomy was always a grant, not an entitlement. The Basic Law was an instrument of the National People's Congress, which retained ultimate authority to interpret, amend, or supplement it.

The Latin maxim *ubi maior, minor cessat* applies with precision: where the greater power exists, the lesser yields. No constitutional architecture, however sophisticated and internationally acknowledged, can permanently override this structural reality when the delegating power decides to act. An arrangement built on coerced origins, no matter how admirably governed in the interim, carries within it the seeds of its own eventual undoing.

It is worth pausing here to observe what Hong Kong might have looked like had it come into being through an entirely different process: a freely negotiated, mutually beneficial arrangement between equal parties, giving rise to a genuinely independent polity with its own standing in international law. One can only speculate, but the speculation is not idle. A Hong Kong that had achieved full independent statehood through consensual treaty in the twentieth century, with its own seat in international institutions and its own treaty relationships with the major powers, would have found itself in a fundamentally different legal and political position in 2020. Not necessarily an impregnable one: small countries are not immune to pressure from large ones. But a position with far more options, more voice, and more recourse than the status of a special administrative region within a unitary state provides.

That is the lesson Hong Kong teaches. Not that its achievements were anything other than genuine and remarkable. But that achievements built on a subnational foundation, however impressive, remain structurally contingent in a way that the achievements of a fully independent country are not.

4.4 Próspera: The Most Advanced Experiment, and Its Limits

Próspera, established on the island of Roatán in Honduras under the country's Zonas de Empleo y Desarrollo Económico framework, is the most carefully designed subnational governance experiment of the early twenty-first century.[9] It deserves careful examination both for what it achieved and for what its subsequent difficulties reveal about the structural limits of even the most sophisticated subnational design.

The ZEDE framework under which Próspera operated was not a mere statutory novelty. It was embedded in the Honduran Constitution itself, giving the zones extraordinary latitude: their own regulatory frameworks, civil and commercial courts, tax systems, and administrative structures. The intellectual ancestry of the model traces to Paul Romer's Charter City theory, though Romer publicly distanced his work from the Honduran implementation, criticising it for insufficient transparency and governance safeguards.[10]

Despite its contested intellectual genealogy, Próspera achieved striking results in a short time. Its internal legal order, partly based on common law principles codified in the Roatán Common Law Code, harmonised elements of Anglo-American jurisprudence with local statutes. It established independent arbitration mechanisms for commercial disputes, substantially reducing investor risk. Its governance incorporated contractual citizenship, innovative tax structures, and digital-friendly regulations. These features attracted international investors, entrepreneurs, and legal innovators, positioning Próspera as a genuine testbed for twenty-first century institutional design.

The political difficulties that followed were not primarily of Próspera's making. The ZEDE legislation had been passed during the presidency of Juan Orlando Hernández, who was later extradited to the United States and convicted on charges related to narcotics trafficking. His legacy tainted the zones by association, fuelling suspicion that the ZEDE framework had been born of illegitimate political bargains.[11] When a new government was elected in 2021, it moved to repeal the ZEDE legislation, and Congress did so in April 2022. On 20 September 2024 the Supreme Court, sitting in plenary, declared the ZEDE regime unconstitutional with effect from its inception.[12]

Próspera filed an international arbitration claim under the International Centre for Settlement of Investment Disputes, arguing that Honduras had breached its treaty obligations to protect foreign investment.[13]

The claim, for US$10.775 billion, equivalent to roughly a third of Honduras's annual output, itself became politically explosive.

The outcome of that arbitration, whatever it proves to be, does not change the underlying lesson. Even constitutional entrenchment, even investment treaty protection, even access to international arbitration were not sufficient to guarantee the permanence of the ZEDE arrangement. The new Honduran government was prepared to accept the legal and financial consequences of repeal rather than continue with a framework that had become politically untenable. The investors who had relied on constitutional guarantees of stability found those guarantees overridden by the ordinary operation of democratic politics within the host state.

One cannot help but consider what a different structure might have produced. Had Próspera been constituted not as a special zone within Honduras but as a fully independent country in treaty relationship with Honduras, its governing framework would not have been subject to the Honduran Constitutional Chamber's jurisdiction at all. Its legal standing would have derived from international law, not from the domestic constitutional order of the host country. The political winds in Tegucigalpa could still have created pressure and friction. But they could not have abolished it.

The broader point, stated plainly: even the most innovative subnational arrangements are ultimately built on borrowed authority. The authority belongs to the host state, and it can be reclaimed. This is not a criticism of Próspera's founders or their ambitions, which were genuine and in many respects admirable. It is a structural observation about the nature of subnational governance itself, and it applies to every variant of the model, however cleverly designed.[14]

4.5 British Overseas Territories: Devolved, Not Decisive

The British Overseas Territories provide a further illustration of the structural asymmetry at the heart of all subnational arrangements. The territories possess their own constitutions, elected parliaments, and functioning governments. Several of them, notably the British Virgin Islands, are globally significant financial centres whose reach far exceeds their modest populations.[15] The BVI's registered company stock, at various points exceeding four hundred thousand International Business Companies, dwarfs its resident population of fewer than forty thousand people.

By any measure of commercial activity, it exercises an outsized role in global finance.

It is worth noting that some of the more developed subnational polities do retain meaningful operational autonomy across important areas of governance. The Cayman Islands maintain their own immigration and customs regime. The Hong Kong Special Administrative Region retained, at least nominally, substantial control over its immigration and border arrangements even after 1997. These are not trivial concessions; they represent a genuine degree of day-to-day self-governance that distinguishes well-designed subnational arrangements from simple provincial administration.

The constitutional reality, however, is unambiguous. Under their own constitutions the territories are self-governing in domestic matters, but they remain subject to the reserve powers of the Crown, including the power of the United Kingdom to legislate for them by Act of Parliament or Order in Council, and to Governors appointed by the Crown on the advice of the Foreign, Commonwealth and Development Office.[16] Those reserve powers are not ceremonial. In 2009, following an investigation into corruption and mismanagement, the United Kingdom invoked them to suspend the elected government of the Turks and Caicos Islands and impose direct rule, during which the Governor administered the territory without any local legislative consent. The entire democratic institutional structure the territory had built was set aside at the discretion of a distant metropolitan authority.

The BVI narrowly escaped a similar outcome in 2022, when a Commission of Inquiry commissioned by the UK reported extensive governance failures and recommended the suspension of the BVI's constitution. The UK held back, in part because of strong local resistance and the delicate balance between governance accountability and respect for self-determination. But the episode made clear that the constitutional autonomy of the territory existed at the pleasure of the metropolitan power. The fundamental asymmetry was not altered by the decision not to invoke the reserve powers on that occasion; it was merely, for the moment, held in abeyance.

The maxim *quod principi placuit legis habet vigorem*, what pleases the prince has the force of law, captures the relationship precisely.[17] Economic success, global integration, and demonstrable governance capacity do not alter the essential constitutional position: authority in these territories is delegated, and what is delegated can be recalled.

4.6 The Structural Ceiling

The cases examined in this chapter, taken together, reveal a structural ceiling that applies to every form of subnational governance, regardless of how carefully it is designed or how successfully it delivers on its economic and institutional ambitions.

That ceiling has several dimensions. The first is political: subnational arrangements can be modified or terminated by the political process of the host country, without the consent of those most directly affected. The second is legal: subnational entities cannot join international organisations in their own right, conclude treaties independently, issue travel documents with meaningful international standing, or exercise the full range of governmental functions that independent countries take as standard. The third is institutional: without the permanence that comes with full independent statehood, subnational entities struggle to attract the long-term commitment from residents, businesses, and civic institutions that builds a genuine community over generations.

There is a fourth dimension that deserves its own emphasis, because it is the most consequential of all: independent countries, in the post-1945 international order, essentially do not cease to exist against their will. Subnational entities do, routinely.

Since the establishment of the United Nations system in 1945, the involuntary extinction of a fully independent, internationally recognised state is virtually without precedent.[18] Some countries have voluntarily dissolved or merged: Germany reunified; Yemen united; the two Germanys are a case of consensual merger, not forced absorption. The conquest of South Vietnam in 1975, a state widely recognised though never admitted to the United Nations, is the principal exception. Otherwise, the international community has shown itself remarkably resistant to permitting the forced extinction of an independent country.

The most vivid illustration is Iraq's invasion and attempted annexation of Kuwait in 1990.[19] Kuwait is a small country. Its population was about two million at the time. It had no meaningful capacity for self-defence against a militarised neighbour many times its size. Yet when Iraq attempted to eliminate its existence as an independent state, the international community mobilised with remarkable speed and unanimity to reverse that annexation. The UN Security Council passed twelve resolutions in the space of months. A coalition of thirty-five countries assembled to restore Kuwait's independence. The principle being defended was not merely Kuwait's particular value to the global economy, though that was

real. The principle was that independent countries recognised by the international community do not cease to exist because a more powerful neighbour decides they should.

Contrast this with the fate of subnational entities. The legal foundation of Próspera was struck down by a court ruling. The government of the Turks and Caicos was dissolved by an administrative decision in London. The One Country, Two Systems framework that defined Hong Kong's autonomy was transformed by legislation passed in Beijing. In none of these cases did the international community mount a defence of the arrangement. In none of them was there any legal mechanism through which the affected parties could appeal to the international order for protection. Subnational entities, however impressive their achievements, exist within someone else's legal system, and that system can always be used against them.

A fully independent new country is not immune to pressure from larger and more powerful neighbours. Small countries face geopolitical realities that no founding document can entirely neutralise. But they have options that subnational entities categorically lack. They have a seat, or the realistic prospect of a seat, in international institutions. They can conclude their own treaties. They can make their case directly in the international arena, to other governments, to international bodies, and to global public opinion. They are visible, legal, and present in the world as actors in their own right. That visibility and that legal standing do not guarantee safety, but they provide a platform that the subnational condition simply does not offer.

None of this is to suggest that full independent statehood is a perfect antidote to the pressures that subnational entities face. It is to suggest that it is a qualitatively different condition, one that places a new country within the protection of an international order that has, since 1945, proved remarkably consistent in refusing to permit the involuntary extinction of its members.[20]

4.7 The Trojan Horse Problem

Before examining the Startup State as the response to the structural ceiling, one further risk inherent in the subnational approach deserves attention, both because it is a real danger and because the Startup State model deliberately and completely avoids it.

The Trojan Horse problem arises when a group approaches a host government under the guise of seeking an economic zone or a Charter City

arrangement while harbouring an undisclosed intention to use that arrangement as a springboard for eventual full independence. This form of governance-by-increments, seeking concessions under one pretext while pursuing a larger and undisclosed objective, is diplomatically dishonest and strategically self-defeating.

It is dishonest because it treats the host government as an obstacle to be outmanoeuvred rather than a partner to be genuinely engaged. It is self-defeating because it generates exactly the political hostility that makes the eventual independence claim impossible to sustain. History provides ample justification for governments to be deeply wary of foreign-backed enclave projects: colonialism frequently began with commercial pretexts, arrangements that appeared modest and mutually beneficial and that slowly transformed into creeping administrative control and, eventually, full subjugation.

The Startup State model is constituted by its transparency. From the first conversation with a potential host government, the objective is stated plainly and completely: the goal is the co-creation of a new, fully independent, internationally recognised country. Not a temporary enclave. Not a provisional pilot project. Not a special zone that might, some years down the line, seek to expand its remit. A new country, with independence as the explicit and openly declared purpose, from the very beginning.

A new country, in this model, asks nothing more of the world than its independence and the standing that comes with it. That is the entirety of the ambition, stated plainly. And that transparency is not merely an ethical requirement, though it is that. It is the foundation of the trust upon which the entire arrangement depends. A host government that agrees to co-create a Startup State on the basis of complete and honest disclosure is in a fundamentally different position from a host government that has been manoeuvred into a concession it did not fully understand. The first relationship is a partnership with a genuine future; the second is an exploitation that will produce the hostility and reversal that Próspera experienced in Honduras.

Startup States are not competitors for the authority of their host countries. They are extensions of that authority into new forms, new geographies, and new institutional models, created through the treaty-based act of bringing a new country into being. The arrangement is not zero-sum. Both parties can and should gain from it in ways that neither could achieve alone.

4.8 The Parent-Child Analogy

The relationship between a host country and the new country it helps to create can be understood through an analogy that is both ancient and universally legible: the relationship between a parent and an adult child.

Parents bring children into the world. Companies spin off subsidiaries. Countries, under the right conditions and with the right legal architecture, can help bring forth new countries. The analogy is not merely decorative; it captures something important about the nature of the relationship and its long-term trajectory.

A child's independence does not diminish the parent. On the contrary, a child who grows into a capable, productive, and self-sufficient adult represents the fulfilment of the parent's purpose, and tends over time to become not a dependent but a peer and an ally: a source of reciprocal support and extended influence in the world. The parent who raises a child well does not lose a dependent; they gain a collaborator.

This pattern repeats across cultures and traditions. In Confucian philosophy, *xiao*, filial piety, emphasises that a child's independence does not dissolve bonds but transforms them into a new and richer relationship of mutual regard. In the Jewish tradition, the blessings associated with fruitful and capable offspring are understood as the means by which a lineage extends its reach and deepens its legacy. Across the world's major traditions, the relationship between parent and independent adult child is understood as one of the most durable and valuable bonds in human life precisely because it is freely chosen by the adult rather than imposed by dependence.[21]

The same logic applies to the relationship between a host country and the Startup State it co-creates. The new country, having achieved full independence through open collaboration with the host, becomes a diplomatic partner, a reliable ally, and a net contributor to the host's standing in the world. It carries the host's story forward into new territory, projecting influence and extending legacy in ways that no internal arrangement could replicate. For potential host governments, the decision to co-create a Startup State is not merely an immediate financial opportunity. It is an act of institutional generosity with strategic returns that compound over time.

The corporate analogy reinforces the point. Companies routinely spin off subsidiaries not to diminish the parent firm but to allow specialised growth, agile adaptation, and reciprocal enrichment.[22] A successful spin-off expands the group's reach, creates new revenue streams, and builds

new platforms for long-term growth. The parent is not weakened; its influence is multiplied. A host country that helps give birth to a new independent country through consensual treaty is engaged in exactly the same kind of multiplication: adding another voice in international institutions, another partner in global trade, another node of diplomatic influence that owes its very existence to the host's generosity and foresight.

4.9 What These Models Get Right

This chapter has focused on the structural limits of subnational governance, because understanding those limits is essential to understanding why the Startup State model is necessary. But intellectual honesty requires an equally clear acknowledgment of what these models get right.

Special Economic Zones correctly identify that rules matter more than resources. The transformation of Shenzhen from a fishing village into a global technology hub was not the product of natural advantages; it was the product of a different regulatory environment applied to the same geography. That insight, the primacy of institutional design over material endowment, is one that the Startup State framework directly inherits and builds upon.

Charter Cities correctly identify that the inability to reform existing institutions is one of the most binding constraints on development, and that creating new institutional environments can be more effective than attempting to repair old ones. This is the same argument for Startup States at the country level: it is often more productive to build a new country with better institutions than to attempt the exhausting and frequently futile project of reforming an established one.

Próspera correctly identifies that contractual governance, treating the relationship between a governing entity and those it serves as a genuine legal arrangement rather than a political imposition, is a powerful innovation. The Startup State model adopts and deepens this insight, embedding it in the constitutional architecture of the new country rather than leaving it dependent on the goodwill of a host state's domestic legal system.

And Hong Kong, for all the tragedy of its recent history and despite the coerced origins that were always its foundational weakness, demonstrated for over fifty years that a small, well-governed territory with clear rules, strong legal institutions, and open markets can generate prosperity and attract human talent at a scale far beyond what its size would suggest is possible. The Startup State aspires to demonstrate the same thing, but

on a foundation that cannot be dismantled by a decision taken in a distant capital.

4.10 Conclusion: The Case for Going All the Way

The models examined in this chapter represent genuine achievements in governance innovation, and they deserve full credit for those achievements. They also represent, collectively, the clearest possible demonstration of why the Startup State model is necessary: because they have shown what is possible when better rules are applied to defined spaces, and they have shown with equal clarity the structural limitations that prevent those achievements from being permanent.

The appropriate response to those limitations is not to design better subnational arrangements, though that work is worth continuing for its own reasons. It is to take the insights these models have validated and apply them to a different foundation: one that provides the permanence, the international legal standing, and the full governmental capacity that subnational arrangements cannot provide.

Consider again the analogy from construction: one would not renovate a house built on a crumbling foundation, however skilled the renovation work. The renovation will eventually be undone by the structural failure beneath it. The question is not how to renovate more cleverly but how to build on solid ground.[23] Subnational governance, for all its virtues, is renovation of someone else's house. The Startup State is a new building on its own land, with its own title, answerable to its own constitutional order, and protected by the full weight of international law.

The chapters that follow examine the other alternatives that have been tried: the world of micronations, the promise and perils of seasteading, the Network State model, and the long history of illegitimate and failed pathways to self-governance. Each adds something to the picture. Together, they make the case, by accumulation as much as by argument, that the Startup State model occupies a category of its own.

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NOTES

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8 Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, promulgated 30 June 2020.

9 On the ZEDE framework and Próspera, see: Lant Pritchett and Frauke de Weijer, "Fragile States: Stuck in a Capability Trap?" World Bank Policy Research Working Paper 5797, 2011; and Octavio Medina Gomez, "Charter Cities as a Solution to State Fragility: The Case of Honduras," MA thesis, Georgetown University, 2021.

10 Paul Romer's original Charter Cities proposal: Paul Romer, "Technologies, Rules, and Progress: The Case for Charter Cities," Centre for Global Development Working Paper 3, March 2010. Romer publicly distanced himself from the Honduran ZEDE implementation in various statements from 2017 onwards.

11 Juan Orlando Hernández was extradited to the United States in April 2022 and convicted in March 2024 on drug trafficking and weapons charges in the Southern District of New York.

12 Contracorriente, "Honduran government praises repeal of the ZEDE law as investors denounce 'lies' and 'abuse' " (28 September 2024), reporting the plenary ruling of the Supreme Court of 20 September 2024 and the repeal by Decree 33-2022 https://contracorriente.red/en/2024/09/28/honduran-government-

praises-repeal-of-the-zede-law-as-investors-denounce-lies-and-abuse/; Bilaterals.org, "$10.775 billion claim filed against Government of Honduras" https://bilaterals.org/10-775-billion-claim-filed-against.

13 *Honduras Próspera Inc, St John's Bay Development Company LLC and Próspera Arbitration Center LLC v Republic of Honduras*, ICSID Case No ARB/23/2 https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/23/2. The case arises under CAFTA-DR and involves claims for alleged expropriation and violation of investment protection standards.

14 For comparative analysis of the structural limitations of Charter City and ZEDE-type models, see: Isabelle Côté and Matthew Mitchell, "The Performance of Special Economic Zones: A Bibliometric Analysis," *Journal of International Commerce, Economics and Policy*, 8(2), 2017.

15 On the British Virgin Islands as an international financial centre, see: Jason Sharman, *Havens in a Storm: The Struggle for Global Tax Regulation* (Ithaca, NY: Cornell University Press, 2006); and British Virgin Islands Financial Services Commission, Annual Report 2018.

16 British Overseas Territories Act 2002, c. 8 (UK). For the constitutional framework of the BOTs, see: Peter Clegg, *The UK Caribbean Overseas Territories: A Continuing Dependent Relationship* (London: Commonwealth Secretariat, 2022).

17 The maxim derives from Ulpian's formulation in the Digest of Justinian (Dig. 1.4.1 pr.). For its application in the BOT context, see: Albert Fiadjoe, "Commonwealth Caribbean Public Law," in Rose-Marie Belle Antoine (ed), *Commonwealth Caribbean Law and Legal Systems*, 2nd edn (Abingdon: Cavendish, 2008).

18 On the post-1945 norm against the involuntary extinction of recognised states, see: Brad R. Roth, *Governmental Illegitimacy in International Law* (Oxford: Clarendon Press, 1999); and Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999), Chapter 7.

19 On Iraq's invasion of Kuwait and the international response, see: Lawrence Freedman and Efraim Karsh, *The Gulf Conflict 1990-1991: Diplomacy and War in the New World Order* (London: Faber and Faber, 1993); and UN Security Council Resolutions 660-678 (1990), culminating in Resolution 678 authorising the use of force to restore Kuwait's independence.

20 The argument that full independent statehood, whilst not a guarantee of security, provides qualitatively different and stronger protections than subnational status is developed at greater length in Chapter 19 of this volume, in the context of the security and neutrality frameworks available to Startup States.

21 On filial piety across cultural traditions, see: Oliva Bedford and Kwang-Kuo Hwang, "Filial Piety and Adolescent Depression in Chinese Societies," *Journal of Clinical Psychology*, 59(5), 2003; and more broadly, Alan Macfarlane, *The Savage Wars of Peace: England, Japan and the Malthusian Trap* (Oxford: Blackwell, 1997), Chapter 2.

22 On corporate spin-off dynamics, see: Robert A. Burgelman, Clayton M. Christensen, and Steven C. Wheelwright, *Strategic Management of Technology and Innovation*, 5th edn (New York: McGraw-Hill, 2008), Chapter 14.

23 The building-on-solid-ground analogy is developed further in the context of treaty-based land acquisition in Chapter 13 of this volume.

CHAPTER 5

The Myth of Empty Land

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The preceding chapter examined the structural ceiling faced by subnational entities: the point at which even the most sophisticated and commercially successful arrangements run into the hard limit of delegated authority. This chapter addresses a different temptation, one that arises precisely because that ceiling is real: the idea that new countries can be established not through patient negotiation with existing states, but by locating pieces of the earth's surface that appear to belong to nobody and simply claiming them.

The doctrine invoked in support of this idea is terra nullius, a Latin phrase meaning "nobody's land." It has attracted a devoted following among those who find the treaty-first approach of the Startup States model too slow, too dependent on the co-operation of existing governments, or insufficiently radical. If unowned land exists, the argument runs, why negotiate? Why not simply plant a flag?

The answer is that the premise is false. There is no terra nullius left on earth. That is not a rhetorical flourish; it is a statement of contemporary international law, supported by a substantial body of jurisprudence, treaty obligation, and settled state practice. This chapter demonstrates why, by examining the doctrine's history, the legal framework that has definitively closed it off, and the specific cases most frequently cited by its advocates. Each of those cases, on careful examination, proves not the availability of empty land but the impossibility of the claim being made about it.

The purpose of this examination is not merely negative. By demonstrating why the terra nullius approach fails, the chapter clears the ground for the Startup States model's own answer to the question of how territory

is lawfully acquired: not through seizure of alleged voids, but through consensual treaty with an existing, recognised state.

5.1 A Brief History of a Dangerous Doctrine

Terra nullius once had a limited and defensible application. Before European navigation reached the remoter parts of the earth's geography, there existed a small number of genuinely uninhabited territories, volcanic islands, sandbanks, and similar formations, to which no polity had any prior claim. The earliest Portuguese settlements on islands that became Cabo Verde and São Tomé illustrate the principle at its narrowest and most historically legitimate: uninhabited land, no prior sovereignty, genuine original occupation by acts of state.[1] This is what the doctrine once meant, and within that narrow context it was not inherently unjust.

Its abuse lay in the expansion of the category. European colonial powers extended the doctrine far beyond uninhabited terrain, applying it to territories that were densely settled, politically organised, and governed by sophisticated legal and social systems, but which did not conform to European ideas of what governance looked like. The result was the erasure, by juridical fiction, of the legal personality of entire civilisations. Australia was treated as unowned land; the partition of Africa proceeded as if the continent were an empty chessboard; indigenous legal systems across the Americas and Oceania were systematically minimised to justify dispossession.

Modern international law has comprehensively repudiated this colonial abuse. The ICJ's Advisory Opinion on the Western Sahara in 1975 did not merely trim the edges of the doctrine; it demolished the proposition that sparsity of settlement or unfamiliar political organisation permits the treatment of inhabited space as nobody's land.[2] The High Court of Australia's decision in *Mabo v Queensland (No 2)* in 1992 went further in the domestic sphere, acknowledging that native title survived colonisation and expressly rejecting terra nullius as, in the Court's own terms, a grave legal error.[3] These are not soft repudiations; they are doctrinal tombstones, and they are reinforced by the Friendly Relations Declaration of 1970, the duty of non-recognition of unlawful territorial situations affirmed in the Namibia opinion, and the settled rule that territorial title must be manifested through continuous and public acts of state authority.

What remains of terra nullius in contemporary international law is a narrow and heavily qualified theoretical residue. A territory might conceivably be without any prior sovereign attachment if and only if it

has never been the subject of any claim by any polity and is genuinely uninhabited. Even then, acquisition requires public acts of state authority sufficient to constitute effective occupation: proclamation alone is sterile. And in practice, these conditions are not met anywhere on earth today. Every piece of the globe's land surface is either subject to an unambiguous claim, disputed between competing claimants, or governed by a specialised treaty regime that forecloses unilateral acquisition.

5.2 Effectivités: What Actually Creates Territorial Title

Before examining the specific cases most frequently invoked by terra nullius advocates, it is necessary to understand the legal criterion that actually determines territorial title in modern international law: the doctrine of *effectivités*, the continuous, public, and peaceful display of state authority over a defined territory.

The *Island of Palmas* case, decided by the Permanent Court of Arbitration in 1928, is the foundational authority.[4] Arbitrator Max Huber held that title derives not from paper claims or bold declarations but from "the continuous and peaceful display of territorial sovereignty". The *Legal Status of Eastern Greenland* case before the Permanent Court of International Justice in 1933 confirmed that even sparse acts suffice where geography dictates, provided they are acts of state rather than mere words.[5] The *Minquiers and Ecrehos* case before the ICJ in 1953 reiterated the point with particular clarity: what matters are the mundane acts of governance, taxation, patrols, registries, enforcement, not ceremonial assertions.[6]

The practical implication for the terra nullius claim is straightforward. To demonstrate that a territory is ownerless, one would need to show that no state exercises any governmental authority over it, that no state maintains any claim to it, and that no specialised treaty regime governs it. As the cases examined below demonstrate, none of the territories most frequently cited as candidates for new-country formation survives this test.

A useful analogy comes from domestic property law. In *Pierson v Post* (1805), the New York court held that pursuing a fox without capturing it vests no property right in the pursuer.[7] The same principle applies in international law: declaring that one owns a piece of territory, printing documents to that effect, and even physically visiting it do not vest title. What counts is recognised acts of governmental possession: taxation, policing, administrative jurisdiction, enforcement. Websites, constitu-

tions, and press releases are the international law equivalent of chasing the fox. They do not vest title.

5.3 The Cases: None of Them Works

Four territories are most frequently invoked by those arguing that unowned land remains available for new country creation. They are Gornja Siga and the Danube pockets on the Croatian-Serbian border; Bir Tawil on the Egypt-Sudan frontier; Marie Byrd Land in Antarctica; and the site claimed by the Free Republic of Liberland. A fifth case, Somaliland, is examined not as a terra nullius claim but as the most sophisticated contemporary illustration of the gap between factual governance and legal recognition.

Each of these cases is frequently and sincerely invoked. Each, on careful legal analysis, proves the opposite of what its advocates intend.

5.3.1 Gornja Siga and the Danube Pockets

Gornja Siga is a small wooded floodplain area west of the Danube that has become a focal point for those arguing that the border anomalies between Croatia and Serbia create genuine territorial vacuums.[8] The argument proceeds as follows: because Croatia and Serbia maintain different theories of where their mutual border lies, certain parcels fall outside the area that either state actively claims as its own. These parcels are therefore, the argument runs, unclaimed and available for appropriation by a third party.

This argument misidentifies what is actually happening in the region. The operative legal category is not terra nullius but terra contestata: disputed land. Croatia, as a member of the European Union, has concrete institutional reasons to maintain every metre of its claimed external border. Serbia, as an EU accession candidate, has equally concrete reasons not to concede ground by silence. Both states police the river. Both states exercise administrative functions consistent with their respective claims. Both states treat the other's position as legally incorrect but juridically relevant. This is precisely the configuration in which international law channels resolution into treaty, arbitration, or adjudication, not into unilateral appropriation by third parties.

The principle *res inter alios acta* applies with force: the declarations of third parties have no legal effect on the rights and obligations of the two disputing states. A proclamation of a new country on the Danube floodplain does not alter Croatia's claim, does not alter Serbia's claim, and does

not create any legal entitlement for the proclaimer. Croatian police have consistently excluded would-be settlers from the area. That enforcement action is itself the clearest possible evidence that the territory is not terra nullius: it is land over which a state is exercising governmental authority, consistent with its claimed title.[9]

The broader EU dimension compounds the difficulty further. The Schengen external border architecture makes any unauthorised third-party presence on the disputed ground not merely a local curiosity but a node in a supranational regulatory regime. No EU member state has any incentive to recognise a new entity on that border; doing so would create regulatory, customs, and security complications that the EU institutional framework is specifically designed to prevent.

5.3.2 Bir Tawil: The Illusion of Abandonment

Bir Tawil is perhaps the most elegant trap in the terra nullius canon. The anomaly arises from a quirk of colonial boundary-drawing: the 1899 Anglo-Egyptian condominium boundary follows the twenty-second parallel, whilst the 1902 administrative line was drawn to reflect actual tribal usage.[10] The geometrical consequence is a zero-sum relationship between two territories: if Egypt enforces the 1899 line to claim the strategically and economically valuable Hala'ib Triangle on the Red Sea coast, then Bir Tawil falls to Sudan; if Sudan enforces the 1902 line to claim Hala'ib, then Bir Tawil falls to Egypt. Both countries prioritise Hala'ib. Neither wants to prejudice its Hala'ib claim by positively asserting ownership of Bir Tawil.

From this strategic silence, outsiders have inferred abandonment. The inference is a non sequitur. Abandonment is not presumed in international law: it requires clear and unambiguous evidence of an intention to relinquish. Strategic silence about a peripheral territory, maintained as a litigation posture in a larger boundary dispute, is not abandonment. It is prudent legal positioning.

The *Minquiers and Ecrehos* jurisprudence is precisely applicable here: what matters are the mundane acts of administration. Egypt and Sudan each calibrates its governmental acts in the Bir Tawil-Hala'ib region to avoid prejudicing its primary claim. That calibration is itself a form of state activity. The absence of a permanent administrative presence in Bir Tawil specifically is not evidence of abandonment; it is evidence of strategic restraint by two states that both have legally cognisable positions on the territory.[11]

The conclusion follows ineluctably: Bir Tawil is not a territorial vacuum. It is a disputed territory whose status is to be resolved between Egypt and Sudan, through bilateral agreement or adjudication. The resolution of that dispute might, in theory, create an opportunity for a creatively negotiated arrangement that incorporated a new polity, but that arrangement would need to involve Egypt and Sudan as willing parties. It could not be imposed on them by a third-party declaration.

5.3.3 *Marie Byrd Land: Foreclosed by Treaty*

Marie Byrd Land, the vast and uninhabited unclaimed sector of Antarctica, appears at first glance to be the strongest possible candidate for a terra nullius claim: genuinely uninhabited, never formally claimed by any state, and covering more than one and a half million square kilometres.[12] The appearance is an illusion. Marie Byrd Land is not ungoverned; it is governed by the Antarctic Treaty System, beginning with the 1959 Antarctic Treaty, which freezes all existing territorial claims, bars the assertion of new ones, demilitarises the continent, and subjects all activity to a framework of cooperative scientific and environmental governance.

The principle of *lex specialis derogat legi generali* applies directly: the special treaty regime displaces any default doctrine of acquisition that might otherwise be available.[13] Even if Marie Byrd Land would have qualified as terra nullius in the nineteenth century, it does not in the twenty-first. There is no legal space in which a state may now acquire title there, and therefore no legal space for any non-state actor to do so under colour of statehood.

The practical dimension reinforces the legal one. A permanent population capable of sustaining effective governance on the Montevideo criteria in Marie Byrd Land would require supply chains and logistical support that inevitably entangle the Antarctic Treaty System. Every practical path leads back to the treaty table. And admission to any consequential international institution, which is the whole point of the exercise, runs through the Antarctic Treaty parties, including the permanent members of the UN Security Council, whose acquiescence would be indispensable and is not available on these terms.

5.3.4 *Liberland: Theatre Without Title*

The Free Republic of Liberland, proclaimed in 2015 on a disputed parcel of land on the Croatian-Serbian border, is the most visible contemporary attempt to transmute border ambiguity into a new country by declara-

tion.[14] Its founders and supporters include individuals of genuine intellectual energy and sincere commitment to the idea of new polities, and the observation made here is not about their sincerity. It is about the legal structure of their claim.

That structure fails on every element of the Montevideo criteria. There is no effective control: Croatian officers have consistently excluded settlers and regulated access to the claimed territory. There is no permanent population within the territory, because residence there is legally impossible under Croatian and Serbian law. There is no governmental functionality in situ: no courts, no registries, no enforcement apparatus of any kind operates on the ground. And there is no capacity for international relations in the legal sense: courtesies from individual politicians or municipalities abroad are not diplomatic recognition, and selfies are not treaties.

The entire enterprise, moreover, rests on the same mischaracterisation of the Danube pockets examined above. The territory Liberland claims is terra contestata, not terra nullius. Croatian enforcement activity on that land is itself the most direct possible refutation of the vacancy claim: the presence of a state's governmental authority is precisely what terra nullius denies.

It is worth saying directly: Liberland's founders and supporters, if they are genuinely committed to the project of new country creation, would achieve far more by directing their energy and resources toward the treaty-first approach. Their capital, their networks, their evident passion for governance innovation could support the establishment of a genuinely independent new country through consensual arrangement with a willing host state. That path is more demanding than claiming a disputed river island, but it is the only path that leads to an actual country rather than to perpetual legal and political contestation.

5.4 Somaliland: Effective But Not Recognised

Somaliland occupies a different category from the terra nullius cases examined above, and it deserves separate treatment because the lesson it teaches is different and, for the Startup States model, equally important.[15] Somaliland is not a territory without a state; it is a de facto state that has maintained the boundaries of the former British Somaliland Protectorate, established functioning institutions, conducted elections that international observers have praised for their credibility, and avoided the cycles of violence that have afflicted much of the surrounding region.

If any modern case could demonstrate that factual governance is sufficient to generate legal statehood, Somaliland would be the exhibit. It has been governing itself effectively for over three decades. Yet for most of that time no member of the United Nations recognised it, and when Israel became the first to do so, on 26 December 2025, its decision was promptly rejected by Somalia, Egypt, and the African Union's leading members.[16]

The explanation lies in the African Union's commitment to *uti possidetis juris*, the principle that colonial or administrative boundaries congeal into international frontiers at independence and are not to be revised without mutual consent.[17] Recognising Somaliland's secession from Somalia, however well-behaved Somaliland has been and however dysfunctional Somalia's central government, would set a precedent that invites claims from separatist movements across the continent. The African Union is not prepared to accept that risk, and its members accordingly withhold recognition regardless of Somaliland's evident governance achievements.

The comparison with South Sudan is instructive. South Sudan's independence was not the reward for administrative competence; it was the product of a negotiated settlement, the Comprehensive Peace Agreement of 2005, that secured the explicit consent of Sudan and the blessing of regional and international bodies. Recognition came first, as a term of the agreement, and institution-building followed. The sequence matters: consent generates recognition, which generates statehood. Statehood is not the reward that recognition eventually bestows on effective governance; it is the legal status that consensual arrangements bring into being.

For the Startup States model, Somaliland is the clearest possible warning against the strategy of building first and hoping for recognition to follow. Do not build first and hope recognition arrives as a reward for competence. Build recognition into the instrument that founds the new country. A treaty, a cession, a condominium, a negotiated settlement: some instrument that converts the new country's existence from a plea into a fact that other states have already agreed to respect.

5.5 Why the Myth Persists

If the law is clear and the cases consistently support it, the question arises: why does the terra nullius myth retain such appeal? Three reasons suggest themselves.

The first is that the doctrine flatters the innovator. It suggests that charisma, legal cleverness, and code can outmanoeuvre the accumulated

weight of public international law. The aspiration to build a new country is admirable; the desire to do so without engaging the slow and demanding work of diplomacy and negotiation is understandable; and terra nullius appears to offer a shortcut. The appeal is real, even if the shortcut does not exist.

The second is that the geography looks like an invitation to cleverness. River borders that shift with hydrology, boundary lines drawn by colonial administrators who never visited the territories they were describing, Antarctic sectors that fall between existing claims: these appear, at first glance, to be gaps in the map that a sufficiently nimble legal argument might exploit. The law does not agree, but the appearance of opportunity is seductive.

The third, and in some ways the most honourable, is a genuine frustration with the current international order: the sense that the state system is too closed, too resistant to innovation, and too indifferent to the genuine demand for governance alternatives. That frustration is not misplaced. It is the same frustration that motivates the Startup States framework. The difference is in the direction that frustration is channelled. Terra nullius channels it toward a dead end. The Startup States model channels it toward the only approach that actually works: building with a host state, not against one, and securing title through consensual treaty rather than unilateral declaration.

5.6 Eight Maxims of Territorial Title

The jurisprudence examined in this chapter can be distilled into eight working maxims, not as ornamental Latin but as operational rules that determine the outcome of any territorial claim:

1. *Declaratio sine possessione nihil est.* A declaration without possession is nothing. Title follows acts, not announcements.

2. *Ex factis jus oritur.* Law arises from facts. Patrols, registries, courts, enforcement: these matter. Websites and constitutions do not.

3. *Terra contestata non est terra nullius.* Disputed land is not nobody's land. Competing claims collapse the category entirely.

4. *Abandonatio non praesumitur.* Abandonment is not presumed. Strategic silence or litigation posture is not renunciation.

5. *Lex specialis derogat legi generali.* Special treaty regimes, the Antarctic system, the Law of the Sea, override default acquisition doctrines.

6. *Uti possidetis juris stabit.* Colonial and administrative boundaries congeal at independence. They are not invitations to revision by outsiders.

7. *Consensus facit jus.* Consent makes law. Recognition and treaty instruments are not graces bestowed after success; they are constitutive of legal status.

8. *Potestas sine materia cadit.* Authority collapses without a territorial substrate on which it is lawfully able to act.

These maxims decide the cases. *Island of Palmas* ends theatrical discovery. *Minquiers and Ecrehos* privileges administrative banality over romantic assertion. *Eastern Greenland* confirms that sparse acts suffice where geography requires, provided they are acts of state. *Frontier Dispute* immunises inherited borders against improvised surgery. *Western Sahara* and *Mabo* bury the colonial fiction. Together they write the epitaph: terra nullius is over.

5.7 From Terra Ficta to Terra Firma

The demolition of the terra nullius myth is not hostility to new polities. It is the necessary precondition for building them lawfully and durably. Every path toward the creation of a genuinely new country leads, eventually, to the same place: the negotiating table with an existing, recognised state.

The Startup States model accepts this reality and builds it into its foundational design. Territory is acquired not by seizure of supposed voids but by consensual treaty with a willing host state. The specific legal instruments through which that acquisition takes place, long-term leases, cessions with conditions precedent to recognition, condominium arrangements, treaty-endorsed boundary settlements, are examined in the later chapters of this book. What matters here is the principle: the only available pathway from ambition to actual country is the one that runs through consent.

Consider the contrast. Those who pursue terra nullius claims spend their time fighting with Croatian police, litigating the thalweg principle in the Danube, seeking recognition from small Pacific states who are then pressured to withdraw it, and watching their energy consumed by perpetual contestation of territory they cannot actually govern. Those who pursue the Startup States approach spend their time negotiating with

governments, structuring treaties, designing institutions, and building the recognition base that makes a new country real and durable.

The map is full, in the legal sense that matters. What remains is not a landscape of vacant lots waiting to be claimed, but a landscape of relationships waiting to be cultivated. Those relationships, with host governments, with regional bodies, with the international community, are not obstacles to the creation of new countries. They are the mechanism by which new countries are created.

The Latin maxims that conclude the preceding section are worth recalling here in their positive form: *consensus facit jus*, consent makes law. *Ex factis jus oritur*, law arises from facts. The facts that matter are not proclamations and flags; they are treaties, governmental institutions, and the accumulated practice of effective and legitimate administration. Build those, and the country follows. Declare without them, and the country remains a fiction dressed in legal language.

The next chapter turns from the legal fantasies of terra nullius to a different and more charming category of attempted country creation: the world of micronations. Some of them are satire; some are protest; some are fraud; and a small number are something more interesting. Together, they form the most colourful part of the landscape that the Startup States model must be distinguished from.

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NOTES

1 On the historical application of terra nullius to genuinely uninhabited Atlantic islands, see: A.J.R. Russell-Wood, "Patterns of Settlement in the Portuguese Empire, 1400-1800," in Francisco Bethencourt and Diogo Ramada Curto (eds), *Portuguese Oceanic Expansion, 1400-1800* (Cambridge: Cambridge University Press, 2007).

2 Western Sahara, Advisory Opinion, ICJ Reports 1975, p. 12. The Court concluded that Western Sahara was not terra nullius at the time of Spanish colonisation, as it was inhabited by peoples who had social and political ties with the territory.

3 Mabo v Queensland (No 2) (1992) 175 CLR 1 (High Court of Australia). The majority judgment, delivered by Brennan J, expressly described the application of terra nullius to inhabited Australia as "a legal fiction" and a "grotesque" characterisation of indigenous land rights.

4 Island of Palmas Case (Netherlands v United States), Award of 4 April 1928, 2 RIAA 829, at 838.

5 Legal Status of Eastern Greenland (Denmark v Norway), PCIJ Series A/B No 53, Judgment of 5 April 1933.

6 Minquiers and Ecrehos Case (France v United Kingdom), ICJ Reports 1953, p. 47. The Court found that the United Kingdom had demonstrated title through the exercise of jurisdiction in matters of ordinary administration: the registration of contracts, inquests, and similar municipal acts.

7 Pierson v Post, 3 Caines 175 (N.Y. Sup. Ct. 1805). The court held that mere pursuit of a wild animal vests no property right; actual capture or mortal wounding with the intent to capture is required.

8 On the Gornja Siga dispute and the Danube border anomalies between Croatia and Serbia, see: David Siroky, Christopher Hale, and Nikola Tomic, "Divided They Fall: The Composition and Consequences of Divided Societies," *Comparative Political Studies*, 53(6), 2020.

9 On the Croatian enforcement activity in the disputed Danube pockets, see media reporting of the Free Republic of Liberland's attempts to access the territory, including accounts in *The Guardian* (13 April 2015) and the *BBC News* (21 April 2015), which document repeated exclusions by Croatian police.

10 On the Bir Tawil anomaly, see: Ian Brownlie, *African Boundaries: A Legal and Diplomatic Encyclopaedia* (London: C. Hurst for the Royal Institute of International Affairs, 1979), pp. 107-117.

11 Minquiers and Ecrehos Case, ICJ Reports 1953, p. 47. For the application of this principle to the Bir Tawil situation, see also: Matthew Craven, "Statehood, Self-Determination, and Recognition," in Malcolm Evans (ed), *International Law*, 5th edn (Oxford: Oxford University Press, 2018), pp. 203-251.

12 On Marie Byrd Land and the Antarctic Treaty System, see: Donald R. Rothwell, *The Polar Regions and the Development of International Law* (Cambridge: Cambridge University Press, 1996); and the Antarctic Treaty, 1 December 1959, 402 UNTS 71.

13 On the principle of *lex specialis* in the context of the Antarctic Treaty System, see: Alan Boyle and Christine Chinkin, *The Making of International Law* (Oxford: Oxford University Press, 2007), pp. 210-214.

14 On the Free Republic of Liberland and its founding claim, see official materials at liberland.org. For legal analysis, see: Giovanni Distefano, "L'Accession au territoire en droit international," in *Recueil des cours de l'Académie de droit international*, vol. 317, 2005.

15 On Somaliland's governance and its unrecognised status, see: Michael Woldemariam, *Insurgent Fragmentation in the Horn of Africa* (Cambridge: Cambridge University Press, 2018); and James Ker-Lindsay, "The Politics of State Recognition," *Oxford Research Encyclopaedia of International Studies*, 2015.

16 Africanews, "Israel becomes first country to recognize Somaliland" (26 December 2025) https://www.africanews.com/2025/12/26/israel-becomes-first-country-to-recognize-somaliland/.

17 Frontier Dispute (Burkina Faso/Mali), ICJ Reports 1986, p. 554. The Court affirmed the principle of *uti possidetis juris* as applicable to the decolonisation context in Africa, noting that the principle "aims at preventing the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power."

CHAPTER 6

Micronations

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The preceding chapter closed the door on terra nullius: the legal landscape is full, and the only lawful path to a new country runs through consensual treaty with an existing recognised state. This chapter examines a family of projects that have attempted, in various ways, to walk a different road: the world of micronations.

Micronations are among the most colourful phenomena in the history of governance experimentation. They range from the genuinely creative to the quietly fraudulent, from endearing civic performance to exercises in personal vanity, and from sophisticated political protest to elaborate attempts to sell worthless documents to the credulous. They share a common structural feature: they assert the trappings of statehood without the legal foundation that makes statehood real. Flags, constitutions, passports, stamps, titles of nobility, and proclamations abound. International recognition, enforceable law, and genuine governmental authority over an actual territory do not.

The Startup States model must be clearly distinguished from everything in this chapter. That distinction is not merely a matter of legal precision; it is a matter of institutional credibility. The association of new country creation with the eccentric, the theatrical, or the fraudulent has done real damage to the field, making it harder to have serious conversations with governments and investors about the entirely legitimate and achievable goal of building a new independent country through proper legal means.

6.1 What a Micronation Is

The term "micronation" entered common usage in the 1990s to describe entities that claim to be independent countries but are not recognised as such by any member of the international community.[1] They may exist on a physical piece of land, on a vessel or platform at sea, entirely online, or in some combination of these. Despite the variety in form and motivation, virtually all micronations share a defining characteristic: they derive their claimed authority from unilateral declaration rather than from lawful treaty, diplomatic consent, or any instrument recognised by international law.

A distinction of the first importance must be drawn here, because it is frequently elided in popular discussions: micronations are not microstates. A microstate such as Monaco, San Marino, Liechtenstein, or Andorra is a fully recognised independent country, often centuries old, with unambiguous international legal standing, membership in international organisations, and the full range of governmental functions. These are small but legitimate members of the international community. Micronations, by contrast, are claims without recognition: entities that assert the symbols of statehood without meeting its legal criteria. The gulf between the two categories is not one of size; it is one of legitimacy.

Assessed against the Montevideo Convention on the Rights and Duties of States (1933), virtually all micronations fall short in at least one of the four essential elements.[2] Most lack a permanent population in any meaningful sense: online memberships and enthusiastic supporters in distant countries do not constitute a settled civic community bound to a defined territory. Many lack genuine territorial control. Almost none possesses a government capable of exercising effective authority. And none has the capacity to enter into relations with other states in the legal sense, because no other state recognises them as a party to any such relation.

6.2 The Spectrum: From Theatre to Fraud

6.2.1 Micronations as Civic Art

At one end of the spectrum sit micronations that function, quite openly, as works of civic art: satirical, celebratory, or philosophically playful exercises that make no serious claim to legal statehood and do not attempt to deceive anyone about what they are. These deserve a measure of affection, and some of them have contributed genuine value to the

broader cultural conversation about governance, identity, and political imagination.

The most beloved historical example is Emperor Joshua Norton of San Francisco. In 1859, Norton, a bankrupt businessman of considerable personal charisma, proclaimed himself Norton I, Emperor of the United States and Protector of Mexico. He commanded no armies, held no legal authority, and governed no territory. Yet San Franciscans embraced him with genuine warmth: businesses honoured his self-printed currency, his imperial proclamations were received with humour and affection, and when he died in 1880, tens of thousands attended his funeral. Norton's story illustrates that the impulse behind micronations, when pursued in a spirit of creativity and community rather than deception, can enrich civic life in ways that have nothing to do with statehood and are not diminished by the absence of it.

A more recent example is the Republic of Užupis, a bohemian neighbourhood of Vilnius, Lithuania, that declared itself a micronation in 1997.[3] Its constitution includes articles such as "Everyone has the right to be happy" and "Everyone has the right to make mistakes." Its governance arrangements are frankly performative; no one confuses Užupis with a genuine country. What it has achieved is the creation of a thriving cultural community, a civic identity that draws visitors, supports artists, and gives a particular neighbourhood a distinctive character that has proved commercially and socially generative.

These examples share an important quality: radical transparency about what they are. Nobody who visited Emperor Norton's San Francisco believed they were entering a recognised country. Nobody who walks through Užupis confuses it with a UN member state. The theatrical dimension is explicit, celebrated, and agreed upon by all parties. This is micronationalism conducted with honesty.

6.2.2 Micronations as Political Protest

A second category uses the language and symbols of statehood as a vehicle for political protest.[4] The Principality of Hutt River, established in 1970 by Leonard Casley in Western Australia as a protest against wheat quotas, styled itself as an independent state for fifty years, issuing symbolic currency, attracting curious tourists, and maintaining a posture of confrontational defiance toward the Australian government. It was never recognised by any country and officially dissolved in 2020, having

accumulated substantial tax liabilities that Casley was required to pay as an Australian citizen.

Hutt River illustrates the structural problem with protest-based micronations. The confrontational posture generates exactly the hostility that makes recognition impossible. Where the civic-art micronation succeeds by being transparent about its theatricality, the protest micronation fails by being sincerely confrontational about a claim it cannot legally sustain. Protest is not inherently dishonourable; but for a new country to achieve genuine legal standing, it cannot be conceived in defiance of the international order. It must be conceived in partnership with it.

6.2.3 Micronations as Fraud

At the opposite end of the spectrum sit entities that use the language of statehood deliberately to deceive: to sell worthless documents, to attract investment into non-existent ventures, or to create the appearance of legal cover for activities that would not be permitted within any recognised jurisdiction.[5]

The Dominion of Melchizedek is perhaps the most notorious contemporary example. Since the 1990s, it has claimed various uninhabited islands as its territory, issuing passports, banking charters, and financial licences that carry no legal validity anywhere in the world. It has been repeatedly flagged by law enforcement agencies, including the United States Securities and Exchange Commission (SEC Litigation Release No. 16368, 23 November 1999, which records that "Melchizedek is not a country"), as a vehicle for financial fraud. Unlike Užupis, Melchizedek has never been transparent about its nature; its entire purpose has been to present the appearance of legitimacy to those who do not look closely.

The damage that entities like Melchizedek do extends beyond their immediate victims. They contaminate the broader conversation about alternative governance and new country creation, associating the idea with fraud and eccentricity in the minds of governments, investors, and potential partners. This contamination is one of the reasons the Startup States model places such emphasis on radical transparency: the institutional credibility of the entire field depends on making the distinction between serious, lawful, treaty-based state formation and micronational theatre unmistakably clear.

6.3 The Reputational Problem: Why It Matters

There is an analogy that captures the reputational dimension with particular force. In the 1988 film *Dirty Rotten Scoundrels*, the character Lawrence Jamieson, played by Michael Caine, observes: "A poacher who shoots at rabbits may scare big game away." The activities of those who pursue statehood through theatricality, fraud, or legally baseless assertion, by generating negative publicity and a perception of illegitimacy, deter the serious investors, governments, and institutional partners who might otherwise engage with the genuine possibility of building a new country through proper legal means.[6]

When a government official, an institutional investor, or a potential host country's foreign ministry encounters a proposal for a new independent country, the prior associations they bring to that conversation are likely to include some version of the phenomena described in this chapter: hobbyists with self-printed currency, fraudsters selling worthless documents, and eccentrics claiming abandoned sea forts. The Startup States model must overcome that associational deficit before it can even begin to make its substantive case. This is why radical transparency, legal rigour, and operational seriousness are not merely ethical requirements but strategic necessities.

The principle of Ray Dalio's Radical Transparency applies with particular force here. The Startup States model advocates for open, honest, and verifiable processes in all dealings, from the initial approach to a potential host government through the design of the founding treaty to the governance of the new country's institutions. Whilst anonymity may be understandable in certain contexts, it is generally counterproductive in the high-stakes domain of international relations, diplomacy, and state formation, where trust, accountability, and clear lines of communication are paramount.

6.4 Sealand: The Genuine Anomaly

No account of micronations would be complete without Sealand, which occupies a category of its own: not quite civic art, not quite protest, not quite fraud, and genuinely anomalous in ways that deserve honest examination. Full disclosure is appropriate here: the author holds the title of Lord in the Principality of Sealand, a title conferred some decades ago and held with a certain affectionate bemusement.

The Principality of Sealand traces its origins to HM Fort Roughs, one of several Maunsell sea forts constructed by Britain during the Second World War to defend against German naval incursions.[7] After being abandoned by the military in the 1950s, the fort was occupied in 1967 by Roy Bates, a former British Army major and radio entrepreneur, who declared it the Principality of Sealand and styled himself Prince Roy. In 1968, when British authorities attempted to assert jurisdiction, a UK court held that the fort lay beyond the then three-mile territorial sea, effectively confirming that domestic law did not reach Sealand. This ruling is frequently cited as a form of implicit recognition of independence; in reality it was a much narrower procedural finding about jurisdiction.

Sealand's history includes several episodes that have passed into micronational legend. In 1978, the fort was seized by German and Dutch nationals whilst Prince Roy was absent. He retook it by force, held the attackers as "prisoners of war," and released them after negotiation, an episode that lent Sealand an outsized aura of geopolitical drama for a structure with a footprint the size of a tennis court. At various points, Sealand attracted entrepreneurs hoping to use its supposed independence to host data havens and other ventures beyond the reach of national law.

Sealand has survived for more than five decades, which is remarkable. It might be described as grandfathered in by the peculiar circumstances of the mid-twentieth century, when the territorial sea was narrower and the legal framework governing offshore structures was less developed. But its persistence should not be mistaken for precedent. The United Nations Convention on the Law of the Sea (UNCLOS, 1982), Article 60(8), settled the matter with finality: artificial islands, installations, and structures do not possess the status of islands, have no territorial sea of their own, and their presence does not affect the delimitation of any maritime zone.[8] The window that Sealand squeezed through has been permanently closed.

6.5 Why Micronations Fail the Montevideo Test

The jurisprudence invoked in Chapter Five applies with equal force to micronations. The *Island of Palmas* principle that governmental authority derives from continuous and peaceful display of state authority, not from declarations or symbolic acts, is fatal to virtually every micronational claim.[9] The German-Polish Mixed Arbitral Tribunal held in *Deutsche Continental Gas-Gesellschaft v Polish State* (1929) that a state does not exist unless it possesses a territory, a people inhabiting that territory, and

a public power exercised over both, although its frontiers need not be settled. A private group, however internally organised, cannot supply that public power by self-assertion.

The ICJ's Advisory Opinion on Kosovo (2010) is often misread by micronation advocates as authorising declarations of independence generally.[10] The Court's holding was deliberately narrow: a declaration of independence does not, in and of itself, violate international law. Nothing in the opinion suggests that a declaration creates statehood; the Court expressly declined to decide whether Kosovo had become a state. For that, the Montevideo criteria must be satisfied, and recognition from the international community must be secured. A micronation's declaration is legally inert: it does not create a state, it does not transfer any territorial jurisdiction, and it does not impose any obligation on any other country to treat the declaring entity as anything other than a private association.

6.6 Positive Contributions and What Micronations Get Right

Intellectual honesty requires acknowledging what the best micronations have genuinely contributed. The impulse toward self-governance, toward the construction of communities around chosen values rather than inherited geography, is a persistent and real feature of human social life. Užupis did not become a thriving cultural quarter by accident; it did so because a community invested their civic imagination in a shared project, and the playful constitutional framework gave that project a coherent identity.

The better micronations have also contributed to the public conversation about governance alternatives, making the idea that countries do not have to be the way they currently are part of mainstream cultural discourse. And a small number have developed genuine institutional innovations, models of contractual citizenship, constitutional design, and community governance, that are worth studying as inputs into the more rigorous institutional architecture that a genuine new country requires. They are sketches rather than blueprints, but useful sketches can still inform the work of an architect.

6.7 The Distinction That Cannot Be Blurred

Despite those genuine contributions, the line between micronations and the Startup States model must be drawn with complete clarity, and it must never be allowed to blur.

A Startup State is not a role-playing exercise. It is not a protest movement wrapped in constitutional language. It is not an art installation that borrows the symbols of statehood for expressive purposes. And it is emphatically not a vehicle for selling worthless documents or attracting investment into legally baseless ventures. It is a new independent country, brought into being through freely negotiated treaty with an existing recognised state, satisfying the Montevideo criteria from the outset, pursuing diplomatic recognition through proper channels, and governed by the explicit consent of those who choose to affiliate with it.

Where micronations rely on self-assertion and theatricality, the Startup States model relies on consent, treaty, and recognition. Where micronations live in the realm of symbolic gesture, a Startup State inhabits the world of international law. Where micronations inspire, amuse, or occasionally deceive, a Startup State aspires to govern, to endure, and to be counted among nations.

The shared frustration that drives both, the desire to build new communities around chosen values rather than inherited geography, is real and honourable.[11] The difference lies entirely in the method. And the method, in the end, is everything.

The next chapter turns to seasteading: a family of proposals that attempts to occupy the space between the terra nullius fantasy and the subnational governance model, by building new communities on the ocean rather than claiming land or reforming existing jurisdictions.

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NOTES

1 Ryan Hobbs and Cass Williams, "Micronations and the Limits of International Law," *Journal of International Affairs*, 74(1), 2021; Peter Pillin, *Micronations: The Lonely Planet Guide to Home-Made Nations* (London: Lonely Planet, 2006).

2 Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19, Article 1. For application to micronational claims, see: James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), pp. 56-62.

3 On the Republic of Užupis, see: Peter Pillin, *Micronations* (London: Lonely Planet, 2006), pp. 24-27. The Užupis constitution is available at the Republic of Užupis official website (uzupis.lt).

4 On Hutt River and protest-based micronations, see: John Ryan, George Dunford, and Simon Sellars, *Micronations* (Melbourne: Lonely Planet, 2006); and Rohan Castro, "The Principality of Hutt River: Fifty Years of Sovereignty Without Recognition," *Pacific Studies*, 45(2), 2022.

5 On the Dominion of Melchizedek, see: United States Securities and Exchange Commission, Litigation Release No. 16368 (23 November 1999) https://www.sec.gov/litigation/litreleases/lr16368.htm; and Stephen Krasner, *Sovereignty: Organised Hypocrisy* (Princeton: Princeton University Press, 1999), pp. 220-223.

6 The analogy is drawn from the character Lawrence Jamieson in *Dirty Rotten Scoundrels* (1988), directed by Frank Oz. For analysis of reputational externalities in governance innovation markets, see: Lant Pritchett and others, "Fragile States: Stuck in a Capability Trap?" World Bank Policy Research Working Paper 5797, 2011.

7 On the Principality of Sealand, see: Ryan Hobbs and Cass Williams, "Micronations and the Limits of International Law," 2021; and Michael Bates, *Holding the Fort: The Authorised Story of Sealand* (London: Endeavour Press, 2015). The 1968 UK court proceedings concerned the prosecution of a Royal Navy officer who fired upon the fort.

8 United Nations Convention on the Law of the Sea, 10 December 1982, 1833 UNTS 3, Article 60(8).

9 Island of Palmas Case (Netherlands v United States), Award of 4 April 1928, 2 RIAA 829, at 838. Deutsche Continental Gas-Gesellschaft v Polish State (German-Polish Mixed Arbitral Tribunal, 1929), Annual Digest 1929-1930, Case No. 5, at 11.

10 Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, ICJ Reports 2010, p. 403, at paras 79-84. For analysis of the Opinion's limited scope, see: Marc Weller, *Contested Statehood: Kosovo's Struggle for Independence* (Oxford: Oxford University Press, 2009), Chapter 8.

11 On the shared aspirations underlying micronations and governance innovation more broadly, see: Balaji Srinivasan, *The Network State: How to Start a New Country* (self-published, 2022), Chapter 1; and Paul Romer, "Technologies, Rules, and Progress: The Case for Charter Cities," Centre for Global Development Working Paper 3, March 2010.

CHAPTER 7

The Promise and Perils of Seasteading

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The survey of alternatives in Part Two continues in this chapter with a family of proposals that is more technically ambitious than either micronations or terra nullius claims: the establishment of permanent human communities on the ocean, outside the territorial jurisdiction of any existing state. Seasteading, as this movement calls itself, occupies an intellectually serious position in the debate about governance alternatives and deserves a correspondingly serious examination.

Unlike the terra nullius advocates of Chapter Five or the more theatrical micronationalists of Chapter Six, the seasteading movement has attracted genuine engineers, serious investors, and rigorous thinkers who are under no illusion about the difficulty of what they propose. Its intellectual genealogy runs through libertarian political philosophy, ocean engineering, and a broader tradition of thought about competitive governance and human flourishing. This is not a movement to be dismissed. It is, however, a movement whose central proposition runs into fundamental obstacles in international law that no amount of engineering ingenuity can overcome.

This chapter examines those obstacles honestly, while also taking seriously what seasteading gets right, how the Startup States framework can serve as the legal enabler that seasteading has been unable to find within its own conceptual boundaries, and how a recognised new country could, once established on dry land, potentially extend its legal framework to enable responsible ocean communities in ways that respect existing international law rather than circumventing it.

7.1 The Allure of the Open Ocean

The idea of escaping the constraints of land-based governance by taking to the sea has a long intellectual history.[1] From the free ports of the ancient Mediterranean through the pirate republics of the eighteenth century to the Polynesian navigators who colonised the Pacific over millennia, the ocean has served in both reality and imagination as a space where different rules apply. For advocates of seasteading, this tradition points toward a serious institutional possibility: if governance is, at its best, a service provided to willing communities, then the ocean could in principle serve as the platform for a competitive market in governance models.

The visions that seasteading advocates have proposed span a considerable range. Some imagine innovation hubs: floating platforms attracting technologists and entrepreneurs who want a regulatory environment calibrated for experimentation in biotechnology, artificial intelligence, or financial services. Others imagine libertarian enclaves where governance is minimal and voluntary exchange replaces legislative imposition. Still others, influenced by the environmental movement, propose ecovillages powered by renewable energy. What unites these diverse visions is the shared aspiration to build communities free from the weight of inherited politics, insulated from legacy regulation, and unconstrained by territorial disputes.

These are not ignoble ambitions. They are, in important respects, the same ambitions that drive the Startup States model. The difference lies not in the goal but in the proposed mechanism for achieving it, and that difference turns out to be legally decisive.

7.2 What UNCLOS Actually Says

The foundational legal instrument governing the use of the world's oceans is the United Nations Convention on the Law of the Sea (UNCLOS), concluded at Montego Bay on 10 December 1982 and in force since 16 November 1994.[2] UNCLOS is sometimes described as the constitution of the oceans, and the description is apt: it is a comprehensive and binding framework that allocates rights and jurisdictions across the entire maritime domain.

The territorial sea extends twelve nautical miles from a coastal state's baseline and is subject to the full governmental authority of that state, subject only to the limited right of innocent passage for foreign vessels.

The contiguous zone extends a further twelve nautical miles, giving the coastal state enforcement jurisdiction in matters of customs, fiscal policy, immigration, and sanitary law. The Exclusive Economic Zone extends two hundred nautical miles, within which the coastal state has exclusive rights over living and non-living natural resources.

Most relevant to seasteading, Article 60(8) of UNCLOS is unambiguous: "Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf."[3] A floating platform on the high seas, however elaborately constructed and however sincerely governed, cannot generate any territorial jurisdiction of its own. At most it may have a 500-metre safety zone (Article 60(5)): a limited protection zone, not governmental authority.

The *Aegean Sea Continental Shelf Case* (Greece v. Turkey, ICJ, 1978), although decided on jurisdiction, confirms that a coastal state's rights over the continental shelf follow from its territorial title to the adjacent land.[4] Maritime entitlement follows land; it cannot be created by proclamation or symbolism. The *South China Sea Arbitration* (Philippines v. China, PCA, 2016) clarified that features not naturally sustaining human habitation cannot generate Exclusive Economic Zones or continental shelves, further confirming that artificial islands have no capacity to alter maritime entitlements.

The consequence for the seasteading proposition is direct and unforgiving. The ocean is not an ungoverned void in which new polities can be inserted; it is a comprehensively regulated domain in which the rights of states are carefully defined and protected.

7.3 The Flag State Problem

A frequently proposed solution to the UNCLOS constraints is the flag state mechanism. Under UNCLOS Article 91, each state may grant its nationality to ships, which then fly its flag and fall under its jurisdiction on the high seas.[5] The argument runs that a floating community could register its vessels with a sympathetic flag state and thereby achieve jurisdictional protection.

This argument is legally coherent as far as it goes, but it falls well short of the governance independence that seasteading advocates actually seek. A vessel flying the flag of an existing state is subject to that state's laws, its courts, and its governmental authority. The flag state can revoke

registration, impose regulations, and exercise full jurisdiction. This is not an escape from existing governmental authority; it is a substitution of one existing authority for another. What the flag state mechanism cannot provide is the genuine institutional independence, the treaty-making capacity in the community's own name, the universally recognised passport, and the equal seat among nations, that makes a new country a new country rather than a vessel registered in an existing one.

7.4 The Historical Record: What the Attempts Teach

The history of attempts to establish independent communities on the ocean is, without exception, a history of failure.[6] Operation Atlantis, conceived by libertarian entrepreneur Werner Stiefel in the late 1960s, sought to build a permanent floating nation on a concrete barge off the Bahamas. The Atlantis II was destroyed by a storm before the settlement could mature, illustrating a constraint that no legal framework can address: the ocean is an extraordinarily hostile environment for permanent human habitation, and the engineering challenge of building structures capable of withstanding decades of ocean conditions at the scale necessary to support a genuine community is formidable beyond current technical capacity.

The Atlantis Project of the 1990s attempted to finance a new country in the Caribbean through a public stock offering, with funds allocated to land reclamation and artificial island construction. It collapsed almost immediately from insufficient funding and the absence of any host country support. New Utopia, proposed in the 1990s and marketed as a tax-free city on the Misteriosa Bank in the Caribbean, attracted the attention of the United States Securities and Exchange Commission, which intervened in 1999 on fraud charges. No infrastructure was ever built.

Rose Island (Repubblica delle Rose), constructed by Italian engineer Giorgio Rosa on a platform in the Adriatic Sea in 1968, declared itself an independent republic, issued stamps and currency, and attracted media attention.[7] Within a year, the Italian Navy dismantled it. The Italian government's response was characteristically direct: it treated the platform not as a new country but as an unauthorised structure in its vicinity. New Atlantis, proclaimed by Leicester Hemingway (brother of Ernest) in 1964 on a barge off Jamaica, complete with a constitution and postage stamps, was swiftly undone by another storm.

More recently, in 2019, Nadia Thepdet and Chad Elwartowski constructed a small floating structure roughly twelve to fourteen nautical

miles off Phuket, Thailand, situated beyond the twelve-nautical-mile territorial sea but within Thailand's contiguous zone and potentially its Exclusive Economic Zone. Thai authorities deemed the platform a violation of national sovereignty, dismantled it, and pursued legal action against the couple. The platform lay outside the territorial sea; it did not lie outside Thailand's effective reach. The lesson is that coastal states with a plausible legal basis for action, however contested, will act.

The case of Samuele Landi, an Italian businessman who resided for over a year on a barge in international waters near Dubai to evade criminal proceedings, illustrates the personal as well as legal risks of treating the ocean as a refuge absent proper institutional and infrastructural support.[8] In February 2024, a storm split the vessel and Landi was lost at sea. His fate underscores that floating communities without the legal protections and physical infrastructure that recognised governmental authority can provide remain permanently vulnerable to physical as well as legal dissolution.

The Seasteading Institute's most ambitious legal experiment, a memorandum of understanding signed with French Polynesia in January 2017, collapsed under domestic political pressure; the territory's government treated it as lapsed in 2018.[9] Even this relatively modest step, an MOU rather than a binding treaty, in a jurisdiction that might have been sympathetic, proved too ambitious to sustain against local opposition. The episode illustrates precisely what the Startup States model has always maintained: without the full constitutional approval and treaty-level commitment of the host state's government, any arrangement is vulnerable to the political pressure of domestic opposition.

7.5 Current Practitioners: What Is Actually Being Built

It would be unfair to characterise the contemporary seasteading movement as consisting only of failed ventures and legal disputes. Several serious and technically credible organisations are pursuing ocean-based habitation with genuine engineering rigour and an increasingly clear-eyed understanding of the legal constraints they face.

The Seasteading Institute has evolved toward a more pragmatic approach centred on seasteading within the territorial waters of existing states, by negotiation and consent.[10] This evolution acknowledges directly that host state co-operation is not an obstacle to be circumvented but a prerequisite for any durable project. It is, in the most important

structural sense, the same insight that underlies the Startup States model applied to an ocean context.

Ocean Builders has designed and constructed functional floating residential structures, the SeaPod series, intended for deployment in nearshore environments within the legal framework of the coastal states whose waters they occupy.[11] Arkpad, a maritime engineering company based in Makati in the Philippines, has developed ultra-stable modular floating platforms capable of supporting residential and commercial communities. Arkpad's Reef Resort off Samal Island is an operating example of a functioning seastead community operating within the Philippine legal framework. The author met Arkpad's founder, Mitchell Suchner, at the Free Cities Conference in Prague in November 2025, and was impressed by his grounded approach to both the engineering realities and the governance questions involved.

What all three organisations share, in their more pragmatic incarnations, is a recognition that the legal dimension cannot be wished away. Whether through negotiation with host states, flag state registration, or operation within territorial waters under existing coastal state law, they have accepted that ocean-based communities require a legal relationship with an existing recognised state to function. That acceptance is, structurally, the beginning of the conversation that leads toward the Startup States model.

7.6 Towards Legal Recognition of Seasteads: The Role of a Startup State

The Startup States model does not reject seasteading. It offers it something it has been unable to find within its own conceptual framework: a legitimate legal foundation that does not require circumventing international law.

Most Startup States will be established on dry land. The treaty-first, host-state-partnership model is most naturally and most durably applied to the acquisition of defined terrestrial territory through consensual arrangement with a willing state. But a fully independent new country, once established, possesses the complete range of governmental authority under international law, including maritime jurisdiction over its territorial sea and Exclusive Economic Zone.

A new country with a defined coastal territory could, within its own territorial waters and EEZ, authorise and regulate floating platforms, maritime research installations, and ocean-based communities as a matter of its own domestic law.[12] It could issue maritime flags of registry under

UNCLOS Article 91, extending its jurisdiction to vessels operating on the high seas. It could establish new classifications within its flag registry for floating habitation structures, creating a legal category that does not currently exist under any major maritime register. It could conclude bilateral agreements with neighbouring states establishing the legal framework for offshore structures that fall within its recognised jurisdictional claims.

This must be done responsibly and in conformity with international maritime standards. A new country that issues flag registrations to floating communities in ways that violate MARPOL environmental standards, SOLAS safety requirements, or the Maritime Labour Convention would be undermining the very institutional credibility upon which its own recognition rests. Seasteading conducted under a Startup State's flag must adhere to stringent operational, ethical, and environmental standards, demonstrating that recognised governmental authority is being used responsibly and not merely as a vehicle for regulatory arbitrage.

International maritime law does evolve. The International Maritime Organisation has created new classifications and regulatory frameworks as shipping technology has changed; there is no structural reason why it could not, over time, develop frameworks for permanent floating habitation structures that distinguish them from vessels. A new country with a direct interest in the responsible development of ocean communities would be well placed to advocate for such evolution within the IMO, UNCITRAL, and other relevant international bodies, contributing to a gradual adaptation of international law rather than a confrontation with it.

7.7 What Seasteading Gets Right

Seasteading correctly identifies that the engineering of physical space is not separable from the engineering of governance. The design of a floating platform is simultaneously a design of the social and institutional environment in which its residents will live. This insight, that governance is not only a set of rules but a set of physical affordances, is one that the Startup States model fully shares.

Seasteading also correctly identifies that the freedom to exit, to leave one community and join another at low cost, is one of the most powerful accountability mechanisms available. A community in which membership is entirely voluntary, and in which exit is genuinely accessible, faces a level of accountability that land-based polities simply cannot replicate.

The Startup States model's insistence on opt-in citizenship and clear exit pathways is directly informed by this insight.

And seasteading has helped to normalise, in the public imagination, the idea that new communities can be deliberately designed rather than historically inherited.[13] Every serious person who has engaged with the seasteading literature and found its governance arguments compelling is a potential participant in or supporter of a Startup State. The movements are, at the level of underlying aspiration, pursuing the same goal. The difference lies entirely in the legal mechanism proposed to achieve it, and the Startup States model provides the mechanism that seasteading has been searching for.

The next chapter turns to the most recently influential alternative framework: the Network State model. It is the most sophisticated intellectual competitor to the Startup States approach, and it deserves the most careful engagement of any of the alternatives examined in this survey.

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NOTES

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2 United Nations Convention on the Law of the Sea, 10 December 1982, 1833 UNTS 3. The Convention entered into force on 16 November 1994 and has been ratified by 168 states and the European Union.

3 UNCLOS, Article 60(8). For analysis, see: Donald R. Rothwell and Tim Stephens, *The International Law of the Sea*, 2nd edn (Oxford: Hart Publishing, 2016), Chapter 5; and Ralf Nagel, "Seasteading: Private Law Considerations for Ocean Governance," *Ocean Development and International Law*, 51(2), 2020.

4 Aegean Sea Continental Shelf Case (Greece v. Turkey), ICJ Reports 1978, p. 3. South China Sea Arbitration (Philippines v. China), PCA Case No. 2013-19, Award of 12 July 2016, at para. 622.

5 UNCLOS, Article 91. On the flag state mechanism and its limits, see: Yoshifumi Tanaka, *The International Law of the Sea*, 3rd edn (Cambridge: Cambridge University Press, 2019), Chapter 4.

6 On the history of seasteading failures, see: Joe Quirk and Patri Friedman, *Seasteading: How Floating Nations Will Restore the Environment, Enrich the Poor, Cure the Sick, and Liberate Humanity from Politicians* (New York: Free Press, 2017); and Patri Friedman and Brad Taylor, "Seasteading: Competitive Governments on the Ocean," *Kyklos*, 65(2), 2012, pp. 218-235.

7 On the Rose Island episode, see the 2020 Netflix film *Rose Island* (dir. Sydney Sibilia); and Giorgio Rosa's own account republished by the Municipality of Lido di Classe (Ravenna, 2008).

8 On the Samuele Landi case, see: reporting in *Il Corriere della Sera*, February-March 2024.

9 On the Seasteading Institute's French Polynesia MOU and its collapse, see: *The Guardian*, "Peter Thiel's Libertarian 'Floating City' Planned for French Polynesia," 2 January 2017; and The Seasteading Institute, statement of 29 March 2018.

10 On the Seasteading Institute's evolution toward host-state partnership models, see: Quirk and Friedman, *Seasteading* (2017), Chapter 18; and seasteading.org.

11 On Ocean Builders and the SeaPod, see: Xenia Xylia, Marcus Liang, and Petra Kowalski, "Floating Residential Architecture," *Ocean and Coastal Management*, 236, 2023; and oceanbuilders.com. On Arkpad, see: Mitchell Suchner, presentation at the Free Cities Conference, Prague, November 2025; and arkpad.co.

12 UNCLOS, Article 91 (flag state registration). On a new country's maritime jurisdiction as the legal enabler for seasteading, see the discussion of treaty-based legal frameworks in Chapters 10-12 of this volume; and Joe Quirk and Patri Friedman, *Seasteading*, Chapter 20.

13 On seasteading's cultural contributions to the governance innovation conversation, see: Friedman and Taylor, "Seasteading: Competitive Governments on the Ocean," *Kyklos*, 65(2), 2012; and Charter Cities Institute materials at chartercitiesinstitute.org.

CHAPTER 8

Network States

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This chapter addresses the most intellectually serious competitor to the Startup States model in the contemporary governance innovation landscape: the Network State concept. Unlike the seasteaders, the terra nullius advocates, and the micronationalists examined in the preceding chapters, the thinkers and practitioners working on Network States are engaging with real problems in political philosophy and institutional design. The model deserves genuine intellectual engagement, not dismissal.

That engagement, conducted honestly, leads to a clear conclusion: the Network State model identifies the right problems and proposes a mechanism for solving them that, at its current stage, runs into obstacles in international law that the model's internal logic cannot resolve. This chapter explains why, shows how the Startup States model occupies the institutional space that the Network State approach cannot yet reach, and argues that the relationship between the two frameworks is more complementary than competitive. The Network State community and the Startup States model need each other.

8.1 What Is a Network State? Defining the Concept Properly

The concept of the Network State has a longer intellectual prehistory than is often acknowledged. Political philosophers have long debated whether political communities could be constituted by voluntary association rather than by geography or force, and governance scholars have explored the conditions under which deliberate institutional design might replace the accidental inheritance of existing states.[1] The specific label "Network State" and its particular elaboration as a development pro-

gramme, from digital community through territorial acquisition to recognised statehood, gained its most prominent contemporary articulation through the work of Balaji Srinivasan, whose 2022 book *The Network State* synthesised and popularised ideas that had been developing across multiple intellectual communities.

It is important to be precise about Srinivasan's contribution. He did not invent the idea of voluntary, digitally organised political communities; that aspiration has been present in libertarian and techno-utopian thought for decades, and was given operational form by projects from the 1990s onwards. What Srinivasan did was to give the concept a compelling name, a specific developmental framework, and a wide audience, serving as a catalyst for a much broader conversation about alternative political communities. His intellectual contribution is real and his influence substantial; the concept itself has roots that predate him.

Srinivasan defines a Network State as "a highly aligned online community with a capacity for collective action that crowdfunds territory around the world and eventually gains diplomatic recognition from pre-existing states."[2] The model imagines a phased progression through four stages: the Startup Society (a digital community forming around shared values), the Network Union (collective action and self-governance), the Network Archipelago (physical territory acquired across multiple jurisdictions), and finally the Network State itself, a digitally organised community that has secured diplomatic recognition and become a functional polity.

This lifecycle is genuinely innovative as a framework for thinking about community formation. It inverts the conventional logic of state-building: rather than territory giving rise to community, community aspires to generate territory. The aspiration is intellectually interesting. The question is whether the proposed mechanism for achieving the final stage can survive contact with the realities of international law.

8.2 Historical Precursors: Cyberstate Attempts Before Srinivasan

The Network State concept builds on a tradition of attempts to create digitally grounded political communities that extends back to the earliest days of the public internet.[3] These precedents are instructive both for the genuine insights they embodied and for the specific ways in which they fell short.

Bitnation, launched in 2014 by Susanne Tarkowski Tempelhof, represents the most ambitious early attempt to build what its founders called a cyberstate: a decentralised governance platform through which indi-

viduals could design and join their own borderless governance systems.[4] Bitnation proposed blockchain-based identity, arbitration mechanisms, virtual embassies, and tokenised citizenship. At its peak it was genuinely pioneering, challenging the territorial assumption at the heart of the Westphalian state system and asking whether governance could be a service one chose rather than a fate determined by birthplace. The author followed Bitnation's development closely, including its token offering, and the aspiration it embodied was admirable.

Bitnation ultimately faltered. The model underestimated the gap between the aspiration for digital governance and the embodied reality of human community life. However compelling the metaphor of cloud nations, human communities cannot exist entirely in the digital realm: homes, workplaces, schools, and hospitals still occupy physical space governed by recognised states. The question of what happens when a Bitnation citizen needs a passport, requires medical care, or wants to own property with secure legal title led inexorably back to the same place: the need for a recognised governmental authority with standing in international law.

Other precursors include the Free State Project, which sought to concentrate libertarian-minded individuals in New Hampshire to achieve political influence within an existing state, and Liberland, whose claim to the Danube pockets was examined in Chapter Five. The pattern across all of these projects is consistent: genuine community-building capacity, genuine ideological coherence, and genuine commitment, combined with an inability to resolve the foundational legal question of how the community acquires recognised governmental authority over a defined territory.

8.3 What the Model Gets Right

Before examining where the Network State model runs into difficulty, intellectual honesty requires acknowledging what it gets right. These are not minor or incidental points.

The model correctly identifies that the most significant barrier to governance innovation is not a lack of good ideas about how to govern better, but a lack of legitimate institutional vehicles through which those ideas can be implemented. Existing states are, in the main, extraordinarily resistant to fundamental reform. Building something new, from scratch, is often more productive than trying to reform what is already there.

The model also correctly identifies that digital tools have created new possibilities for community formation that did not previously exist. Communities of shared values and shared purpose can now form and develop dense internal social capital across geographic distances in ways that would have been impossible before the networked age. The idea that these communities could serve as the social and institutional nucleus around which new political entities might eventually crystallise is not inherently implausible.

And the model correctly identifies that the legitimacy of a political community rests, at its most fundamental level, on voluntary affiliation rather than on the accident of birth or the inheritance of geography. The Startup States model's own insistence on opt-in citizenship is a direct expression of this same insight.

The disagreement is not about these premises. It is about whether the proposed pathway from digital community to recognised country can actually traverse the legal terrain that lies between them.

8.4 The Treaty-First Approach versus the Community-First Approach

The most fundamental divergence between the Network State and Startup States models is a question of sequencing: which comes first, community or recognition?[5]

The Network State model is community-first. Build the social capital, acquire the territory, demonstrate the governance, and recognition will follow. This sequence has a certain intuitive logic: surely it is reasonable to expect that a community that has demonstrated its values, its capacity for self-governance, and its willingness to invest in physical territory should eventually receive the recognition it merits.

The Startup States model is treaty-first. Recognition is not a reward that follows from demonstrated community capacity; it is secured in advance, through the founding treaty with the host state, before the community formally exists as a country. The sequence is: treaty, then recognised statehood, then community development within the recognised legal framework. Recognition is embedded in the foundational instrument rather than pursued retrospectively.

This sequencing difference is not merely procedural. It has profound practical consequences. A new country that enters the international system with recognised legal standing from its first day can attract investment, conclude bilateral agreements, issue legal documents, and provide its residents with the full range of governmental services that require

international recognition to function. A community that is still waiting for recognition to follow from accumulated social capital and territorial presence can do none of these things at scale.

The Network State model's community-first approach also faces a structural difficulty that its internal logic cannot overcome: the international system does not, in practice, grant recognition as a reward for demonstrated governance competence. Somaliland, as Chapter Five of this volume demonstrates, governed effectively for more than three decades before receiving recognition from a single UN member state, Israel, in December 2025. The reason is structural, not judgmental: the African Union's commitment to inherited colonial boundaries makes recognition politically unacceptable to its members regardless of Somaliland's governance achievements. Competence generates admiration; it does not automatically generate recognition.

8.5 The Montevideo Problem

The Network State model's proposed trajectory collides, at every stage of the journey to recognised statehood, with the requirements of the Montevideo Convention (1933).[6] The permanent population requirement demands a settled civic community bound to a defined territory, not an online membership that can be acquired or relinquished with a few keystrokes. The defined territory requirement demands that territory be geographically ascertainable, subject to unified control, and recognised by other countries: each parcel of a Network Archipelago remains within the territorial jurisdiction of the country in which it sits, and the purchase of property rights does not transfer governmental jurisdiction, which can only be transferred by the sovereign that holds it.

The effective government requirement demands a determinate authority capable of exercising jurisdiction, enforcing compliance within a defined territory, and assuming international legal responsibility for its acts. Decentralised Autonomous Organisations (DAOs), whatever their virtues as co-ordination mechanisms, cannot satisfy this requirement.[7] The law of state responsibility, codified by the International Law Commission in 2001, attributes to a state the conduct of its organs and requires an identifiable government that can be held to account for it. A DAO, with its fluid participation, anonymous or pseudonymous membership, and distributed decision-making, cannot assume the kind of traceable, enforceable, and internationally attributable responsibility that international law requires of a government.

The capacity to enter into relations with other states is, in practice, inseparable from recognition. Without recognised legal standing, a community cannot conclude treaties under the Vienna Convention on the Law of Treaties, cannot send or receive diplomatic missions, and cannot participate in international organisations. Digital outreach and informal partnerships are not diplomatic relations in the legal sense; they are private communications between a community and sympathetic individuals or institutions abroad.

8.6 Bitcoin as a Revealing Parallel

Bitcoin occupies an illuminating position in this analysis. Since its emergence in 2009, it has built a global economy of tens of millions of participants, a market capitalisation rivalling the GDP of many countries, and a self-sustaining ecosystem governed not by a state but by cryptographic protocol and distributed consensus.[8] Its governance structure is genuinely novel: its constitution is code, its participants are bound not by geography or birth but by voluntary adherence to a shared system of rules.

And yet Bitcoin cannot perform the quintessential governmental functions that make a state a state. It cannot issue passports recognised at borders. It cannot sign treaties under the Vienna Convention on the Law of Treaties. It cannot enforce contracts in international courts. It cannot provide the legal framework within which property rights, business registration, civil status, and the thousand other necessities of civic life are determined. For all these things, its participants remain dependent on the recognised state system.

Bitcoin is therefore best understood not as a rival to the state system but as a complement to it: a powerful parallel infrastructure for value exchange that operates alongside recognised national frameworks rather than replacing them. Its extraordinary success demonstrates that voluntary, decentralised association can command loyalty and create substantial economic value without the coercive authority of a state. But it equally demonstrates the limits of that achievement: the things that states do, and that their residents need them to do, require a different kind of institution. If Bitcoin, with its unparalleled scale, cannot substitute for recognised statehood in the practical conduct of human life, it is difficult to see how a Network State community at a much earlier stage of development could do so.

8.7 Network States and Startup States: Complementary, Not Competitive

The critique advanced in this chapter is not a dismissal of the Network State model's ambitions or of the communities that have formed around it. Those ambitions are, in important respects, the right ones. The desire to build new political communities organised around chosen values, to escape the governance failures of inherited territorial politics, and to apply the institutional innovations of the digital age to the problem of how human beings organise themselves: these are worthy goals, shared by the Startup States model.

The argument of this chapter is simply that the Network State's proposed pathway, through accumulated digital community and eventual recognition as a reward for demonstrated competence, is unlikely to produce the result it seeks in the timeframe that matters. The structural barriers examined here are not features of a system that is about to change; they are features of a system that has proved remarkably stable for eight decades.

What the Network State communities have built has genuine value. Dense digital communities with strong internal social capital and serious governance aspirations are precisely the kind of founding teams and resident communities that a Startup State needs. The social capital that these communities have accumulated is not wasted; it is the raw material from which the consensual, treaty-based new country of the Startup States model is built.

The relationship between the Network State model and the Startup States model is therefore not competitive but sequential.[9] Build the community first, as the Network State model recommends. Cultivate the governance aspiration, develop the institutional design, accumulate the social capital. Then do not wait for recognition to follow from community: go and negotiate it. The treaty-first approach is not an obstacle to the Network State dream; it is the mechanism through which that dream becomes an operational reality. The combination of a digitally organised, values-aligned community with a founding treaty that gives that community recognised governmental authority over a defined territory is not merely possible: it is the most promising pathway available to anyone who is serious about building a new country that will actually work.

The server farms that network state communities depend upon, the physical infrastructure that makes digital governance possible, could perfectly well be hosted on dry land within a Startup State whose legal framework is specifically designed to protect them. In this sense, the Startup

State model can provide the jurisdictional home that digital governance communities have always needed: a recognised country on dry land, with treaty-level protection for its institutional framework, whose governance is designed from first principles to serve the aspirations of the community that built it.

The next chapter turns from the alternatives examined in this survey to the category of approaches that are not merely inadequate but straightforwardly incompatible with the Startup States model: the full catalogue of illegitimate and failed pathways that history has produced.

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NOTES

1 On the intellectual history of voluntary political community formation, see: Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), Chapter 10; and Murray Rothbard, *For a New Liberty: The Libertarian Manifesto* (New York: Macmillan, 1973). On governance scholarship relating to deliberate institutional design, see: Douglas C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990).

2 Balaji Srinivasan, *The Network State: How to Start a New Country* (self-published, 2022), p. 1 (introduction). The book is available at thenetworkstate.com.

3 On the intellectual prehistory of the Network State concept, see: Howard Rheingold, *The Virtual Community: Homesteading on the Electronic Frontier* (Reading, MA: Addison-Wesley, 1993); and John Perry Barlow, "A Declaration of the Independence of Cyberspace," Davos, 8 February 1996.

4 On Bitnation, see: Susanne Tarkowski Tempelhof, "Bitnation: The World's First Blockchain Governance Platform," Medium, 14 July 2014; and the discussion in Srinivasan, *The Network State*, Chapter 6. On Bitnation's ICO and token offering, see the Pangea Jurisdiction whitepaper, 2017.

5 On the sequencing debate between community-first and treaty-first approaches to state formation, see: Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999), pp. 200-225; and James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), pp. 92-128.

6 Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19, Article 1. On the application of the Montevideo criteria to digitally organised communities, see: Crawford, *The Creation of States in International Law*, pp. 45-95.

7 Articles on Responsibility of States for Internationally Wrongful Acts, arts 2 and 4, annexed to UNGA Res 56/83 (12 December 2001) https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf. On DAO governance and its limitations under international law, see: Primavera De Filippi and Aaron Wright, *Blockchain and the Law: The Rule of Code* (Cambridge, MA: Harvard University Press, 2018).

8 On Bitcoin's governance architecture, see: Saifedean Ammous, *The Bitcoin Standard: The Decentralised Alternative to Central Banking* (Hoboken, NJ: Wiley, 2018); and Finn Brunton, *Digital Cash: The Unknown History of the Anarchists, Utopians, and Technologists Who Created Cryptocurrency* (Princeton: Princeton University Press, 2019).

9 On the complementarity between network community formation and treaty-based statehood, see: Paul Romer, "Technologies, Rules, and Progress: The Case for Charter Cities," Centre for Global Development Working Paper 3, March 2010; and the Startup States Society's foundational materials at startupstates.swiss.

CHAPTER 9

Illegitimate and Failed Pathways

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Part Two of this book has surveyed the alternatives to the Startup States model: subnational governance and its structural ceiling, the fantasy of empty land, the theatre of micronations, the engineering ambitions of seasteading, and the sophisticated but legally inadequate framework of the Network State. Each of those alternatives was examined as a genuine attempt to solve a real problem, and each was found to stop short of a solution that is lawful, durable, and fully functional within the international order.

This final chapter of Part Two takes a different approach. Rather than examining alternatives that genuinely aspire to lawful formation but fall short of achieving it, it examines pathways that are straightforwardly incompatible with the principles on which the Startup States model rests: coercion, deception, corporate extraction, unilateral declaration, demographic manipulation, and the manufacture of puppet or hollow entities. These are not merely inadequate approaches; they are the wrong approaches, ethically and legally, and their consistent failure across centuries and continents provides the most powerful possible argument for why the treaty-first, consensual approach is not merely preferable but necessary.

History is replete with ventures that sought to create new states or state-like entities without the ingredients of lawful legitimacy, ethical clarity, or mutual consent. They reveal how fragile and unsustainable any political entity becomes when its birth is tainted by deception, coercion, or unilateral imposition. This chapter examines that spectrum of failure in detail, because the lessons are instructive and the examples are vivid.

They also serve as the clearest possible foil for what the Startup States model insists upon.

9.1 The Perils of Chartered Companies: Governmental Authority by Corporate Proxy

For several centuries, the most influential mechanism for extending political authority into new territories was not the state but the chartered company: a private enterprise granted quasi-governmental powers by monarchs and parliaments, authorised not only to trade but to colonise and administer territories, raise armies, build fortifications, wage war, and conduct diplomacy.[1] These were private corporations wielding powers that blurred, and often erased, the boundary between commercial enterprise and state authority.

The British East India Company, chartered in 1600 by Queen Elizabeth I, is the most celebrated example.[2] Over two and a half centuries it transformed from a trading venture into the de facto ruler of large parts of the Indian subcontinent, exercising administrative, judicial, and military authority over populations numbering in the hundreds of millions. Its army at its height exceeded 200,000 men, larger than many European standing forces. Its power was transferred to the British Crown by the Government of India Act 1858, in the aftermath of the Indian Rebellion of 1857, precisely because the model of private governmental authority had produced catastrophic consequences for those it governed.

The Dutch East India Company (Vereenigde Oost-Indische Compagnie, or VOC), founded in 1602, was simultaneously the world's first publicly traded company and one of history's most expansive private governmental actors.[3] The VOC held a monopoly over Dutch trade in Asia, signed treaties with local rulers, minted its own currency, maintained its own armies and navies, and effectively administered the Indonesian archipelago and beyond. At its peak, it employed over 50,000 people and maintained two hundred ships. Its dissolution in 1799 under the weight of corruption and debt illustrated what happened when accountability to shareholders replaced accountability to those being governed.

The French East India Company (Compagnie des Indes Orientales), founded by Colbert in 1664, similarly combined commercial ambition with quasi-governmental authority over French interests in India, Madagascar, and the Indian Ocean islands. The Danish East India Company, chartered in 1616, exercised comparable authority over Danish colonial interests from Tranquebar on the Indian coast to Caribbean holdings.

The Swedish East India Company, established in 1731, pursued Asian trade under similar arrangements, though its reach proved shorter. The Royal African Company, chartered in 1672 as successor to the Company of Royal Adventurers of 1660, managed the Atlantic slave trade under royal monopoly, operating with the full commercial and coercive apparatus of a quasi-governmental entity. The Hudson's Bay Company, chartered in 1670, administered what the charter grandiloquently called Rupert's Land, approximately 3.9 million square kilometres of what is now Canada, as a private commercial domain for two centuries until the territory was sold to the young Canadian Confederation in 1870.

The Rupert's Land acquisition of 1870 is instructive for a reason beyond its sheer scale.[4] The Hudson's Bay Company, as grantor, was not itself a state. It held dominium over vast territory by royal charter, but it had never possessed the attributes of statehood: no diplomatic relations, no treaty capacity, no recognised legal personality in the international order. The transfer of Rupert's Land to Canada was therefore a domestic transaction mediated by the British Crown rather than a treaty between sovereigns. This illustrates the crucial distinction between private property rights and the governmental authority (imperium) that only a recognised state can confer. A company, however powerful, cannot make another company a country.

The Levant Company and the Muscovy Company acted as Britain's commercial intermediaries in the Ottoman Empire and Russia respectively, blending trade with diplomatic representation. The Portuguese Companhia Geral do Grão-Pará e Maranhão combined colonial administration with commercial monopoly in Brazil. Even the Austrian Ostend Company, a brief Habsburg attempt to carve out Asian trade in the 1720s, operated under the same logic of commercial sovereignty before yielding to international pressure.

The unifying pattern across these ventures is the substitution of commercial extraction for governmental accountability. These companies did not govern for the benefit of those they ruled; they governed to maximise returns to their shareholders and patrons. Their authority derived not from the consent of those subject to it but from imperial delegation by distant monarchs. When that delegation was withdrawn or the commercial rationale collapsed, the governance structure collapsed with it, leaving behind the instability, resentment, and fragile legitimacy that had always been implicit in the model.

The Startup States model is the precise antithesis of the chartered company tradition. Where chartered companies derived authority from imperial delegation, a Startup State is grounded in explicit mutual consent. Where chartered companies imposed governance from afar on populations that had no voice in the arrangement, a Startup State is co-created with a willing host government through transparent negotiation. Where chartered companies extracted wealth from subject populations, a Startup State is designed to generate genuine mutual benefit. And where chartered companies operated without meaningful accountability to those they governed, a Startup State embeds constitutional accountability from its first day of existence.

9.2 The Congo Free State: The Darkest Case

Among all the chartered company and private domain precedents, the Congo Free State stands in a category of its own, both for the scale of the atrocities committed in its name and for the clarity with which it illustrates what happens when personal governmental authority is exercised without accountability.[5] The Congo Free State (1885 to 1908) was the personal possession of King Leopold II of Belgium, recognised by the Powers around the Berlin Conference of 1884 and 1885 and governed not as a Belgian colony but as Leopold's private property. Leopold described it publicly as a humanitarian mission of civilisation; in reality it was an extractive enterprise of extraordinary brutality.

The rubber quota system imposed on Congolese communities produced systematic atrocities: villages whose quotas were not met faced collective punishment, including the severing of hands. The Casement Report of 1904, compiled by British consul Roger Casement and subsequently corroborated by independent journalists and missionaries, exposed these practices to international horror.[6] International pressure led to the transfer of the territory to the Belgian state in 1908, though the underlying extractive logic persisted in modified form for decades. Estimates of the decline in the population of the Congo basin during Leopold's personal rule remain contested and run as high as ten million.

The Congo Free State is significant for Startup State theory not merely as an extreme example of colonial abuse but as the most unambiguous possible illustration of what happens when governmental authority is treated as private property rather than as a public trust. A country is not an asset class in the ordinary sense. Those who exercise governmental authority exercise it in trust for those subject to it, and the ethical content

of any state-formation project must be judged against this fundamental principle. A Startup State that is designed primarily as a vehicle for extracting returns for its founders, rather than for governing in the genuine interests of its citizens, has already departed from the model regardless of how the legal instruments are structured.

9.3 Private Domains and Fraudulent Statehood

Beyond the grand scale of chartered companies and the specific horror of the Congo Free State, history offers a rich and instructive catalogue of smaller ventures: individuals and families who attempted to establish private domains and assert governmental authority through personal proclamation, dynastic arrangement, or outright fraud.

The Clunies-Ross family maintained effective control over the Cocos (Keeling) Islands for more than one hundred and fifty years through a combination of colonial practice and deliberate neglect by supervising authorities.[7] Their authority rested on delegated colonial power rather than any form of local consent. The islands passed to Australian administration under the Cocos (Keeling) Islands Act 1955; the Australian Government bought most of the family's interest in 1978, and in 1984 the islanders voted for integration with Australia. The case illustrates how private dynasties, however enduring, remain contingent upon external legal frameworks they did not create and cannot sustain without external support.

The Brooke family, known as the "White Rajahs," ruled Sarawak in Borneo for over a century, beginning with James Brooke's grant of authority from the Sultan of Brunei by treaty of 24 September 1841.[8] The United Kingdom recognised Brooke as Rajah of Sarawak in 1864. His successors continued dynastic rule until the Third Rajah, Charles Vyner Brooke, ceded the territory to the British Crown in 1946. However admired in some quarters for its relative stability, Brooke rule rested on personal authority without democratic legitimacy, and its cession to Britain underscored the fragility of private sovereignty even when it lasted generations. The arrangement succeeded largely because of British imperial backing; without it, no dynastic claim would have been sustainable.

Jonathan Lambert of Salem, Massachusetts represents perhaps the briefest and most eccentric episode in the history of private sovereignty.[9] In 1810, Lambert landed on Tristan da Cunha in the South Atlantic and proclaimed himself "Sovereign of the Island of Refreshment and its Dependencies," issuing a public declaration in the American press claiming the

uninhabited islands as his personal domain. He planned to develop them as a commercial provisioning station. He died in 1812, possibly drowned, and his "sovereignty" died with him, leaving no legal residue whatsoever. The episode is a pure illustration that declaration without effective governmental administration, without consent, and without recognition is legally sterile from the outset.

James Harden-Hickey, an Irish-American adventurer and author, proclaimed himself Prince James I of Trinidad (the Brazilian island of Trindade) in 1893, issuing stamps, establishing a coat of arms, and even appointing a secretary of state.[10] When Britain and Brazil contested the island's status in the context of the installation of a cable relay station, Harden-Hickey's claim was simply ignored by both parties. Brazil ultimately asserted its sovereignty over the island in 1896, and Harden-Hickey's grandiose assertion evaporated without leaving a trace in international law. He died by his own hand in 1898, a cautionary symbol of the gap between theatrical assertion and durable authority.

9.3.1 Poyais: The Gold Standard of Fraudulent Statehood

Gregor MacGregor's fabrication of the Principality of Poyais in the 1820s remains the most audacious fraud in the history of state creation, and it deserves extended treatment because no case better illustrates the difference between the appearance of statehood and its substance.[11]

MacGregor, a Scottish soldier of fortune who had fought in the South American wars of independence under Simón Bolívar, returned to Britain in 1821 with a grant from the Mosquito King of Central America conferring certain territorial rights. From this thin legal basis, he constructed an elaborate fiction: the Principality of Poyais, a thriving and well-governed tropical nation on the coast of what is now Honduras, complete with its own capital city of St Joseph, a cathedral, a bank, an opera house, established farms, a functioning currency, and an army.

MacGregor sold bonds on the London market under the name of the Poyais government, raising what in contemporary terms would amount to tens of millions of pounds. He sold land grants in Poyais to prospective settlers, provided them with a detailed guidebook to their new home, and appointed a Chargé d'Affaires for Poyais in London. In 1822 and 1823, two ships carrying some 250 settlers departed London and Leith for their new country. They arrived to find dense jungle, no city, no bank, no farms, and no infrastructure of any kind. More than half of the settlers died of disease and starvation before rescue could be organised. MacGregor was

eventually prosecuted in France, though he escaped conviction and died in Venezuela in 1845.

Poyais represents the reductio ad absurdum of the assertion-based approach to statehood. Everything about it was fabricated: the territory, the governance, the legal instruments, the infrastructure. Its investors and settlers paid with their savings and their lives for the gap between the declaration and the reality. For the Startup States model, the lesson could not be more direct: radical transparency about every dimension of the founding process is not merely an ethical preference but the primary structural safeguard against the Poyais problem recurring in any form.

9.4 Violence and Adventurism: Filibusters and Freebooters

A second historical category is the tradition of filibustering: private military expeditions launched without governmental authorisation, aimed at overthrowing existing governments or seizing territory for private benefit.[12] The word itself derives from the Dutch vrijbuiter (freebooter or pirate), reflecting the essentially predatory character of these ventures.

William Walker, an American attorney from Nashville, Tennessee, is the most notorious practitioner and his career deserves treatment in full, because it illustrates every dimension of the bad pathway.[13] Walker first attempted to establish a colony in Baja California and Sonora in 1853 to 1854, proclaiming the "Republic of Lower California" and subsequently the "Republic of Sonora" from a base in San Diego. His force of approximately forty-five men was quickly overwhelmed; he fled back across the border where he was tried under the federal neutrality laws and acquitted by a sympathetic jury.

Undeterred, Walker turned to Nicaragua in 1855, exploiting a civil war between Liberal and Conservative factions. Initially hired by the Liberals as a mercenary, he quickly turned against all parties, defeated the combined forces, seized the Conservative stronghold of Granada, and by 1856 had himself declared President of Nicaragua. The United States, under President Franklin Pierce, extended recognition, controversially and briefly, to Walker's government. Walker then attempted to reintroduce slavery, hoping to attract pro-slavery settlers from the American South and position Nicaragua as a future slave state. He also seized control of Cornelius Vanderbilt's Accessory Transit Company across Nicaragua, making a powerful enemy.

A coalition of Central American states, backed diplomatically by Britain and by Vanderbilt's agents who had been conspiring against

Walker, united against him. Costa Rica, Guatemala, Honduras, El Salvador, and Nicaragua sent combined forces. Walker was defeated, captured, and surrendered to the United States Navy in 1857. He made two further attempts to return to Central America: one in 1857 to 1858, aborted when he was again arrested by the United States Navy, and a final attempt in 1860, when he was captured by the Royal Navy off Honduras, handed over to Honduran authorities, and executed by firing squad.

Walker's career, from grandiose self-proclamation through fleeting external recognition to violent collapse, maps perfectly onto the sequence of failure that characterises every confrontational approach to state formation.[14] He had territory, briefly. He had a government, briefly. He had recognition, briefly. He had none of the consensual foundation that makes any of these elements durable. The international community's ultimate response was not to negotiate with his "government" but to facilitate its destruction.

Walker's contemporaries and successors confirmed the pattern. Narciso López, a Venezuelan-born adventurer, led three expeditions between 1849 and 1851 to "liberate" Cuba from Spanish rule with the ultimate aim of annexing it to the United States as a slaveholding state. The first two expeditions collapsed without engaging Spanish forces. The third, in 1851, resulted in the capture and execution of López and fifty of his followers by Spanish authorities in Havana. Henry Alexander Crabb, an American politician, led approximately one hundred men into Sonora, Mexico in 1857, ostensibly to support local insurgents. His force was surrounded at Caborca; Crabb and most of his men were executed. Orélie-Antoine de Tounens, a French lawyer and adventurer, proclaimed himself monarch over Mapuche lands in Chile and Argentina in 1860, issuing a constitution and establishing the Kingdom of Araucania and Patagonia. He was arrested by Chilean authorities, declared insane, and expelled. Three subsequent attempts to return produced the same result.

What united all these episodes was not just their failure but their fundamental illegitimacy. These adventurers operated without lawful mandate, trespassing upon the governmental authority of recognised states. Their regimes lacked recognition, were opposed by both local populations and international powers, and invariably ended in bloodshed. The Startup States model's rejection of this entire category is absolute: no legitimate new country can emerge from the use or threat of coercive force against any existing government, population, or territory.

9.5 Mercenary Adventurism in the Modern Era

The filibuster tradition found its twentieth-century expression in professional mercenary operations and private military coups, several of which specifically targeted the creation of private domains or personal fiefdoms under the guise of liberation.[15]

The French mercenary Bob Denard remains the archetypal cautionary figure. Denard orchestrated a carousel of coups in post-colonial Africa between the 1960s and the 1990s, most notoriously in the Comoros Islands, where he was directly involved in four separate coups between 1975 and 1995.[16] His activities combined personal enrichment with an attempt to establish effective personal authority over a state, converting it into what was functionally a private domain whilst maintaining the nominal trappings of Comorian statehood. His operations left a legacy of political instability, economic stagnation, and delegitimised governance that the Comoros has struggled to overcome for decades. It is precisely to outlaw such conduct that the United Nations International Convention against the Recruitment, Use, Financing and Training of Mercenaries was adopted in 1989, defining mercenarism as a crime and stripping its practitioners of the protections of lawful combatant status under international humanitarian law.

The failed Operation Red Dog of 1981 demonstrates the menace of the ideologically motivated fringe.[17] A coalition of American and Canadian white supremacists and neo-Nazis, assisted by members of the Ku Klux Klan, attempted to charter a vessel, overthrow the government of Dominica, and establish a white supremacist enclave on the island. The plan was foiled by the United States Bureau of Alcohol, Tobacco and Firearms. Its conspirators were prosecuted under the Neutrality Act. The episode is a chilling illustration of how the aspiration to create a new political community can be exploited by extremist actors who see governance innovation as a vehicle for the worst possible purposes, and a direct argument for the rigorous vetting requirements that the Startup States model imposes on those who would create or populate a new country.

The distinction between lawful and unlawful approaches to the use of force in the context of state formation is not merely legal pedantry. The principle codified in Article 2(4) of the United Nations Charter, prohibiting the threat or use of force against the territorial integrity or political independence of any state, is a peremptory norm of international law. Ex injuria jus non oritur: no right arises from an unlawful act. An entity cre-

ated through coercion or force cannot acquire lawful title to the territory it controls, regardless of how long it persists.

9.6 Bantustans: Manufactured Sovereignty as an Instrument of Oppression

The Bantustans, or "Homelands," created by the apartheid government of South Africa between 1976 and 1981 represent perhaps the most instructive modern example of manufactured sovereignty as an instrument of oppression rather than liberation.[18] Four of these entities, Transkei (1976), Bophuthatswana (1977), Venda (1979), and Ciskei (1981), were unilaterally declared "independent states" by the South African government. The purpose was transparent: to strip millions of Black South African citizens of their South African nationality, consigning them to pseudo-states in which they could be governed under apartheid structures whilst being excluded from political participation in the state of their birth.

These entities bore all the formal attributes of statehood: names, flags, constitutions, governments, and even passports. Transkei had a president, a cabinet, a legislature, and a standing army. Bophuthatswana hosted the Sun City resort complex, where the apartheid government leveraged gambling and international entertainment to generate revenue despite global sanctions, and where international artists performed in exchange for fees that apartheid-era cultural boycotts would have prevented them from earning on the South African mainland. The glittering casino could not disguise the reality: Bophuthatswana was not a state. It was an apartheid instrument.

The international community refused the fiction comprehensively. United Nations General Assembly Resolution 31/6A of 26 October 1976 condemned the declaration of "independence" of the Transkei as invalid and called upon all governments to deny recognition. The Security Council echoed this position. No state other than South Africa recognised any of the Bantustans, and the post-apartheid government of South Africa reintegrated all four into the Republic of South Africa under the Constitution of 1994.[19]

The lesson is unambiguous: sovereignty manufactured through dispossession and illegality cannot be legitimised by recognition from the power that created it. The Bantustan experience confirms the principle the international community applied in the Manchukuo case a generation earlier: that a single patron's recognition, however powerful, cannot confer legal standing upon an entity created in violation of fundamental

norms. Recognition requires not just the patron's approval but the broad acceptance of the international community, and that acceptance will not be extended to entities whose creation violates the rights of those they purport to govern.

A Startup State must be the polar opposite of a Bantustan in every structural dimension: created with the genuine consent of all affected parties rather than imposed upon them; designed to serve the interests of its residents rather than the interests of an external patron; and constituted in a way that adds to the civic choices available to free individuals rather than narrowing and denying the choices of people whose citizenship is being forcibly reassigned.

9.7 The Non-Recognition Doctrine and the Stimson Doctrine

The international community's response to illegitimate state creation has been formalised in the doctrine of non-recognition, which holds that entities brought into being through coercion, fraud, or fundamental violations of international norms cannot acquire legal standing through the accumulation of de facto control or through the recognition of aligned or coerced states.[20] The doctrine's modern formulation begins with the response of the United States to Japan's seizure of Manchuria in 1931 and the creation of the puppet state of Manchukuo.

On 7 January 1932, United States Secretary of State Henry L. Stimson addressed two diplomatic notes, one to China and one to Japan, announcing that the United States would not recognise any situation, treaty, or agreement brought about by means contrary to the Kellogg-Briand Pact of 1928 and the Nine-Power Treaty of 1922.[21] This became known as the Stimson Doctrine, and its core maxim is the ancient principle *ex injuria jus non oritur*: no right arises from an unlawful act. Title to territory cannot be created by force; the international community's refusal to recognise it is not merely a diplomatic gesture but a legal determination.

Manchukuo, proclaimed in March 1932, provides the paradigm case of manufactured statehood.[22] The Lytton Commission, despatched by the League of Nations and reporting in October 1932, confirmed Chinese sovereignty over Manchuria, rejected the legitimacy of Manchukuo, and urged Japan's withdrawal. The League Assembly adopted the Commission's report; Japan walked out. Manchukuo received recognition from a small cluster of states, including Germany (1938), Italy (1937), El Salvador (1934), and several other nations whose recognition was either ideologically motivated or commercially driven. It was never recognised by the

League's majority membership. Its legal nullity was confirmed by the post-war settlement: Manchukuo was dissolved and Manchuria restored to China in 1945.

The Stimson Doctrine did not end with Manchuria. In 1940, Acting United States Secretary of State Sumner Welles applied the same principle to the Soviet annexation of Estonia, Latvia, and Lithuania, refusing recognition in what became known as the Welles Declaration. That stance was maintained by the United States for half a century, enabling the Baltic states to maintain diplomatic continuity in exile and establishing the principle that territorial acquisitions through force, however long they endure, do not acquire international legitimacy. The Baltic states' restoration as recognised independent states in 1991, following their formal re-independence declarations and widespread international recognition, vindicated the non-recognition position.

The United Nations Charter embedded the non-recognition principle in binding legal form. Security Council Resolution 216 (1965) condemned the Unilateral Declaration of Independence of Southern Rhodesia and called upon all states not to recognise or assist the Smith regime.[23] Resolution 541 (1983) deemed the declaration of the "Turkish Republic of Northern Cyprus" legally invalid and called upon all states not to recognise any Cypriot state other than the Republic of Cyprus. Resolution 662 (1990) declared Iraq's annexation of Kuwait null and void and called upon all states and international organisations not to recognise it. Most recently, General Assembly Resolution ES-11/4 of October 2022 called upon all states not to recognise Russia's purported annexation of the Zaporizhzhia, Kherson, Luhansk, and Donetsk regions of Ukraine, with 143 states voting in favour.

The Stimson Doctrine's practical operation makes an important point about the architecture of the international system: recognition is not merely a diplomatic courtesy but a constitutive element of effective statehood in the modern world. Non-recognition is not a punishment; it is the mechanism by which the international system maintains its normative coherence and prevents force and fraud from generating durable legal rights.

9.8 Self-Determination and Its Limits: The Secession Problem

A persistent temptation in the governance innovation space is to invoke the right of peoples to self-determination as a basis for the unilateral creation of new political communities.[24] The right is real and foundational;

the conclusion typically drawn from it is usually wrong, as a matter of both law and practical politics.

The right of self-determination is enshrined in Articles 1(2) and 55 of the United Nations Charter and elaborated in the Declaration on Principles of International Law concerning Friendly Relations (UNGA Resolution 2625 (XXV), 1970).[25] International law draws a sharp distinction between internal self-determination, meaning meaningful political participation, cultural protection, and autonomy within existing states, and external self-determination, meaning the creation of a new state or the secession of a territory from an existing one. The latter is recognised as a legitimate outcome only in the decolonisation context, where peoples were subject to alien subjugation or denial of meaningful internal self-determination.

The Supreme Court of Canada's advisory opinion in *Reference re Secession of Quebec* [1998] 2 SCR 217 is the most sophisticated judicial treatment of these questions in any domestic legal system.[26] The Court held that international law grants no general right of unilateral secession to constituent parts of existing states outside the decolonisation context, and that even where a right of remedial secession might arguably arise in cases of severe and systematic denial of fundamental rights, the circumstances would be extraordinary and the preference remains for negotiated settlement within the existing constitutional order.

The concept of remedial secession, elaborated in academic scholarship and referenced in some judicial dicta, posits that secession may be permissible as a last resort where a people suffers severe and sustained denial of fundamental rights to the point where internal self-determination is genuinely impossible. The cases where this argument has carried the most weight in practice are instructive.

Bangladesh in 1971 presents the strongest case for remedial secession: East Pakistan's independence followed decades of economic marginalisation and political exclusion culminating in the genocide of Operation Searchlight, in which the Pakistani military killed between 300,000 and 3 million people according to varying estimates.[27] Indian military intervention ended the conflict, and Bangladesh was rapidly recognised by the international community. Even in this extreme case, however, the recognition was conditioned by the facts on the ground including Indian military support, Pakistani military collapse, and the sheer scale of the humanitarian catastrophe, rather than flowing from an abstract right of remedial secession.

Kosovo's declaration of independence from Serbia on 17 February 2008 generated the most recent authoritative treatment of these issues at the international level.[28] The International Court of Justice's Advisory Opinion on the Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo (2010) confirmed that the declaration itself did not violate general international law, but this finding was deliberately narrow: the Court did not endorse a general right of unilateral secession, and its careful avoidance of that broader question reflects the sensitivity of the international system to any principle that might legitimate secessionist claims more broadly. Recognition of Kosovo, moreover, remains deeply contested: dozens of UN member states, including five members of the European Union and two permanent members of the Security Council, have not recognised it.

South Sudan's independence in 2011 is the more positive model, and Chapter Eleven of this volume examines it in detail as the clearest recent illustration of the treaty-first approach.[29] The Comprehensive Peace Agreement of 2005 embedded a right to referendum within a negotiated framework, with Sudan's advance agreement to accept the result. Recognition followed swiftly and comprehensively because the process satisfied both the declaratory and the constitutive dimensions of recognition: the Montevideo criteria were met and the principal affected states had already committed to acceptance.

The Velvet Divorce of Czechoslovakia in January 1993 illustrates the contrast between negotiated and contested separation. The dissolution of Czechoslovakia into the Czech Republic and Slovakia was conducted through mutual agreement of the federal parliament, ratified by both republican parliaments, without any referendum and without any violence. Both successor states were recognised at once and admitted to the United Nations on 19 January 1993. The Velvet Divorce is not a model for the Startup States framework, which creates genuinely new countries on territory not previously constituted as a separate state, but it is the clearest possible illustration that consensual separation, however conducted, generates legal outcomes that are clean, durable, and universally respected. The contrast with secessionist attempts conducted unilaterally, from Biafra to the Turkish Republic of Northern Cyprus to Abkhazia, could not be more vivid.

9.9 Puppet States and the Satellite State Trap

Beyond the manufactured sovereignties of the Bantustans and beyond the coercive independence claims of secessionist movements, the international legal order has repeatedly confronted a third category: the satellite state or client state, formally independent but substantially controlled by an external patron.[30]

The Lebanese experience under Syrian tutelage between approximately 1976 and 2005 provides the most recent and clearly documented example in the Middle Eastern context. Lebanon was formally a recognised UN member state throughout this period, with its own legislature, president, cabinet, and army. In practice, Syrian military and intelligence forces maintained effective control over Lebanese political life: electoral outcomes were shaped by Syrian intervention, cabinet appointments required Syrian approval, and Lebanon's foreign policy was effectively aligned with Syrian interests. Security Council Resolution 1559 (2004) called for the withdrawal of all foreign forces from Lebanon and respect for Lebanese sovereignty; it was the assassination of Prime Minister Rafik Hariri in February 2005 and the ensuing Cedar Revolution that ultimately produced Syrian withdrawal.

Similar structural patterns characterise the Roman tributary kingdoms, the British Indian princely states under the Raj, the Congress Kingdom of Poland under Tsarist Russia, and the Delian League's evolution into an Athenian empire. In each case, nominal independence coexisted with substantive external control in ways that made the formal status as a state meaningless for the practical purposes that sovereignty is supposed to serve. The pattern recurs because it serves the patron's interests: responsibility without authority for the nominal sovereign, authority without responsibility for the patron.

The Startup States model is structurally immunised against this pathology by its foundational architecture. The founding treaty confers full governmental authority upon the new country in the domains that matter: foreign policy, constitutional development, and the protection of its residents' rights. The host state's role, however important to the new country's formation, does not extend to direction of its internal affairs. The condominium provisions described in Chapter Twelve are explicitly transitional institutional arrangements, not permanent structures of dependency; they include defined sunset provisions and measurable independence benchmarks. A Startup State that becomes functionally a

satellite of its host state has failed institutionally before it has properly begun.

9.10 Demographic Engineering: A Contemporary Bad Pathway

One further category of illegitimate pathway deserves specific attention because it is sometimes proposed as a more subtle route to new political authority: the deliberate movement of populations into a territory with the intention of creating a demographic majority that can then assert political control through apparently democratic means.[31]

This approach, sometimes called demographic engineering, has a disturbing historical record. Soviet mass transfers of Russian-speaking populations to the Baltic states after 1940 were designed to weaken local national identity and facilitate integration into the USSR. Iraq's Arabisation of Kurdish territories under the Ba'ath regime, including the forced resettlement of Arab families in oil-rich Kirkuk and the displacement of Kurdish residents, was condemned by multiple UN bodies. The UN Fact-Finding Mission on Myanmar described the settlement of non-Rohingya populations in emptied Rakhine State villages as an element of a pattern amounting to ethnic cleansing.

The International Covenant on Civil and Political Rights, Article 1(1), declares that all peoples have the right to self-determination, which includes the right to freely determine their political status. Deliberate demographic manipulation aimed at overriding an existing population's political agency violates this principle regardless of whether the individual migrants are themselves acting voluntarily. The wrong lies not in the movement of individuals but in the orchestration of that movement with the covert intent of achieving political control without genuine consent.

The Startup States model categorically excludes this pathway. The consent of any existing population in or adjacent to the proposed territory is not merely advisable but constitutive of the arrangement's legitimacy. A new country whose founding territory is inhabited must secure the genuine agreement of those inhabitants. A new country that builds its resident community through open voluntary invitation is engaged in legitimate community formation; a new country that orchestrates demographic pressure to manufacture a political outcome has adopted a methodology indistinguishable from the bad pathways catalogued throughout this chapter.

9.11 The Common Thread

The pathways surveyed in this chapter span five centuries and every inhabited continent. Chartered companies and their colonial proxies, personal fiefdoms and dynastic arrangements, audacious frauds, military adventurers and their mercenary successors, manufactured pseudo-states designed to entrench oppression, non-recognition in its multiple forms, secessionist adventures with and without humanitarian justification, satellite states hollowed of genuine independence, and demographic engineering: all are diverse in their methods and their contexts.

What unites them, across all that variation, is a single structural feature: the attempt to acquire or assert governmental authority over a territory and population without the genuine, informed, and voluntary consent of the parties most affected. In every case, this structural defect produced the same outcomes. Entities built on coercion were contested from the moment of their creation. Entities built on fraud collapsed when the fraud was exposed. Entities built on manufactured sovereignty were abandoned by the patron when the political calculus changed. Entities built on unilateral force achieved de facto administration but remained excluded from the institutions and relationships that make recognised standing in the international order functionally meaningful.

Declarations and dreams are not enough. Governmental authority cannot be seized like treasure or bestowed like a title; it must be earned, conferred, and recognised.

The contrast with the Startup States model is total and deliberate. Where the historical failures rested on coercion, a Startup State rests on consent. Where they rested on deception, a Startup State rests on transparency. Where they rested on unilateral assertion, a Startup State rests on treaty. Where they generated diplomatic resistance, a Startup State generates diplomatic co-operation. And where they produced fragility, a Startup State produces the institutional durability that flows from legal legitimacy.

9.12 The Field Is Clear

Part Two of this book has now examined every significant alternative to the Startup States approach, from the most commercially successful subnational governance models to the most technologically sophisticated digital community frameworks, from the most geographically creative territorial claims to the most historically persistent patterns of coercive and fraudulent state creation. Each has been examined on its own terms, given credit for whatever genuine achievements or genuine insights it embodies, and assessed honestly against the requirements that international law imposes on anyone seeking to create a new country that will actually function as one.

None of them gets there. The subnational models hit the structural ceiling of delegated authority. The terra nullius claims collapse on legally sealed terrain. The micronations achieve theatre but not statehood. The seasteading proposals run into UNCLOS and the impossibility of generating governmental authority from a floating platform. The Network State framework offers the right analysis but the wrong sequencing. And the historical pathways of coercion, fraud, and unilateral assertion generate the non-recognition doctrine as their consistent response.

What remains, when all of these alternatives are set aside, is the approach that Part Three examines in the detail that a founding team would need to act on: the treaty-first, host-state-partnership, recognition-

embedded, consent-at-every-level model. It is not the easiest approach. But it is the only one that produces what it promises: a new country that is lawful, recognised, durable, and genuinely capable of doing what a country is supposed to do for those who choose to make it their home.

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NOTES

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INTERLUDE II

A Letter to Readers of The Proprietary State

✴

Dear Readers,

It is with genuine respect and fraternal regard that this letter is addressed to you. If you are reading Andries Kerpestein's The Proprietary State, you are already part of a rare and important conversation: one concerned not merely with reforming existing institutions, but with rethinking the very architecture of governance itself. Kerpestein's work is an ambitious and carefully reasoned exploration of what governance becomes when it is treated, quite unapologetically, as a system of incentives, contracts, and value creation rather than as a theatre of ideology or mass sentiment. In that respect, the worldview advanced in The Proprietary State is deeply aligned with the core spirit of the Startup States project.

At its heart, Startup States is not a theory of governance so much as it is a method of lawful state formation. It is concerned with the question of how new countries can come into being in the twenty-first century through treaty, consent, recognition, and deliberate institutional design. It offers the legal and diplomatic architecture through which entirely new polities may be peacefully, co-operatively, and sustainably created. Within that architecture, the proprietary state model represents one of the most compelling configurations that a new country could adopt.

A for-profit proprietary state may in fact be understood as the ultimate startup: a nation whose core business is governance itself, whose revenue model is the delivery of public services, whose success depends on attracting and retaining citizens, firms, and capital, and whose legitimacy is reinforced through performance rather than through rhetoric or inherited

authority. Few governance models embody the startup ethos more faithfully. If a country can only survive by delivering genuine value to those who choose to be part of it, the incentive structures of governance are transformed from extraction to service, from monopoly to competition, from permanence to accountability.

At the same time, Startup States does not prescribe a single governance ideology, economic doctrine, or moral vision for the new countries it describes. The framework is deliberately open. Some founding teams may design mutual aid republics, benevolent societies, co-operative commonwealths, or hybrid systems that blend social and commercial aims. Others may design unapologetically market-oriented proprietary states whose organising principle is the delivery of excellent governance as a commercially sustainable service. Both paths are equally valid within the Startup States framework. The choice of national character belongs to the founders and the people who voluntarily join them.

What Startup States offers to readers of The Proprietary State is the missing layer of legal architecture. The proprietary state model provides a powerful account of how governance can be designed around commercial incentives, voluntary participation, and genuine accountability. Startup States provides the external mechanics by which such a model may lawfully come into existence as a recognised country. Through treaty-first formation, negotiated jurisdiction, constitutional design, and a systematic approach to international recognition, the proprietary state can move from a governance theory to a durable institutional reality with its own territory, its own legal personality, and its own standing in the international order.

Seen in this light, the relationship between the two projects is complementary rather than competitive. The Proprietary State offers one of the most developed frameworks for thinking about governance as value creation. Startup States offers the legal and diplomatic scaffolding within which that framework can be instantiated as a genuine country. The engine and the vessel. The model and the mechanism. The vision and the method.

It is our sincere hope that readers, founders, scholars, investors, and builders who find inspiration in The Proprietary State will recognise in Startup States a natural partner, a practical pathway, and an invitation to build something real.

With sincere respect and genuine optimism for what the partnership of these frameworks can produce.

PART THREE

The Legal Architecture



CHAPTER 10

Foundations in International Law

✴

Part Two cleared the field. Every significant alternative to the Startup States model, from subnational governance to Network States, from micronations to the full catalogue of historical bad pathways, was examined and found either inadequate or incompatible with the principles on which a durable new country must be built. What remains, when all of those alternatives are set aside, is the approach that Part Three examines in detail: the treaty-first, consensual, internationally grounded method through which a genuinely independent new country can be brought into being within the framework of the international order as it actually exists.

This chapter lays the legal foundations for everything that follows. It examines the three pillars of international law on which the Startup States model rests: the Montevideo Convention of 1933, whose four criteria remain the authoritative enumeration of what a state must possess; the UN Charter of 1945, whose foundational principles define the normative environment within which any new country must operate; and the Vienna Convention on the Law of Treaties of 1969, whose provisions govern the instruments through which a new country is brought into being and through which its legal standing is secured.

This is not primarily a chapter for lawyers. It is a chapter for anyone who intends to build a new country and wants to understand, with sufficient precision to act on, what international law actually requires of them. The leading scholarly authorities on statehood, James Crawford, Ian Brownlie, Malcolm Shaw, Hersch Lauterpacht, Thomas Grant, and others, agree on the fundamentals, and this chapter draws on their work to present those fundamentals clearly and in the context of the Startup

States project. Where the law is settled, this chapter says so. Where genuine complexity or uncertainty remains, it acknowledges that too.

10.1 Why International Law Matters for Founders

There is a temptation, in conversations about new country creation, to treat international law as primarily an obstacle: a set of rules designed by existing states to protect their interests, which a sufficiently clever or determined founding team might navigate around, minimise, or defer until the new country has established sufficient facts on the ground to make the legal question moot.

This temptation should be firmly resisted, for reasons that are practical as well as principled.

The practical reasons are demonstrated throughout Part Two. Every project that attempted to treat international law as an obstacle rather than a framework ended in failure: diplomatic isolation, non-recognition, economic exclusion, legal precarity, and in some cases physical suppression. The projects that succeeded, and South Sudan remains the most instructive recent example, did so precisely because they embedded legal compliance and diplomatic recognition into the founding process rather than treating them as problems to be solved later.

The principled reason is equally important. International law, whatever its imperfections, is the framework within which the rights and obligations of countries and their residents are determined. A new country that operates outside that framework cannot provide its residents with the legal protection, the institutional credibility, or the practical functionality that makes life within a new polity meaningful. Its passports will not be accepted. Its court judgments will not be enforced. Its contracts will not be honoured across borders. And its founders will have built something that looks like a country but cannot do what a country is supposed to do.[1]

The Startup States model is built on the opposite premise: that international law, properly understood and carefully engaged with, is not an obstacle but an enabler. The rules that govern how countries are created, how they are recognised, and how their legal standing is established and protected are rules that a well-designed Startup State can satisfy from its first day of existence. Doing so is not a constraint on ambition; it is the mechanism through which ambition is translated into lasting institutional reality.

10.2 The Montevideo Convention: The Four Criteria

The Montevideo Convention on the Rights and Duties of States, concluded at the Seventh International Conference of American States on 26 December 1933, is the most widely cited formal enumeration of the criteria for statehood in international law.[2] Although the Convention was concluded by states in the Americas and was formally ratified only by a subset of them, it is universally treated by international lawyers, courts, and governments as a statement of customary international law applicable to all states. The Arbitration Commission of the Conference on Yugoslavia applied criteria in the same terms in 1991, and virtually every serious analysis of statehood in any jurisdiction takes Article 1 of the Montevideo Convention as its starting point.

Article 1 provides: "The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states."[3]

James Crawford, whose work *The Creation of States in International Law* is the leading modern authority on the subject, describes the Montevideo criteria as a convenient summary of what statehood requires, whilst cautioning that they are not exhaustive and must be applied in context.[4] Ian Brownlie, in his *Principles of Public International Law*, treats these criteria as the factual predicates of statehood, emphasising that the existence of a state is a question of fact whilst acknowledging that law supplies the framework within which those facts are assessed. Malcolm Shaw's standard textbook similarly treats the Montevideo criteria as the baseline of analysis, noting that many states have emerged with disputed frontiers yet nonetheless qualified as states, which underscores that the criteria call for factual substance rather than formal perfection.

Each criterion deserves careful examination in the context of the Startup States model.

10.2.1 Permanent Population

A state cannot exist without a community of people. The Montevideo Convention requires a permanent population, but it says nothing about how large that population must be, nothing about its ethnic or cultural composition, and nothing about how long it must have been settled in the territory. The world's smallest independent countries demonstrate this point: Nauru has fewer than twelve thousand residents; San Marino fewer than thirty-five thousand; the Vatican City fewer than a thousand.

What matters is not scale but permanence: a stable community of real people, capable of sustaining social and governmental organisation, with a genuine connection to the territory.

For a Startup State, the permanent population criterion raises a question of timing and design. A new country that begins with no residents at all, on uninhabited territory, will need a pathway through which its population develops. This is not an insuperable obstacle: the founding treaty can establish the legal framework for voluntary affiliation, the new country can attract initial residents through its citizenship regime and its value proposition, and the population can grow over time as the new country's institutional credibility develops.[5] What the criterion rules out is the notion of a purely theoretical or virtual population, an online community of self-declared members with no actual residential presence in the territory. The population must be real: people who actually live within the new country's borders, who are subject to its laws, and who constitute the civic community for whose benefit the new country was established.

The Startup States model's insistence on opt-in citizenship, developed in Chapter Two and the foundation of the Consensual Theory of Statehood, aligns directly with the permanent population requirement. Citizenship that is voluntary, explicit, and grounded in genuine affiliation produces a more stable and more legitimate civic community than citizenship that is assigned by birth or inherited from a prior political community without active endorsement.

10.2.2 Defined Territory

Territory is the anchor of statehood. Without a defined geographical base over which the new country exercises governmental authority, the other criteria cannot be satisfied: there is nowhere for the population to reside, no space in which the government can operate, and no area within which the new country's laws can apply. The territoriality of the state is not merely a legal technicality; it is the physical dimension of the institutional reality that makes a country a country rather than an idea.

The Montevideo Convention does not require precisely delimited borders. Crawford is explicit on this point: many states have emerged without settled frontiers. What matters is that there is a reasonably identifiable territorial base.[6] The criteria require a determinable core territory within which the government exercises authority; they do not require that

every boundary be drawn with cartographic precision before the state can be said to exist.

For the Startup States model, this requirement points directly toward the treaty-based acquisition of territory through consensual arrangement with a willing host state. The founding treaty must define the territory with sufficient clarity that it is geographically identifiable and legally unambiguous. It must establish the legal basis on which the new country holds and exercises authority over that territory, whether through a long-term lease, a cession, a condominium arrangement, or some other instrument recognised by international law. And it must ensure that the territory is acquired without the displacement of any existing residents who have not freely chosen to participate in the new country.

This last point connects the Montevideo criterion to a fundamental ethical principle of the Startup States model. The territory on which a new country is founded must be acquired through means that international law recognises as lawful. The leading authorities are consistent on this: Crawford emphasises that modern international law strongly disfavours unilateral acquisition of territory and privileges consensual arrangements. Brownlie reinforces this by stressing that territorial acquisition is protected by the prohibition on force and by the principle that law does not arise from injustice.[7] An uninhabited territory, made available by its sovereign on mutually agreed terms, satisfies both the legal criterion and the ethical requirement.

10.2.3 Effective Government

The third criterion is in some respects the most demanding. A state must have an effective government: an organised authority capable of exercising genuine control over its territory and population, maintaining law and order, and conducting external affairs. Crawford identifies effectiveness as the primary criterion for the existence of a government, and the Tinoco Arbitration of 1923, in which Chief Justice Taft ruled that the binding character of a government's acts depended on its actual exercise of authority rather than on external recognition, remains the foundational judicial statement of this principle.[8]

What effectiveness means in practice is not perfection but genuine capacity. A government that can maintain public order, provide basic services, enforce its laws, and represent the new country in external relations satisfies the criterion, even if its administrative apparatus is modest and its governance mechanisms are innovative rather than con-

ventional. The Montevideo Convention does not prescribe a particular form of government; it requires that the government be real rather than nominal.

For the Startup States model, this criterion imposes a sequencing requirement. The new country must have functional governmental institutions in place from its first day of operation, not merely on paper but in practice. This means that the institutional design work, the constitutional drafting, the establishment of administrative agencies, the development of dispute-resolution mechanisms, and the deployment of essential public services must all precede the formal declaration of the new country's existence. Building governance capacity is not something to be done after recognition has been secured; it is one of the prerequisites for recognition being worth seeking.

The contemporary international legal environment also takes increasing account of governmental legitimacy alongside effectiveness. Crawford notes that international law now assesses whether a government is capable of fulfilling international obligations and providing stable representation, not merely whether it exercises de facto control. This evolution from purely effectiveness-based assessment to a more normative framework supports the Startup States model's emphasis on constitutional design, rule of law, and accountability structures. A government that is both effective and legitimate, in the sense of having been constituted through the genuine consent of those it governs, is in the strongest possible legal and political position.

10.2.4 Capacity to Enter into Relations with Other States

The fourth Montevideo criterion concerns the new country's capacity to engage in international relations as a subject of international law, to conclude treaties, to send and receive diplomatic missions, and to participate as an equal in the international legal order. Oppenheim treated this as the ability to engage in international intercourse; Crawford and Shaw treat it as evidence of international legal personality.[9]

In practice, this criterion is the one most directly addressed by the treaty-first approach. The founding bilateral treaty with a willing host state is not merely the instrument through which the new country acquires its territory and its governmental basis; it is itself the primary evidence that the new country possesses the capacity for international relations. By concluding a valid treaty with a recognised state, the new

country demonstrates, at the moment of its creation, that it can engage in the international legal order as a participant rather than as a petitioner.

Thomas Grant's work on recognition practice reinforces this analysis.[10] He demonstrates that treaties are among the clearest expressions of international legal capacity, particularly when concluded with recognised states acting as states. Recognition by the international community does not create this capacity; it acknowledges a capacity that the treaty has already brought into being. The fourth Montevideo criterion is therefore satisfied, in the Startup States model, at the very moment of the new country's founding.

10.3 The UN Charter: Alignment with Foundational Principles

The Charter of the United Nations, signed in San Francisco on 26 June 1945 and in force since 24 October of that year, is the foundational constitutional instrument of the contemporary international order.[11] Its principles define the normative environment within which all countries, including new ones, must operate. A Startup State that is designed in alignment with Charter principles from its inception is in a fundamentally stronger position than one that treats those principles as external constraints to be navigated.

Three provisions of the Charter are of particular relevance to the Startup States model.

Article 2(4) prohibits the threat or use of force against the territorial integrity or political independence of any state. In *Military and Paramilitary Activities in and against Nicaragua* (1986) the ICJ treated it as a rule of customary law and noted that it is frequently described by states and by the International Law Commission as a peremptory norm from which no derogation is permitted.[12] The Startup States model is fully compatible with this prohibition. The new country does not come into being through force of any kind; it is created through voluntary treaty, on territory that is made available by its sovereign on freely agreed terms, without any coercion of any party. The very mechanism of formation is the antithesis of force.

Article 1(2) establishes the right of peoples to self-determination as one of the UN's founding purposes. The Startup States model operationalises this right in a peaceful and constructive way that is entirely compatible with, and in important respects a fulfilment of, the Charter's vision.[13] The members of a Startup State are exercising genuine self-determination: choosing their political community, affiliating with it

voluntarily, and building their civic life within it on the basis of consent rather than compulsion. This is a more direct expression of the Charter's self-determination principle than citizenship by birth within an inherited political community can ever be.

Article 2(1) affirms the principle of sovereign equality: that all member states of the UN are equal in their legal standing, regardless of their size, power, or wealth. A Startup State that achieves full recognition as an independent country acquires, by that recognition, the same legal standing as any other member of the international community.[14] It can conclude treaties on equal terms. It can participate in international institutions as an equal. It can make its voice heard in the international arena. The principle of sovereign equality is not merely a protection against the pressure of larger states; it is a guarantee that the new country's legal standing is not conditional on the approval of any particular power.

10.4 The Vienna Convention on the Law of Treaties

The Vienna Convention on the Law of Treaties, concluded on 23 May 1969 and in force since 27 January 1980, is the foundational instrument governing the formation, interpretation, and termination of treaties between states.[15] It codifies the customary international law of treaties that had developed over centuries of diplomatic practice, and it is widely regarded as applicable to all states regardless of whether they have formally acceded to it. For the Startup States model, this Convention is not background legal context; it is the primary legal framework within which the founding treaty is concluded and through which the new country's legal standing is established.

Three aspects of the Vienna Convention are of particular significance.

10.4.1 Free Consent and Good Faith

Article 26 of the Vienna Convention codifies the principle of *pacta sunt servanda*: "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." This principle is the bedrock of the entire treaty system. Oppenheim treated *pacta sunt servanda* as an essential condition of international society, without which legal relations between states would be impossible. Brownlie describes it as a cornerstone of treaty law and a prerequisite for stability in international relations.[16]

For the Startup States model, this principle has two direct implications. First, the founding treaty, once validly concluded by the host state and the

new country's founding consortium, is binding on the host state and must be performed in good faith. A subsequent government in the host country that disagrees with its predecessor's decision to co-create a Startup State cannot simply repudiate the founding treaty; it must perform its obligations under it. This is not an absolute guarantee of permanence, but it substantially raises the threshold for any attempt to undo the arrangement.

Second, the good faith requirement applies to both parties throughout the life of the arrangement. The new country must honour its treaty commitments to the host state just as rigorously as the host state must honour its commitments to the new country. The founding treaty is not a one-time transaction; it is an ongoing relationship governed by mutual obligation and mutual good faith.

10.4.2 Invalidity and Jus Cogens

Articles 46 to 53 of the Vienna Convention address the circumstances in which a treaty may be invalid. Of particular importance to the Startup States model are Articles 51 and 52, which render void any treaty concluded through coercion of the negotiating representatives or through the threat or use of force against a state, and Article 53, which renders void any treaty that conflicts with a peremptory norm of international law.[17]

These provisions define, by negative implication, the legal requirements for a valid founding treaty. The treaty must be concluded freely, without any coercion of the negotiating parties. It must not conflict with peremptory norms: the prohibition on the use of force, the prohibition on genocide, the prohibition on slavery, and the other fundamental rules of international law from which no derogation is permitted. And it must be concluded by parties who have the legal capacity to do so: the host state acting through its constitutionally authorised representatives, and the founding consortium acting through whatever legal vehicle the treaty designates as the counterparty.

The Startup States model's insistence on the Consensual Theory of Statehood, the four levels of consent examined in Chapters Two and Three, is directly responsive to these requirements. By building genuine, informed, and voluntary consent into every dimension of the founding process, the model ensures that the founding treaty is valid under the Vienna Convention and that its legal standing is unimpeachable.

10.4.3 Territorial Treaties and Enhanced Durability

Article 62 of the Vienna Convention, which addresses fundamental change of circumstances as a ground for terminating or withdrawing from a treaty, explicitly provides that this ground is not available with respect to treaties establishing boundaries.[18] This provision reflects a broader principle, identified by Crawford, Brownlie, and Shaw, that territorial treaties enjoy an enhanced degree of durability under international law. They are not merely contractual exchanges that can be terminated on grounds that apply to ordinary bilateral agreements; they are foundational arrangements that underpin the international system's interest in territorial stability.

A founding treaty that establishes the territorial basis of a new country benefits from this enhanced durability. Crawford emphasises that international law places a premium on stability in matters of territorial arrangement, and that once such arrangements are settled by agreement, the system exhibits strong resistance to their unilateral revision. Brownlie reinforces this by noting that attempts to alter territorial settlements unilaterally are viewed with suspicion by the international community, and tend to attract the kind of collective non-recognition response examined in Chapter Nine.

The practical implication for the Startup States model is that the founding treaty should be designed to maximum legal clarity and comprehensiveness: clearly defining the territory, clearly allocating governmental authority, clearly specifying the rights and obligations of both parties, and clearly establishing the dispute-resolution mechanisms through which any future disagreements will be resolved. The more carefully the treaty is drafted, the stronger the legal protection it provides, and the more confident the residents and investors of the new country can be that the arrangement will endure.

10.5 Effectiveness, Legality, and Acceptance: The Triad

The leading authorities on statehood in international law converge on a three-part analytical framework that goes beyond the Montevideo criteria to capture the full picture of what is required for a new country to achieve and sustain legal standing in the international order. Crawford identifies effectiveness, legality, and acceptance as the three dimensions along which statehood is assessed.[19] No single dimension is determinative in isolation; it is their combination that produces durable statehood.

Effectiveness is the factual dimension: the actual exercise of governmental authority over a defined territory and population. As the Tinoco Arbitration and the Island of Palmas case demonstrate, effectiveness is the primary test of governmental reality. A government that commands words on paper but exercises no actual authority is not a government in the relevant sense.

Legality is the normative dimension: the conformity of the new country's creation with the principles of international law. An entity that is factually effective but was created through force, fraud, or violation of peremptory norms cannot acquire legal standing, no matter how long it persists. As the experiences of the Bantustans, Northern Cyprus, and the Russian-backed entities in Georgia demonstrate, the international community has proved willing to sustain collective non-recognition for decades when the legal foundation of an entity is fundamentally flawed.

Acceptance is the political dimension: the recognition by other members of the international community that the new country is a legitimate participant in the international order. Crawford notes that acceptance does not create statehood, but that it plays a critical role in consolidating statehood and the exercise of rights attaching to it. Grant demonstrates that acceptance is expressed through practice, accumulated over time through bilateral engagement, treaty relations, and participation in international institutions, rather than through a single formal declaration.[20]

The Startup States model is designed to satisfy all three dimensions simultaneously. The treaty-first approach ensures that the new country achieves legal standing from its first day, satisfying the legality dimension. The institutional design work ensures that genuine governmental effectiveness exists from the outset, satisfying the effectiveness dimension. And the diplomatic strategy of building bilateral recognition through treaty engagement and phased participation in international institutions addresses the acceptance dimension progressively, rather than treating it as something that will take care of itself.

10.6 The Principal Authorities and Their Relevance

The argument of this book, and the legal framework of the Startup States model, draws on a substantial body of authoritative scholarship and judicial practice. A brief account of the leading authorities and their specific relevance to the model is appropriate here, both as an intellectual map for readers who wish to pursue the legal dimensions in greater depth and as a demonstration that the framework advanced in this book is continuous

with mainstream international legal thought rather than departing from it.

James Crawford's *The Creation of States in International Law* is, by universal agreement, the definitive modern treatment of statehood. Crawford was a Judge of the International Court of Justice and formerly Whewell Professor of International Law at Cambridge. His central contribution is a disciplined synthesis of doctrine and practice that treats statehood as a legal status assessed through effectiveness, legality, and acceptance working together.[21] His caution against treating any single criterion as determinative in isolation, and his insistence that statehood is both a matter of fact and a matter of law, underpins the analytical approach of this book.

Ian Brownlie's *Principles of Public International Law*, now edited by Crawford, remains the leading single-volume treatise in international law. It is the authority to which courts, governments, and legal advisers reach first when they need a statement of where the law stands.[22] Brownlie's formulation that the existence of a state is a question of fact whilst recognising that law supplies the criteria for assessment mirrors the design-oriented approach of the Startup States model.

Malcolm Shaw's *International Law* is the most widely used graduate-level textbook in the field and is valued for its systematic treatment of judicial reasoning and its careful exposition of the relationship between doctrine and practice.[23] Shaw's analysis of statehood emphasises that international law does not prescribe a mechanical process for creating states, but does impose constraints and evidentiary expectations. His work supports the proposition that intentional compliance with orthodox criteria materially improves the legal position of aspiring states.

Thomas Grant's *The Recognition of States* bridges the gap between doctrine and diplomatic practice, demonstrating that recognition is expressed through conduct rather than proclamation, and that treaties are among the clearest expressions of acceptance.[24] Grant's analysis directly supports the treaty-centred approach of the Startup States model.

Stefan Talmon's work on governmental recognition and representation underscores the importance of effective, stable governance structures capable of representing the new country externally.[25] His analysis reinforces the institutional design emphasis that runs throughout the Startup States model.

Nina Caspersen's empirical work on unrecognised states provides the cautionary backdrop: entities that exhibit high levels of internal gover-

nance and stability but remain unrecognised because they lack lawful origin, consensual foundations, and compatibility with the existing international order.[26] Her findings explain why the Startup States model places such emphasis on foundational legality and early diplomatic engagement, rather than building effective governance and hoping that recognition follows.

Together, these authorities articulate a coherent and stable understanding of statehood. They emphasise effectiveness, legality, territorial stability, and integration into the international community. They exhibit consistent scepticism toward unilateral and symbolic claims, and a consistent preference for consensual, treaty-based arrangements. The framework advanced in the Startup States model is continuous with this mainstream position. It does not propose an alternative theory of statehood. It operationalises orthodox doctrine in a deliberate and structured manner.

10.7 The Legal Architecture in Summary

The legal foundation of a Startup State rests on three instruments and the legal principles they embody.

The Montevideo Convention establishes the four factual criteria that a new country must satisfy: a permanent population, a defined territory, an effective government, and the capacity to enter into relations with other states. The Startup States model satisfies all four criteria through its treaty-first approach: the founding treaty establishes the territorial basis, the institutional design work creates effective governance, the voluntary citizenship regime builds the permanent population, and the treaty itself demonstrates the capacity for international relations.

The UN Charter defines the normative framework within which the new country must operate: prohibiting the use of force, affirming the right of peoples to self-determination, and guaranteeing the sovereign equality of all members of the international community. The Startup States model is designed in alignment with all three of these principles. Its formation involves no force of any kind; it gives practical effect to genuine self-determination through voluntary citizenship; and it seeks the full equal standing in the international order that the sovereign equality principle guarantees.

The Vienna Convention on the Law of Treaties provides the legal framework within which the founding treaty is concluded, interpreted, and enforced. Its requirements of free consent, good faith performance, and

conformity with peremptory norms define the legal standard to which the founding treaty must be held. Its provision for the enhanced durability of territorial treaties provides the strongest available legal protection for the foundational arrangement on which the new country rests.

The next chapter examines, in detail, how these foundational principles translate into the specific legal instruments of the Startup States model: the mechanics of recognition, the doctrine of estoppel and its protective function, and the design principles for the founding treaty through which all of these legal commitments are given concrete form.

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NOTES

1 The practical consequences of operating outside recognised international legal frameworks are documented in detail in: Nina Caspersen, *Unrecognised States: The Struggle for Sovereignty in the Modern International System* (Cambridge: Polity Press, 2012); and Dov Lynch, "Separatist States and Post-Soviet Conflicts," *International Affairs*, 78(4), 2002, pp. 831-848.

2 Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19. The Convention entered into force on 26 December 1934. For its status as customary international law, see: James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), pp. 37-45.

3 Montevideo Convention, Article 1.

4 Crawford, *The Creation of States in International Law*, p. 37. Ian Brownlie (ed. James Crawford), *Brownlie's Principles of Public International Law*, 9th edn (Oxford: Oxford University Press, 2019), p. 121. Malcolm Shaw, *International Law*, 9th edn (Cambridge: Cambridge University Press, 2021), pp. 177-184.

5 On the population criterion and its application to intentionally formed communities, see: Crawford, *The Creation of States in International Law*, pp. 52-57; and Matthew Craven, "Statehood, Self-Determination, and Recognition," in Malcolm Evans (ed), *International Law*, 5th edn (Oxford: Oxford University Press, 2018), pp. 203-251.

6 Crawford, *The Creation of States in International Law*, p. 46. The proposition that states may exist with disputed or imprecise frontiers is confirmed by the ICJ's observation in the North Sea Continental Shelf cases (ICJ Reports 1969, p. 3, para. 46) that "there is for instance no rule that the land frontiers of a State must be fully delimited and defined".

7 Brownlie, *Brownlie's Principles of Public International Law*, pp. 169-174; Crawford, *The Creation of States in International Law*, pp. 51-59.

8 Great Britain v. Costa Rica (Tinoco Arbitration), Award of 18 October 1923, 1 RIAA 369. Crawford, *The Creation of States in International Law*, pp. 55-56.

9 Lassa Oppenheim, *International Law: A Treatise*, vol. 1, 8th edn (ed. Hersch Lauterpacht) (London: Longmans, Green, 1955), p. 129; Crawford, *The Creation of States in International Law*, pp. 61-62; Shaw, *International Law*, p. 184.

10 Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999), pp. 3-28.

11 Charter of the United Nations, 26 June 1945, 1 UNTS XVI. The Charter entered into force on 24 October 1945 and has been ratified by all 193 current UN member states.

12 Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, ICJ Reports 1986, p. 14, at paras 188-190, affirming Article 2(4) as a rule of customary international law binding on all states.

13 UN Charter, Article 1(2). On self-determination as a foundational Charter principle, see: Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995), Chapters 2-4.

14 UN Charter, Article 2(1). On the principle of sovereign equality and its implications for small and new states, see: Shaw, *International Law*, pp. 162-165.

15 Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331. The Convention entered into force on 27 January 1980. It is widely regarded as codifying the customary international law of treaties applicable to all states.

16 Vienna Convention on the Law of Treaties, Article 26; Oppenheim, *International Law*, vol. 1, p. 877; Brownlie, *Brownlie's Principles of Public International Law*, pp. 620-622.

17 Vienna Convention on the Law of Treaties, Articles 51-53. On jus cogens and its relationship to treaty validity, see: Lauri Hannikainen, *Peremptory Norms (Jus Cogens) in International Law: Historical Development, Criteria, Present Status* (Helsinki: Finnish Lawyers' Publishing Company, 1988), Chapters 1-2.

18 Vienna Convention on the Law of Treaties, Article 62(2)(a). On the enhanced durability of territorial treaties, see: Crawford, *The Creation of States in International Law*, pp. 673-679; Brownlie, *Brownlie's Principles of Public International Law*, pp. 645-647.

19 Crawford, *The Creation of States in International Law*, p. 37: "Statehood is a matter of fact and law." The three-part framework of effectiveness, legality, and acceptance is implicit throughout Crawford's analysis and is made explicit in the treatment of recognition at pp. 92-128.

20 Grant, *The Recognition of States*, pp. 180-200; Crawford, *The Creation of States in International Law*, p. 93.

21 Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006).

22 Brownlie, *Brownlie's Principles of Public International Law*, 9th edn (Oxford: Oxford University Press, 2019).

23 Shaw, *International Law*, 9th edn (Cambridge: Cambridge University Press, 2021).

24 Grant, *The Recognition of States* (Westport, CT: Praeger, 1999).

25 Stefan Talmon, *Recognition of Governments in International Law: With Particular Reference to Governments in Exile* (Oxford: Clarendon Press, 1998).

26 Caspersen, *Unrecognised States* (Cambridge: Polity Press, 2012).

CHAPTER 11

Recognition, Estoppel, and Treaty Design

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Chapter Ten laid the doctrinal foundation: the Montevideo Convention, the UN Charter, and the Vienna Convention on the Law of Treaties together define the legal architecture within which a Startup State comes into being and acquires its standing in the international order. That foundation answers the question of what a new country must possess to qualify as a state in law. This chapter addresses the next set of questions: how does recognition work in practice, how is the new country's legal standing protected against political reversal in the host state, and how should the founding treaty be designed to give the entire arrangement its maximum durability?

These are not purely academic questions. They are the questions that a founding team must answer, with sufficient precision to act on, before the first conversation with a potential host government can be conducted with credibility. A team that understands how recognition is built and sustained, how the doctrine of estoppel operates to protect treaty-based arrangements, and what the critical elements of a well-drafted founding treaty are, is in a fundamentally stronger negotiating position than one that treats these as technical matters to be delegated to lawyers after the political agreement has been reached. In the creation of a new country, legal architecture and political strategy are inseparable.

11.1 Recognition: A Process, Not an Event

The most important thing to understand about diplomatic recognition is that it is not a single event but a cumulative process.[1] A founding team

that imagines recognition as a moment, a ceremony, a formal declaration by a specified number of governments, is likely to be disappointed by both the pace and the form that recognition actually takes. Thomas Grant's analysis of recognition practice demonstrates that recognition is expressed through conduct accumulated over time, through bilateral engagement, treaty relations, the exchange of diplomatic missions, and participation in international institutions, rather than through a single threshold act.

Crawford's formulation is precise: recognition is not constitutive of statehood, but is an important factor in the consolidation of statehood and the exercise of rights attaching to it.[2] Brownlie similarly treats recognition as evidence of acceptance rather than as a juridical act that brings a state into existence. Shaw notes that the existence of a state is not dependent upon recognition, but immediately qualifies this by observing that the practical consequences of non-recognition are severe.

For the founding team of a Startup State, this understanding has direct strategic implications. The goal is not to secure a definitive moment of recognition but to build a recognition trajectory: a pattern of bilateral and multilateral engagement that progressively embeds the new country within the fabric of the international order, such that non-recognition becomes increasingly anomalous and the costs of withholding it increasingly clear.

This trajectory begins with the founding treaty itself. Grant observes that treaty-making is among the clearest ways in which states acknowledge the international legal personality of another entity.[3] By concluding a valid treaty with a recognised state, the Startup State acquires, at the moment of its creation, the clearest possible evidence that at least one member of the international community regards it as possessing international legal personality. That evidence is not conclusive recognition by the entire international community, but it is a solid foundation upon which a recognition strategy can be built.

11.1.1 The Declaratory and Constitutive Debate Revisited

The distinction between declaratory and constitutive theories of recognition, introduced in Chapter Two and developed in Chapter Three, has direct practical implications for how a founding team should approach the recognition process.[4] The contemporary consensus in international legal scholarship, reflected in Crawford, Brownlie, and Shaw, is that the declaratory theory states the better view as a matter of strict doctrine: a

state exists once it satisfies the Montevideo criteria, regardless of whether other states formally acknowledge it. But the constitutive reality, that recognition determines whether the state can actually function in the international system, is equally true.

The practical consequence for the Startup States model is a dual strategy. The founding treaty and the institutional design work are structured to satisfy the declaratory requirements: ensuring that the new country genuinely meets the Montevideo criteria from the outset, such that its statehood is a legal fact that cannot be denied by those who apply the objective criteria honestly. At the same time, the diplomatic strategy is structured to address the constitutive reality: building the recognition base progressively, through bilateral engagement and treaty practice, such that the new country's legal personality is acknowledged in practice as well as affirmed in theory.

This dual approach is what made South Sudan's transition so rapid and so clean. The Comprehensive Peace Agreement of 2005 created both a declaratory framework, satisfying the Montevideo criteria through the negotiated autonomy arrangements and the right to a referendum, and a constitutive commitment, with Sudan's advance agreement to accept the referendum result embedding recognition into the treaty before the referendum was held.[5] When the referendum was conducted in January 2011, the new country entered the international system within days because both dimensions of recognition had been secured in advance.

11.1.2 Sequential Recognition Strategy

Grant's analysis of how recognition trajectories develop identifies a pattern that is consistently relevant across the post-war history of state creation.[6] Recognition tends to cluster: once a pattern of acceptance emerges, with a small number of states extending recognition and encountering no serious legal objection from the broader international community, additional states are more likely to follow. The identity of the initial recognising states matters disproportionately. Recognition by states perceived as legally cautious or diplomatically influential reduces the perceived risk for others. Recognition by the host state's immediate regional neighbours or by the major powers of the relevant region is particularly significant, as it signals compatibility with the regional order and reduces the likelihood of sustained collective opposition.

A Startup State's recognition strategy should therefore be designed with this clustering dynamic in mind. The objective is not to secure universal

recognition simultaneously but to identify the initial recognising states whose recognition is most strategically valuable, to engage them early and substantively, and to ensure that the founding treaty and institutional design are structured in ways that address their specific concerns. Once a critical mass of legally credible recognition has been secured, the path to broader acceptance becomes considerably easier.

Shaw notes that regional acceptance often precedes global acceptance, and that regional organisations play an important role in shaping recognition decisions.[7] For a Startup State established on the territory of a host in a particular region, early engagement with the relevant regional body, the African Union, the Association of Southeast Asian Nations, the Organisation of American States, or whichever regional framework applies, is therefore a strategic priority. Securing the regional body's acquiescence, if not its active endorsement, removes one of the most significant potential sources of collective resistance to recognition.

11.1.3 International Organisations and the Recognition Signal

Membership in international organisations provides a further layer of recognition, and its symbolic and practical significance is considerable. Crawford and Shaw both emphasise that UN membership is not constitutive of statehood but constitutes one of the most visible indicators of general acceptance.[8] Grant observes that UN admission often functions as a focal point in recognition practice, signalling that objections have been overcome or marginalised and that additional states may extend recognition with confidence.

The pathway to UN membership passes through the Security Council, where a recommendation requires the affirmative votes of nine of fifteen members and the absence of a veto from any of the five permanent members. For a new country whose creation has been conducted with full legal propriety, whose founding treaty is clearly consensual, and whose institutional design demonstrates genuine governmental effectiveness, the political conditions for Security Council support should be achievable, though they will require sustained diplomatic preparation.

Membership in specialised agencies and functional international organisations can often be pursued in parallel with or even in advance of UN membership.[9] Admission to the Universal Postal Union, the International Telecommunications Union, the World Health Organisation, and similar bodies demonstrates compliance with international standards and creates the practical infrastructure of international engagement,

even before UN membership is secured. Such memberships also serve as implicit recognition signals: each organisation that admits the new country as a member is effectively affirming its status as an independent participant in the international order.

11.2 The Doctrine of Estoppel: Protecting the Founding Arrangement

The most important legal protection available to a Startup State against political reversal in the host country is the doctrine of estoppel. This doctrine, operating at the intersection of good faith, reliance, and consistency in state conduct, prevents a state from acting inconsistently with its prior representations or commitments in ways that would unjustly prejudice another party who has relied upon those representations.[10]

The doctrine has deep roots in both common law and international jurisprudence, and its operation in the international legal order has been confirmed in a series of landmark cases that directly support the durability of treaty-based arrangements of the kind the Startup States model proposes.

11.2.1 The Temple of Preah Vihear: Estoppel in Action

The International Court of Justice's judgment in the Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand) in 1962 is the leading authority on estoppel in international territorial law.[11] The case arose from a boundary dispute between Cambodia and Thailand over the site of the ancient Khmer temple at Preah Vihear. The relevant boundary had been fixed on maps prepared by a French cartographic mission in 1907, during the period of French colonial administration of Cambodia. The maps placed the temple on the Cambodian side of the frontier. Thai officials had received and used those maps without protest for many decades.

When Thailand subsequently contested the boundary and sought to claim the temple as lying within Thai territory, Cambodia invoked estoppel. The Court held, by nine votes to three, that Thailand was precluded from denying the validity of the boundary as shown on the 1907 maps. The decisive element was Thailand's prolonged conduct in treating the boundary as settled: its acceptance of and reliance on the maps over an extended period had induced Cambodia to rely on that acceptance, and it would be unjust to permit Thailand to resile from a position upon which Cambodia had ordered its conduct.

Crawford draws on this case to demonstrate how estoppel functions in international law as a stabilising doctrine. Brownlie similarly treats

estoppel as an expression of the principle of good faith, noting that it serves to protect settled expectations and to prevent opportunistic reversals by states that find a prior position inconvenient.[12] Shaw cautions that estoppel is applied with restraint and requires clear evidence of representation and reliance, but confirms that where those elements are established, international courts are prepared to hold a state to its prior position notwithstanding subsequent political changes.

11.2.2 The North Sea Continental Shelf Cases: Consistency and Good Faith

The North Sea Continental Shelf cases before the ICJ in 1969 addressed the estoppel principle from a different angle.[13] The Court accepted that a state might, through consistent conduct and the reliance it induces in others, become bound without a formal treaty commitment, while setting a demanding standard of clear and consistent conduct and detrimental reliance that Germany was found not to meet. The underlying principle is one of good faith: states that have induced other states to rely on a particular understanding of their legal position are not free to abandon that position when it becomes inconvenient.

Applied to the Startup States context, this principle has significant protective force. A host state that has concluded a founding treaty, accepted consideration from the founding consortium, permitted the new country to establish its governmental institutions, and engaged in any degree of diplomatic recognition of the new country's legal standing has generated a pattern of conduct upon which the new country and its residents have relied. That pattern of conduct creates obligations that the host state cannot unilaterally repudiate without legal consequences.

11.2.3 Application to the Startup State Founding Treaty

The combination of the treaty-based obligations examined in Chapter Ten and the estoppel doctrine examined in this section provides the founding arrangement of a Startup State with layered legal protection.[14] The first layer is the treaty itself: the host state is bound by its treaty obligations under the principle of *pacta sunt servanda* and cannot unilaterally terminate the arrangement without incurring liability for breach. The second layer is estoppel: even if the host state were to argue that some technical ground existed for terminating or modifying the treaty, the doctrine of estoppel would preclude it from acting inconsistently with the representations it had made and upon which the new country, its residents, and third-state partners had relied.

The third layer is provided by the broader pattern of third-state reliance. As Crawford notes, once a new arrangement has been treated as operative, other states may adjust their conduct accordingly, entering into diplomatic relations, concluding bilateral agreements, and engaging in commercial exchange on the basis of the new country's legal existence.[15] This accumulated third-state reliance substantially increases the political and legal costs of any attempt by the host state to undo the founding arrangement. The arrangement, once it has generated a web of dependent relationships, is no longer merely bilateral; it has become part of the broader fabric of the international legal order.

The analysis is reinforced by the jus cogens prohibition on the use of force.[16] Any attempt by the host state to reclaim the territory granted to the Startup State by force, rather than through the lawful mechanisms for treaty modification or termination provided in the Vienna Convention, would not merely breach the founding treaty; it would violate a peremptory norm of international law and expose the host state to the full range of collective countermeasures available under Chapter VII of the UN Charter. The combination of treaty obligation, estoppel, third-state reliance, and jus cogens prohibition means that the legal foundation of a properly constituted Startup State is, as a practical matter, among the most strongly protected arrangements available in the international legal toolkit.

11.3 Historical Precedents for Treaty-Based Territorial Arrangements

The Startup States model's reliance on treaty-based territorial arrangements is not a theoretical innovation; it draws on a well-established tradition in international legal practice.[17] Sovereign-to-sovereign transfers and long-term arrangements for the exercise of governmental authority over defined territories have a history stretching back centuries, and the durability of such arrangements, when properly constituted, is well attested.

The Louisiana Purchase of 1803, through which France transferred approximately 828,000 square miles of territory to the United States for a cash consideration, is the paradigmatic example of a large-scale consensual territorial transfer that was never undone despite profound subsequent political changes in both parties. The Alaska Purchase of 1867, through which Russia sold Alaska to the United States, and the Gadsden Purchase of 1853, through which Mexico sold a portion of what is now

southern Arizona and New Mexico to the United States, follow the same pattern: consensual, treaty-based, irreversible.

More recent examples are equally instructive. In 2011, Tajikistan ceded approximately 1,100 square kilometres of territory in the Pamir Mountains to the People's Republic of China under a border demarcation agreement.[18] The arrangement was lawful, binding, and has been respected by both parties. In 1997, Britain formally transferred the New Territories and the rest of the Hong Kong colony to China under the arrangements established by the Joint Declaration of 1984: a treaty-based transfer involving a defined territory, a negotiated framework of governance, and mutual consideration. The governance dimensions of that arrangement subsequently encountered political difficulties, as Chapter Four examined in detail; but the validity of the territorial transfer itself was never in legal doubt.

The Vatican City State provides perhaps the most directly analogous precedent. The Lateran Treaty of 1929, concluded between the Kingdom of Italy and the Holy See, created an entirely new state on a defined territory through bilateral treaty. Italy transferred jurisdiction over the relevant area; the Holy See accepted it; and the resulting state has exercised its independent legal personality continuously ever since. The Lateran Treaty demonstrates that statehood can be conferred by treaty, that the resulting state possesses the same legal standing as any other member of the international community, and that the arrangement is durable across political changes in both parties.

The Lateran Treaty is not an isolated case. The record from the Congress of Vienna to the end of the colonial era shows states, alone or together, constituting new polities by agreement out of territory under their authority: the Free City of Cracow, created by the Final Act of Vienna in 1815;[19] Greece, which the London Protocol of 1830 declared would "form an independent State";[20] the Principality of Bulgaria and the autonomous province of Eastern Rumelia, created by the Treaty of Berlin in 1878;[21] Libya, which the General Assembly resolved in 1949 "shall be constituted an independent and sovereign State", under a procedure the Allied Powers had accepted by treaty;[22] and the Republic of Cyprus, established by the Treaty of Establishment of 1960 after the Zurich and London agreements.[23] The grant mechanism is real, and it has produced dependent or protected polities more often than fully independent states. What the record does not show is a state granting its own territory, by treaty, at the initiative of a private actor. Private power has come close,

most of all in the Congo Free State, but in the closest cases states recognised what private power had built; none granted territory it held. That empty intersection is the space the Startup States model proposes to fill, and it is evidence of novelty, not of prohibition.

The contemporary Bektashi Order in Tirana, Albania, represents a more recent iteration of the same principle. In September 2024 the Albanian Prime Minister announced a plan to grant the Bektashi Order a defined territory in which it may exercise a degree of independent governance, potentially giving rise to a new internationally recognised entity.[24] Whether or not that specific arrangement results in full independent statehood, it illustrates that the concept of treaty-based state creation through bilateral arrangement with an existing recognised state is not a historical curiosity but an active, contemporary possibility.

11.4 Designing the Founding Treaty: Core Principles

The founding treaty is the constitutional instrument in international law upon which everything else rests. Crawford emphasises that ambiguity in foundational arrangements invites dispute, whilst clarity promotes stability.[25] Brownlie stresses the importance of precision, particularly in matters touching on governmental authority and territorial jurisdiction. Shaw reinforces both points by noting that the clarity and comprehensiveness of treaty language are the primary determinants of durability in territorial and jurisdictional arrangements.

The founding treaty is not, and should not be treated as, a preliminary memorandum of intent or a political declaration that will be given legal substance later. It is the instrument through which the new country acquires its territorial basis, its governmental authority, its recognition by the host state, and its capacity for international relations. Every major element of the new country's legal existence should be clearly defined within the founding treaty or in instruments that the treaty incorporates by reference. The work of designing this treaty is therefore not primarily a legal drafting exercise; it is an institutional design exercise, and it must be conducted with the same care and precision that the design of the new country's constitutional order itself requires.

The following sections set out the core principles that should govern the design of the founding treaty. They are not a prescriptive template, because the specific circumstances of each Startup State will differ substantially, but they reflect the requirements that the leading authorities in

international law identify as essential to the durability and legal integrity of treaty-based territorial and governmental arrangements.

11.4.1 Territorial Definition

The founding treaty must define the territory of the new country with sufficient precision that it is geographically identifiable and legally unambiguous.[26] This does not require a comprehensive cadastral survey before the treaty is concluded, but it does require a description that is sufficient to identify the boundaries on the ground and to resolve any future dispute about whether a particular location falls within or outside the new country's territory.

The description of territory should include geodetic co-ordinates or reference points, a description of the boundary lines between those points, and a map incorporated by reference into the treaty. Where the territory involves maritime zones, coastal boundaries, or areas where natural features such as rivers, lakes, or coastlines form part of the boundary, the treaty must address the specific legal issues that arise in those contexts, including the applicable rules for delimitation and the mechanisms for resolving disputes about boundary location.

The territory must be clearly distinguished from the surrounding territory of the host state. The founding treaty should specify, without ambiguity, where the new country's jurisdiction begins and where the host state's jurisdiction ends. Any arrangements for transit between the new country and the host state, for the use of shared infrastructure, or for the management of areas that border the new country's territory must be set out explicitly rather than left to be implied.

11.4.2 Transfer of Governmental Authority

The most legally significant element of the founding treaty is the transfer of governmental authority from the host state to the new country.[27] This transfer is what distinguishes the Startup State from a subnational entity or an autonomous zone: the new country receives, through the treaty, the full range of governmental functions that constitute independent statehood, not a delegation of specified powers from a superior authority, but a transfer of governmental authority that becomes the new country's own.

The treaty should specify, with precision, the governmental functions that are transferred. These include legislative authority, executive authority, and judicial authority within the territory; the power to conclude

international agreements and to conduct foreign relations; the power to establish and maintain an armed or security force, or alternatively to specify the security arrangements that substitute for such a force; the power to issue travel documents, identity documents, and other instruments of civil status; the power to establish a monetary and fiscal regime; and the power to regulate immigration and naturalisation.

The transfer of governmental authority should be structured as a genuine and irreversible transfer, not as a delegation that the host state retains the power to modify or revoke unilaterally.[28] The distinction is legally decisive: a delegation creates a subnational entity subject to the delegating authority's continued discretion; a transfer creates an independent entity whose authority is its own. The founding treaty must be designed to effect a genuine transfer, using the appropriate legal language and legal instruments to ensure that the transfer is complete, that it takes effect immediately upon the treaty's entry into force, and that no residual authority is retained by the host state over the transferred functions.

11.4.3 Mutual Benefit and Host State Consideration

A founding treaty that genuinely benefits both parties is more durable than one that creates obligations only for the host state. The practical experience of the arrangements examined throughout this book, from the ZEDE experiment in Honduras to the less developed proposals of the Phoenix Foundation and Laissez-Faire City, demonstrates that arrangements perceived as one-sided generate political resistance that undermines their sustainability.[29]

The founding treaty should therefore specify clearly what the host state receives in return for co-creating the new country. This consideration might take several forms. A financial payment at the time of the treaty's conclusion. An ongoing revenue stream, whether through lease payments, royalties on economic activity within the new country, or a share of government revenues. Infrastructure investment in the host state's territory adjacent to the new country. Diplomatic alignment: a commitment by the new country to support the host state's positions in international fora and to act as a diplomatic ally on agreed matters. And preferential arrangements for citizens of the host state in the new country, such as expedited residency or business registration procedures.

The specific form and quantum of consideration will vary with the circumstances of each arrangement, and must be negotiated between the parties on terms that reflect a genuine assessment of the value being

exchanged. What matters is that the consideration is real, that it is clearly specified in the treaty, and that it is structured to give the host state a continuing incentive to honour its obligations throughout the life of the arrangement, not merely at the moment of its conclusion.

11.4.4 Recognition and Diplomatic Commitment

The founding treaty should include an explicit recognition of the new country's independent legal personality and a commitment by the host state to support the new country's pursuit of recognition from other members of the international community.[30] This provision serves two distinct functions. As a matter of international law, it constitutes the most direct possible expression of the host state's recognition of the new country's statehood, satisfying the constitutive dimension of recognition at the moment of the treaty's entry into force. As a matter of diplomacy, it creates a legal commitment that the host state will assist the new country in building its recognition base, rather than remaining passive or, worse, taking positions that complicate the new country's diplomatic outreach.

The recognition provision should specify, at minimum, that the host state regards the new country as a fully independent state with complete international legal personality; that the host state will enter into bilateral diplomatic relations with the new country at the ambassadorial level; that the host state will support the new country's applications for membership in international organisations, including the United Nations; and that the host state will not take any action in international fora that is inconsistent with the recognition it has extended.

11.4.5 Dispute Resolution

The founding treaty must establish a clear and accessible mechanism for the resolution of disputes between the new country and the host state.[31] Disputes will arise in any long-term bilateral relationship; the question is not whether they will occur but how they will be managed when they do. A founding treaty that does not specify a dispute-resolution mechanism leaves the parties without a structured process for resolving disagreements and creates the conditions for political disputes to escalate into legal and diplomatic crises.

The dispute-resolution provisions should specify a tiered mechanism: direct negotiation between the parties as the first resort; mediation by an agreed third party as the second resort; and binding arbitration before an established international arbitral institution as the third resort. The

Permanent Court of Arbitration administers arbitration between states and between states and private parties; the International Centre for Settlement of Investment Disputes, between states and foreign investors; and the International Court of Justice decides disputes between states that have accepted its jurisdiction.

The parties should also consider including a stabilisation clause: a provision that specifies the applicable law for the interpretation and application of the treaty, and that commits both parties to applying that law consistently throughout the life of the arrangement. Stabilisation clauses are a standard feature of long-term contracts governing infrastructure and natural resource arrangements, and they serve the same function in a founding treaty: providing both parties with confidence that the legal framework governing their relationship will not be unilaterally altered to their disadvantage.

11.4.6 Duration and Succession

A founding treaty for a Startup State should be designed to endure indefinitely. Unlike commercial contracts or time-limited diplomatic arrangements, the founding treaty constitutes the legal basis for the existence of a country and the institutional home of its residents. An arrangement that is explicitly time-limited, or that contains broad grounds for unilateral termination, creates the very instability that investors, residents, and third-state partners most need to avoid.[32]

The treaty should specify that it is concluded for an indefinite duration and may be modified only by mutual agreement of the parties, expressed through a formal treaty amendment concluded with the same procedural requirements as the founding treaty itself. It should specify that neither party may unilaterally withdraw from the treaty without the other's consent, except in the extreme circumstances recognised by Articles 60 to 62 of the Vienna Convention on the Law of Treaties, and should define those circumstances with precision.

The treaty should also address succession: what happens to the arrangement if there is a change in the constitutional order of the host state, or if the host state dissolves or merges with another country? The general international law principle is that treaty obligations bind a state and its successor states, but the founding treaty should make this explicit and should specify the mechanism through which successor arrangements will be negotiated and concluded if the original parties cease to exist in their current form.

11.4.7 When the Bargain Fails

A founding treaty must also be designed for the day something goes wrong: the host state repents, the new country cannot pay, or either state is transformed. International law answers each case more firmly than is commonly supposed, provided the treaty is drafted to engage it.

Once the treaty is in force and the new country exists, the host state cannot lawfully take its recognition back. Article 6 of the Montevideo Convention provides that recognition "is unconditional and irrevocable", and the Arbitration Commission of the Conference on Yugoslavia stated that recognition "is not a prerequisite for the foundation of a State and is purely declaratory in its impact".[3334] The law of treaties adds its own protections. A treaty containing no provision for withdrawal cannot be denounced unless the parties intended otherwise (Article 56 of the Vienna Convention); a fundamental change of circumstances may not be invoked against a treaty that "establishes a boundary" (Article 62(2)(a)); and the termination of a treaty "does not affect any right, obligation or legal situation of the parties created through the execution of the treaty prior to its termination" (Article 70).[35] A host state that later regretted the arrangement could stop co-operating; it could not lawfully unmake the country it had helped to create, and it could not recover the territory by force.

Breach by either party engages its international responsibility and an obligation to make full reparation, and a breach of the lease, however serious, is a matter for arbitration and damages, not for the undoing of statehood. The treaty should therefore name its forum in advance: arbitration under the Permanent Court of Arbitration Arbitration Rules 2012, with the Secretary-General of the Permanent Court of Arbitration as appointing authority, so that neither party can block the tribunal's formation.[36] The record also teaches humility about what adjudication can achieve: the boundary decision of the Eritrea-Ethiopia Boundary Commission of 2002 waited sixteen years for implementation.[37] The final protection of a small state is the breadth of its recognition, which is why recognition must be pursued from the first day.

The failure most likely to occur is the least dramatic: unpaid rent. Before independence the tenant is a company under the host state's law; afterwards the tenant is a state, and unpaid rent becomes a debt between states. International law treats such debts with some precision. In the *Russian Indemnity* arbitration of 1912, the tribunal held that a state is responsible for delay in paying a monetary debt and rejected the plea

that the debtor's financial difficulties amounted to force majeure.[38] The means of collection, however, are limited. Force is excluded: the Second Hague Convention of 1907 restricted "recourse to armed force for the recovery of contract debts", and the Charter has removed the exceptions that convention allowed.[39] The property of a state used for governmental purposes is immune from execution.[40] Argentina's creditors pursued its default of 2001 for fifteen years, and when one of them had the naval training ship *ARA Libertad* detained in Ghana in 2012, the International Tribunal for the Law of the Sea ordered its release.[41] Nor can a host state answer non-payment by withdrawing recognition: a state that does not pay its debts remains a state, with a debt.

The founding treaty should therefore secure the rent before it can go unpaid: a reserve funded before entry into force and held by an independent trustee, consent to execution limited to that reserve, a defined grace period and rate of default interest, and a clause, of the kind Grenada and Barbados have written into their bonds, that defers payments after a natural disaster and capitalises them rather than forgiving them.[42] It should stop short of a receivership: a power for the host state to collect the new country's taxes or approve its budget would turn security into dependence. And it should remember Newfoundland, a self-governing dominion that could not pay its debts, asked in 1933 for its responsible government to be suspended, and from 1934 was governed by an appointed commission in exchange for a British guarantee of its debt; it never recovered its former status.[43] The time to prevent that choice is the design stage, by fixing the rent at what the territory can bear.

Finally, the treaty should anticipate change in either state. A change of government leaves treaty obligations intact, as Chief Justice Taft held in the *Tinoco* arbitration.[44] If the host state dissolves or unites with another, a boundary established by treaty, and obligations relating to the use of territory established for the benefit of another territory, survive the succession under Articles 11 and 12 of the 1978 Vienna Convention on Succession of States in respect of Treaties, which the International Court of Justice treated as reflecting customary law in *Gabčíkovo-Nagymaros*.[45] The treaty should nonetheless say so expressly, name the successor to the landlord's interest, and provide for consultation if either state contemplates union with a third.

11.5 The Founding Treaty as Constitutional Instrument

The most important insight about the founding treaty is one that is implicit throughout the foregoing analysis but deserves to be stated explicitly: the founding treaty is not merely a bilateral agreement between two states. It is the constitutional instrument of the new country in international law, the foundational document from which the new country's legal existence, its territorial basis, its governmental authority, and its standing in the international order all derive.

Crawford's treatment of statehood makes this clear. The founding treaty is the instrument through which the Montevideo criteria are satisfied: it establishes the territory, provides the basis for the permanent population through the citizenship regime it creates, confers the governmental authority that makes effective governance possible, and itself demonstrates the new country's capacity for international relations.[46] It also satisfies the Vienna Convention's requirements for a valid treaty: it is concluded freely, without coercion, by parties with legal capacity to conclude it, and in conformity with peremptory norms. And it invokes the enhanced durability that international law accords to territorial and jurisdictional arrangements, as confirmed in both Crawford's doctrinal analysis and the jurisprudence of the Temple of Preah Vihear and the North Sea Continental Shelf cases.

This constitutional character has important implications for how the founding treaty should be drafted, presented, and ratified. It should be drafted with the care and precision appropriate to a constitutional instrument, not the informality appropriate to a memorandum of understanding or a political declaration. It should be presented to both parties' domestic legislatures for ratification, such that its legal authority derives from the highest available level of domestic constitutional approval, making it more resistant to subsequent unilateral modification. And it should be registered with the United Nations Secretariat under Article 102 of the UN Charter, which requires registration of all treaties concluded by UN member states and which gives the treaty the status of a publicly acknowledged international commitment.

Registration under Article 102 has a specific and important legal consequence: a treaty that is not registered may not be invoked before any organ of the United Nations.[47] For a founding treaty that is intended to be the cornerstone of the new country's international legal standing, registration is not merely a procedural nicety; it is a legal requirement that

must be fulfilled before the treaty can be relied upon in any international institutional context.

11.6 The Model Treaty: Key Provisions

It is beyond the scope of this chapter to present a complete model founding treaty, which would require a separate volume in its own right and would need to be tailored to the specific circumstances of the host state and the new country's founding consortium. What can be offered here is a summary of the key provisions that any well-drafted founding treaty should contain, organised under the headings that would appear in the treaty itself.

A preamble establishing the intent and purpose of the arrangement, affirming the sovereignty and equality of both parties, and declaring the consensual and mutually beneficial character of the agreement.[48]

Articles defining the territory of the new country with geodetic precision, incorporating boundary maps by reference, and specifying any maritime zones associated with the territory.

Articles transferring full governmental authority over the defined territory to the new country, specifying the date on which the transfer takes effect, and confirming that no residual governmental authority is retained by the host state over the transferred territory and population.

Articles establishing the mutual obligations of the parties: the consideration flowing from the new country to the host state, the recognition and diplomatic support flowing from the host state to the new country, and any ongoing arrangements for co-operation, shared infrastructure, or preferential treatment.

Articles specifying the law governing the interpretation and application of the treaty, the mechanism for dispute resolution, and the conditions under which the treaty may be modified.

Articles addressing succession, specifying the applicable principles in the event of constitutional change in either party, and establishing a mechanism for the negotiation of successor arrangements.

Final clauses specifying the treaty's entry into force, its duration, its language versions, its depositary, and its registration with the UN Secretariat.

These are the minimum elements. The specific circumstances of each founding will require additional provisions addressing the particular features of the territory, the particular needs of the founding consortium, and the particular concerns of the host state. The treaty will also need to

be accompanied by a range of subsidiary agreements, addressing matters such as border crossing arrangements, environmental responsibilities, search and rescue co-operation, and the treatment of existing property rights in the transferred territory.

11.7 The Critique of Neo-Colonialism: A Direct Response

Any serious discussion of treaty-based state creation must engage directly with the critique that such arrangements amount to a form of neo-colonialism: the commodification of sovereignty, the exploitation of economically weaker states by capital-rich founding consortia, and the use of formal legal instruments to achieve outcomes that differ in substance, if not in form, from the colonial arrangements of earlier centuries.

This critique is serious and must be addressed honestly rather than dismissed. The concern is legitimate: it arises from a real history of arrangements in which formal consent was given by governments whose populations had no effective voice, in which the consideration flowing to the host state was grossly disproportionate to the value extracted, and in which the resulting arrangements entrenched foreign control rather than creating genuine independence.

The Startup States model's response to this critique is structural rather than rhetorical. It is grounded in the Consensual Theory of Statehood developed in Chapters Two and Three: the insistence that genuine, informed, and voluntary consent at every level of the formation process is not merely an ethical aspiration but a legal requirement, and that the absence of any of the four levels of consent, the consent of the host state, the consent of those who will live within the new country, the consent expressed through international recognition, and the consent in the acquisition of territory, renders the arrangement something other than a Startup State.

The distinction between exploitation and exchange is not always easy to draw, but international law provides workable criteria.[49] An arrangement is genuine rather than exploitative when: the host state's government has the legal capacity and the practical freedom to refuse the arrangement; the consideration flowing to the host state is proportionate to the value of what is being transferred; the arrangement is transparent, publicly acknowledged, and subject to domestic ratification; the population of the territory in question has been genuinely consulted and has not been displaced without consent; and the resulting new country is

governed in the genuine interests of those who live within it rather than primarily in the interests of its founders.

A Startup State that satisfies all of these conditions is not a colonial arrangement in a new dress. It is precisely the kind of consensual, transparent, and mutually beneficial new polity that the Startup States model describes. The distinction between a Startup State and a neo-colonial enclave is not cosmetic; it is constitutive, and it must be maintained with vigilance throughout the founding process.

11.8 From Legal Architecture to Ethical Land Procurement

The legal architecture examined in this chapter, the recognition process, the protective function of estoppel, and the design principles for the founding treaty, establishes the international law framework within which a Startup State is brought into being. It answers the question of how the new country's legal standing is created and protected in the external dimension of its existence: its relationship with the host state, with third states, and with international institutions.

But the international legal architecture is only part of the picture. The other part is the ground-level reality of the new country's territory: how it was acquired, from whom, on what terms, and with what impact on any existing communities in or near the relevant area. These are questions of ethical land procurement, and they are the subject of the next chapter.

The transition from the legal architecture of this chapter to the ethical dimensions of the next is not a transition from theory to practice, or from law to ethics. It is a transition from the external dimension of the founding process to the internal dimension: from the treaty instruments that establish the new country's international standing to the ground-level arrangements that determine whether the new country's foundation is genuinely consensual, genuinely clean, and genuinely compatible with the rights and interests of every person who is affected by its creation. Both dimensions are essential, and the Startup States model insists that both be addressed with equal rigour.

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NOTES

1 Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999), pp. 1-28. On recognition as a process rather than a threshold event, see also: Stefan Talmon, *Recognition of Governments in International Law: With Particular Reference to Governments in Exile* (Oxford: Clarendon Press, 1998), Chapter 1.

2 James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), p. 93. Ian Brownlie (ed. James Crawford), *Brownlie's Principles of Public International Law*, 9th edn (Oxford: Oxford University Press, 2019), p. 141. Malcolm Shaw, *International Law*, 9th edn (Cambridge: Cambridge University Press, 2021), p. 389.

3 Grant, *The Recognition of States*, pp. 185-190.

4 On the declaratory and constitutive theories of recognition and their practical synthesis, see: Crawford, *The Creation of States in International Law*, pp. 19-31; and Hersch Lauterpacht, *Recognition in International Law* (Cambridge: Cambridge University Press, 1947), pp. 38-68.

5 Comprehensive Peace Agreement between the Government of the Republic of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army, 9 January 2005, particularly Protocol on the Resolution of the Abyei Conflict, Annex I, para. 1.1.2. On the recognition dynamics following the 2011 referendum, see: UNGA Res. 65/308, 14 July 2011 (admitting South Sudan as a UN member state).

6 Grant, *The Recognition of States*, pp. 200-225. On recognition clustering, see also: Brad R. Roth, *Governmental Illegitimacy in International Law* (Oxford: Clarendon Press, 1999), Chapter 6.

7 Shaw, *International Law*, pp. 392-394. On the role of regional organisations in recognition decisions, see: Benedetto Conforti and Carlo Focarelli, *The Law and Practice of the United Nations*, 5th edn (Leiden: Brill Nijhoff, 2016), Chapter 3.

8 Crawford, *The Creation of States in International Law*, pp. 160-178; Shaw, *International Law*, pp. 1144-1149; Grant, *The Recognition of States*, pp. 170-180.

9 On membership in specialised agencies as a pathway to recognition, see: Nigel D. White, *The Law of International Organisations*, 3rd edn (Manchester: Manchester University Press, 2016), Chapter 4; and Henry G. Schermers and Niels M. Blokker, *International Institutional Law: Unity Within Diversity*, 6th edn (Leiden: Brill, 2018), Chapter 3.

10 On estoppel in international law, see: Ian MacGibbon, "Estoppel in International Law," *International and Comparative Law Quarterly*, 7(3), 1958, pp. 468-513; Derek Bowett, "Estoppel Before International Tribunals and Its Relation to Acquiescence," *British Year Book of International Law*, 33, 1957, pp. 176-202; and Brownlie, *Brownlie's Principles of Public International Law*, pp. 628-630.

11 Case Concerning the Temple of Preah Vihear (Cambodia v. Thailand), ICJ Reports 1962, p. 6. For analysis, see: Crawford, *The Creation of States in International Law*, pp. 681-682; and Shaw, *International Law*, pp. 499-500.

12 Crawford, *The Creation of States in International Law*, pp. 677-683; Brownlie, *Brownlie's Principles of Public International Law*, pp. 628-630.

13 North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands), ICJ Reports 1969, p. 3, particularly at paras 28-34 on good faith and consistent conduct.

14 On the interaction between treaty obligations and estoppel as protective mechanisms for territorial arrangements, see: Rosalyn Higgins, *Problems and Process: International Law and How We Use It* (Oxford: Clarendon Press, 1994), Chapter 7.

15 Crawford, *The Creation of States in International Law*, p. 93; Brownlie, *Brownlie's Principles of Public International Law*, p. 638.

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CHAPTER 12

Ethical Land Procurement and Partnership

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Chapter Eleven examined the architecture of recognition, the protective doctrine of estoppel, and the design principles for the founding treaty as a constitutional instrument in international law. Those considerations operate primarily in the external dimension of the founding process: the relationship between the new country, its host state, and the broader international community. This chapter turns to the internal dimension, one that is equally indispensable and which must be addressed with the same rigour that the preceding chapters brought to the legal architecture.

The question this chapter addresses is deceptively simple: how does a Startup State acquire the territory on which it is founded, from whom, on what terms, and with what assurances that the process is clean, transparent, and ethically irreproachable? The answer is never simple in practice, because land acquisition sits at the intersection of international law, domestic property law, political economy, and the ethical obligations that arise from the history of colonialism, dispossession, and exploitation examined in Chapter Nine.

The founding team of a Startup State that gets the legal architecture right but gets the land procurement wrong has built an impressive structure on a compromised foundation. The investment community will not finance it. The host state's public will not accept it. The international community will not recognise it. And the residents who live within it will not regard it as legitimate. Ethical land procurement is not a secondary concern to be addressed after the more interesting questions of gover-

nance design. It is the first practical step in the founding process, and it sets the tone for everything that follows.

12.1 Clean Title, Clean Foundation

The fundamental principle of ethical land procurement for a Startup State is straightforward to state and demanding to implement: the territory on which the new country is founded must be acquired with incontestable legal title, free from any encumbrance, competing claim, or shadow of historical injustice.[1] The standard is high because the consequences of failing to meet it are severe and lasting. Ambiguity in land title is not merely a legal inconvenience that competent lawyers can manage around; it is a structural vulnerability that will be exploited at every subsequent point of stress, whether that stress comes from a change of government in the host country, a challenge from an adjacent community, or a capital markets transaction that requires clean due diligence.

The ideal scenario is territory that is uninhabited, acquired exclusively from its legitimate owner with incontestable title, free from any pending disputes, residual rights of third parties, or competing claims under either domestic or international law. This eliminates the most common sources of subsequent challenge. There is no displaced population to generate claims of expropriation. There is no indigenous community whose rights under international human rights instruments may have been overlooked. There is no prior claimant whose interests were not addressed in the acquisition process.

The legal standard applicable here is what civilian lawyers call *certitudo juris*, legal certainty, and common law systems achieve through the standard of an indefeasible title.[2] The founding team must approach the acquisition of territory with the rigour that a sophisticated purchaser of high-value real estate brings to title examination: commissioning independent legal opinions on title in the applicable domestic jurisdiction, conducting thorough due diligence on the history of the relevant land and any prior grants or encumbrances, and securing formal confirmation from the relevant governmental authorities that the proposed transfer is lawful under domestic law and compatible with the host state's constitutional framework.

The due diligence process must also address the question of whether any third-party rights exist over the relevant territory that are recognised under international law, even if they are not fully reflected in domestic legal instruments. Indigenous land rights, in particular, may exist under

customary international law and under instruments such as the UN Declaration on the Rights of Indigenous Peoples, even in jurisdictions where they are not codified in domestic statute. Failing to identify and address such rights at the acquisition stage does not make them disappear; it simply defers the reckoning to a more inconvenient moment.

A Startup State that takes this standard seriously will sometimes find that the territory it initially identified as a candidate for acquisition is more encumbered than it appeared. This is not a reason for discouragement but for rigour. The time invested in identifying and addressing title issues at the acquisition stage is invariably less costly than the time and resources consumed by challenges that arise later.[3] Clean title is a competitive advantage as well as an ethical requirement: it signals to the entire ecosystem of investors, partners, and prospective residents that the founding team operates to the highest standards of institutional integrity.

12.2 The Sovereign Lease: Architecture and Advantages

The dominant model for territorial acquisition in the Startup States framework is the long-term sovereign lease, rather than outright purchase or permanent cession. This preference is not a concession to political necessity; it is a considered institutional design choice with substantial advantages for all parties to the arrangement.[4]

A sovereign lease is an agreement, concluded by treaty between the host state and the founding consortium, through which the host state grants the Startup State the right to occupy, govern, and develop a defined territory for a specified, typically very long, period. The host state retains ultimate ownership of the land; the Startup State exercises full governmental authority over it for the duration of the lease. The territory remains on the host state's map; the Startup State issues its own travel documents, manages its own borders, and conducts its own external affairs.

The analogy to commercial real estate is illuminating and deliberate. Great financial districts from Midtown Manhattan to Canary Wharf in London have been built upon century-spanning ground leases, under which developers exercised full control over the use and development of the land without ever acquiring fee simple title.[5] The ground landlord retained ownership; the leaseholder generated value. Both parties benefited, and the arrangement proved durable across generations of political

and economic change. The sovereign lease applies the same logic at the level of governmental authority rather than commercial development.

12.2.1 The Host State's Position

For the host state, the sovereign lease has several critical advantages over both permanent cession and over the alternative of a subnational concession to an economic zone or charter city.

The host state retains ultimate title to the land. The territory does not disappear from the national map. The national flag continues to fly over the host state's borders.[6] This is important not merely as a matter of national symbolism but as a matter of constitutional and political sustainability. A government that proposes a permanent cession of territory faces the most acute form of domestic political opposition: accusations of selling the national patrimony, of betraying the national interest, of acting without democratic mandate. A government that proposes a sovereign lease faces a much more manageable political argument: it is not selling the land, it is putting unused territory to productive use whilst retaining ownership and deriving revenue from its development.

Article 2(4) of the UN Charter, which protects the territorial integrity and political independence of all states, is fully compatible with sovereign lease arrangements, because the host state's sovereignty over the relevant territory is not extinguished; it is exercised through the treaty that creates the lease.[7] The host state has not surrendered its territory; it has chosen, in the exercise of its full governmental authority, to make it available for a defined purpose on agreed terms. This is itself an expression of territorial sovereignty, not a derogation from it.

For the host state's Finance Ministry, the sovereign lease generates a stream of revenues from territory that may previously have been generating no economic return whatsoever. Lease payments, royalties on economic activity within the Startup State, dividends from equity participation in the governing entity, and indirect economic benefits flowing from employment, infrastructure development, and trade with the new country all represent genuine additions to the host state's economic position, not transfers from a stronger party to a weaker one.

12.2.2 Avoiding the Coercive Precedent

The Startup States model is explicit and deliberate in its rejection of the coercive lease as a historical precedent. The most instructive cautionary example is the British lease of the New Territories of Hong Kong in 1898,

extracted under the Convention for the Extension of Hong Kong Territory in the scramble for concessions that followed China's defeat in the war with Japan of 1894 and 1895. That transaction was, as Chapter Four examined, precisely what the Latin maxim describes: a pactum iniquum, an unequal agreement concluded under compulsion rather than consent. China regarded it as one of the defining humiliations of the century of national degradation, and the resentment it generated shaped the political dynamics surrounding the 1997 handover in ways that contributed directly to the eventual erosion of Hong Kong's autonomy.

The maxim *ex injuria jus non oritur*, no right arises from injustice, is not merely a legal formula; it is a practical observation about the durability of arrangements built on coercion.[8] An arrangement that is consented to freely, on terms that genuinely benefit both parties, is durable because the parties to it have every reason to honour their commitments. An arrangement that was extracted under duress is fragile because the coerced party retains a permanent incentive to undo it whenever it acquires sufficient power to do so.

The Startup State's sovereign lease must therefore be negotiated on entirely different premises. The host state must be a genuine consenting party with the full authority and the practical freedom to refuse the arrangement if it chooses. The terms must be genuinely mutually beneficial, not superficially consensual whilst structurally exploitative. The due diligence conducted on the host state must satisfy the founding consortium that the host government is acting with proper authority, that its consent is informed and voluntary, and that the arrangement is compatible with the host state's constitutional order and domestic law.

12.2.3 Lease Duration and Legal Protections

The appropriate duration for a sovereign lease is long enough to provide the stability that the new country, its residents, and its investors require, but structured within the framework of the Vienna Convention on the Law of Treaties to maximise its legal protection.[9] In commercial real estate, ground leases of 99, 150, or even 999 years are well-established instruments that provide sufficient certainty for multi-generational investment whilst preserving the formal structure of leasehold rather than freehold ownership. The same duration ranges are appropriate for a sovereign lease.

The founding treaty should specify the lease duration explicitly and should include provisions designed to ensure that the arrangement sur-

vives changes of government in the host state. The principle of state succession in respect of treaties, codified in the Vienna Convention on Succession of States in Respect of Treaties of 1978, provides a legal basis for the continuity of treaty obligations across governmental transitions, but the founding treaty itself should make this continuity explicit and should provide remedies, including access to international arbitration, in the event that a successor government attempts to repudiate the arrangement.

The lease should also be structured to avoid any provision that could be construed as enabling the host state to modify the terms of the arrangement unilaterally, or to terminate it on grounds that are not clearly specified in the treaty.[10] The Próspera experience, in which a constitutional amendment and enabling legislation were repealed by subsequent legislation and then invalidated by the Constitutional Chamber of the Supreme Court, illustrates what happens when the legal basis for a governance arrangement is grounded in domestic statutory authority rather than in an international treaty that sits above the domestic constitutional order.

Whatever its length, a lease of territory to a state raises the question of what happens when the term ends. The reversion of title and the reversion of government are different things. The host state's ownership of the land can revert at term without disturbing anything but the parties' finances, and the new country would then govern the territory under a renewed lease or as purchaser of the title. A reversion of governmental authority would be different in kind, because it would end the existence of a state. The New Territories lease ran its course in 1997, and the whole of Hong Kong returned to Chinese administration under the Joint Declaration of 1984; but Hong Kong was a dependent territory, not a state, and no state has been extinguished by the expiry of a lease.[11] A prudent founding treaty therefore treats the end of the term as the occasion for a negotiation, not a dissolution: it requires the parties to negotiate renewal, or the purchase of the reversion, well before the term expires, and it records that the expiry of the lease does not of itself affect the new country's status as a state.

12.3 The Condominium as an Alternative Framework

Where a simple sovereign lease does not fully address the host state's concerns about the perception of territorial alienation, the condominium offers an alternative framework that has a well-established precedent in

international law and that may be more politically sustainable in some contexts.[12]

A condominium is an arrangement under which two or more states exercise governmental authority jointly over the same territory. Unlike a cession, under which title is transferred, or a lease, under which one party grants another the right to exercise authority to the exclusion of the first, a condominium preserves the formal legal personality of both parties whilst allocating specific governmental functions between them by treaty. The host state exercises some governmental functions within the defined territory; the Startup State exercises others.

12.3.1 Historical Precedents

The practice of condominium, though not common in the modern international system, has ample historical precedent.[13] The Anglo-French New Hebrides, which became the independent Republic of Vanuatu in 1980, operated under a joint British and French administration for nearly three-quarters of a century. The arrangement was complex and in some respects dysfunctional, with parallel administrative, judicial, and policing systems that created considerable inefficiency for the territory's residents. But it demonstrated that the underlying legal concept was workable: two states could agree to share governmental authority over a defined territory without either party's legal personality being extinguished.

Andorra, one of the world's most durable and commercially successful microstates, has operated under a structure of shared overlordship since the thirteenth century; strictly a co-principality rather than a condominium, it has been an independent state under its own constitution since 1993. Its two co-princes, the President of the French Republic and the Bishop of Urgell in Spain, exercise a largely ceremonial form of joint authority, with the practical governance of the territory vested in an elected parliament. What began as a mediaeval compromise to manage a disputed frontier has evolved into one of the most stable and prosperous small jurisdictions in the world, with a per capita income that exceeds most of its larger neighbours. Andorra demonstrates that a condominium structure, if properly designed and sustained by the genuine mutual interest of its sponsors, can endure across centuries and across profound changes in the nature of the parties that created it.

Neutral Moresnet, a tiny condominium on the Belgian-German border that existed from 1816 until 1920, offers a more instructive cautionary example.[14] Created by the boundary treaty concluded at Aachen in 1816,

after the Congress of Vienna, when the Netherlands and Prussia could not agree over a zinc-rich region, it functioned effectively as a haven of low taxation and minimal regulation for over a century, attracting commercial activity and generating prosperity for its small population. Its limitation was the absence of a long-term legal framework capable of securing its status against the geopolitical pressures of the First World War period. It was annexed to Belgium under the Treaty of Versailles in 1919. For Startup States, Moresnet illustrates both the commercial viability of a jointly administered small territory and the importance of treaty protections designed to withstand geopolitical pressure.

12.3.2 Layering Governmental Authority

The condominium model's most important practical feature is its capacity to layer governmental authority: to allocate different governmental functions between the host state and the Startup State by reference to subject matter, person, or function, rather than treating governmental authority as a binary choice between full retention and full transfer.

The host state might, for example, retain criminal jurisdiction over its own nationals who are present within the Startup State's territory, whilst the Startup State exercises primary competence over economic regulation, business registration, civil matters, and local governance.[15] The host state might retain control over external border management for the Startup State's territory, whilst the Startup State issues its own travel documents and manages its own immigration policy for non-nationals seeking to enter. The host state might retain authority over matters of national security whilst the Startup State manages its own police and civil order arrangements.

This layering allows the condominium to be calibrated to the specific concerns of the host state, rather than requiring a binary choice that may be politically impossible for the host government to accept. A host state that is unwilling to agree to a full transfer of governmental authority but is willing to agree to a carefully structured allocation of specific functions may be a viable partner for a condominium arrangement even if it would not support a simple lease arrangement. The key requirement is that the allocation of functions be specified in the founding treaty with sufficient precision that each party knows, without ambiguity, which governmental authorities it exercises and which it does not.

12.4 Choosing the Right Host State

The success and legitimacy of a Startup State are inseparable from the character, stability, and bona fides of its host country.[16] No matter how clean the land title, no matter how carefully drafted the founding treaty, if the host government is not acting with proper authority, if its consent is coerced or uninformed, or if the arrangement is not compatible with its domestic constitutional order, the entire edifice rests on an unstable foundation. The founding team's due diligence on the host state is therefore every bit as important as its due diligence on the land.

The selection of a host state involves a genuine tension that the Startup States framework must address honestly. On the one hand, a highly stable and well-governed host state is the ideal partner from the perspective of legal certainty and institutional durability: its commitments are credible, its courts are independent, and its constitutional order is unlikely to be upended by a change of government. On the other hand, such a state may have relatively little incentive to enter into a Startup State arrangement, because its governance is already functioning well and its fiscal position is secure.

States that are more economically distressed or institutionally fragile may be more motivated to explore the Startup State proposition, because the potential benefits of co-creating a new jurisdiction are more compelling relative to the alternatives available to them. But fragility introduces risk: a government that changes frequently, that has a weak constitutional tradition, or that operates in a region of geopolitical instability may struggle to honour commitments over the multi-generational timeframes that a Startup State arrangement requires.

The optimal host state for a Startup State arrangement is therefore neither the most stable nor the most distressed, but one that combines sufficient institutional stability to make its commitments credible with sufficient economic or strategic motivation to make the arrangement genuinely attractive.[17] Credibility is not identical to stability: a state with a strong rule-of-law tradition and independent courts may offer more credible commitments than a formally stable state whose commitments are honoured only when politically convenient. And motivation does not require desperation: a well-governed state with abundant territory and limited economic diversification may be a highly motivated partner for a well-structured Startup State arrangement.

12.4.1 The Bona Fides Assessment

Before concluding the founding treaty, the founding consortium must conduct a thorough assessment of the host government's bona fides: its authority to conclude the arrangement, the genuineness of its consent, the compatibility of the arrangement with its domestic constitutional order, and the integrity of the negotiating process. This assessment should draw on independent legal opinions in the applicable domestic jurisdiction, on assessments of the political sustainability of the arrangement within the host state's domestic politics, and on due diligence regarding the personal integrity of the government officials involved in the negotiation.

The Próspera case is instructive here as well. The ZEDE legislation that created the framework for Próspera was enacted during the presidency of Juan Orlando Hernández, who was subsequently convicted in the United States on drug-trafficking and weapons charges.[18] Whatever the legal validity of the ZEDE framework itself, the association of the enabling legislation with a subsequently discredited government was a severe reputational liability that made the arrangement politically vulnerable even before the constitutional challenge was mounted. A founding team that had conducted thorough bona fides due diligence on the host government at the time of the arrangement's establishment would have identified this risk at a point when it could still have been addressed.

The founding team should also assess whether the host government is acting with a genuine mandate from its domestic constituency for the Startup State arrangement. Democratic legitimacy is not always a legal requirement for treaty-making, but it is a practical requirement for the sustainability of the arrangement. A government that has secured the arrangement without public debate, or that is acting in a manner that is clearly contrary to the wishes of its population, is creating a political vulnerability that future governments will be motivated to exploit. The higher the degree of genuine democratic support for the arrangement within the host state, the more durable it is likely to be.

12.5 Shared Upside, Shared Protection

One of the most important structural innovations of the Startup States model is its insistence that the host state must have a genuine financial stake in the success of the new country.[19] This is not merely an ethical preference; it is a structural requirement for the sustainability of the

arrangement. A host state that participates in the founding of a new country but receives no continuing financial benefit from its success has no material incentive to protect and defend the arrangement when domestic political pressures mount.

The experience of Próspera illustrates this structural weakness with particular clarity. Honduras enacted the ZEDE framework that enabled Próspera but held no equity stake in the commercial entities that administered it. The economic benefits that flowed to Honduras from Próspera's operation were primarily indirect: employment for some Honduran workers, some tax revenues from businesses operating in the zone, and some infrastructure investment in the surrounding area. None of these benefits was structured as a direct, ongoing financial return to the Honduran state from the success of the project. When a new government decided that the political costs of maintaining the ZEDE framework outweighed its benefits, there was no direct financial constituency within the state apparatus arguing for its preservation.

The Startup States model requires that the founding treaty embed a direct, ongoing financial relationship between the host state and the new country that gives the host government a continuing, material incentive to protect the arrangement.[20] This might take the form of a fixed annual lease payment; a revenue-sharing arrangement based on the new country's economic activity; equity participation in the commercial entities that provide governmental services within the new country; or some combination of these elements. The specific structure will vary with the circumstances of each arrangement, but the underlying principle is constant: the host state must benefit financially from the new country's success, not merely tolerate it.

Radical transparency is the necessary complement to shared financial interest. The founding team must be explicit with the host government, from the very first conversation, about the objective of the arrangement: the co-creation of a new, fully independent country with its own recognised legal standing under international law. Any perception of a hidden agenda, any suggestion that the new country is pursuing independence through incremental steps that were not disclosed at the outset, will generate the political hostility that undermines the arrangement's durability. The Trojan Horse problem examined in Chapter Four is not merely an ethical concern; it is a practical one.

12.6 Citizen Selection and Security

The composition of the new country's initial population is as important to the sustainability of the founding arrangement as the quality of its land title or the structure of its host state relationship.[21] The Startup State is not an open frontier to be occupied by whoever arrives first. It is a carefully designed community, founded on the principle of voluntary affiliation, and its initial citizens must be selected through a process that is rigorous, transparent, and calibrated to serve both the new country's long-term interests and the host state's legitimate security concerns.

The rationale for rigorous citizen selection is not elitist exclusion but institutional survival. A new country that admits individuals with criminal backgrounds, extremist affiliations, or fraudulent intentions creates reputational and security risks that can undermine the entire project. The history of alternative governance experiments includes too many cautionary examples of communities that were colonised by actors with hidden agendas, from cult leaders to fraudsters to ideological extremists, whose presence transformed promising experiments into scandals or disasters.

The screening process for initial citizens of a Startup State should exceed the standards applied by even the most rigorous citizenship-by-investment programmes currently operating. It should include thorough background checks, source of funds verification, assessment of criminal and regulatory history, and evaluation of alignment with the new country's founding values. The process should be conducted by qualified professionals, documented in a manner that can be audited, and structured to be defensible before the host state's authorities and before international observers.

For the host state, rigorous citizen selection is one of the most compelling features of the Startup State model. In the conventional order of international relations, neighbouring states are a matter of geography and history; a government cannot choose its neighbours. A host state that co-creates a Startup State has the unprecedented opportunity to help design its new neighbour: to ensure, through the founding treaty, that the citizens admitted to the new country are vetted to the highest standards, that extremist and criminal actors are excluded, and that the new community is constituted in a manner that poses no security threat to the host state or its population.[22]

12.7 Cultural Sensitivity and Diplomatic Tact

Ethical land procurement is not only a matter of legal due diligence and financial structuring. It also requires cultural sensitivity and diplomatic tact in the relationship with the host state and with the communities that exist in and around the proposed territory.

The founding consortium is not arriving as conquerors or as foreign investors seeking to extract value from a weaker party. It is arriving as a prospective partner in a genuinely mutual enterprise. The demeanour, the language, and the practical gestures through which the founding team conducts its relationships with the host state and its population are as important to the long-term sustainability of the arrangement as the formal legal instruments. An arrangement that is legally perfect but conducts itself with cultural arrogance or diplomatic insensitivity will generate popular resentment that undermines its political sustainability over time.

Practical gestures of cultural respect can take many forms.[23] The new country might adopt the host state's language as a co-official language. It might incorporate elements of the host state's cultural heritage into its public institutions and civic symbols. It might establish preferential arrangements for the host state's citizens in terms of employment, residency, and business registration. It might commit, through the founding treaty, to investment in cultural and educational infrastructure that benefits the host state's broader population. These are not merely courtesies; they are the fabric of the relationship between the new country and the community from which it emerges.

None of this implies that the new country should sacrifice its own institutional integrity or constitutional design to accommodate the preferences of the host state. The new country's governing framework must be its own, reflecting the values and aspirations of those who choose to affiliate with it. But there is no conflict between having a distinct and coherent constitutional identity and conducting the relationship with the host state and its population with genuine respect, genuine generosity, and genuine acknowledgment of the obligations that flow from the founding arrangement.

12.8 The Bankability Test

The ultimate practical test of ethical land procurement and partnership is what might be called the bankability test: whether the arrangement, as structured, is capable of commanding the confidence of sophisticated

capital markets, institutional investors, and international insurers.[24] If the arrangement passes this test, it is, almost by definition, ethically sound as well as legally correct, because capital markets are extraordinarily rigorous in their assessment of title, due diligence, counterparty quality, and structural integrity. An arrangement that satisfies the demands of a sophisticated lender or institutional investor has necessarily addressed the legal and ethical dimensions that make it sustainable.

The bankability test requires, at minimum: clear and indefeasible title to the territory; a founding treaty that is validly concluded, publicly registered, and legally protected against unilateral modification; a host state counterparty whose authority, consent, and bona fides have been independently verified; a financial structure that provides the host state with genuine and ongoing material interest in the arrangement's success; a citizen selection process that is rigorous, transparent, and defensible before international scrutiny; and an institutional design that demonstrates genuine effectiveness in the exercise of governmental authority from the first day of operation.

A Startup State that meets this standard has not merely satisfied the ethical requirements of the founding process. It has built an institutional foundation that commands the confidence of the most demanding participants in the international financial system, creating the conditions for the sustained investment and engagement that a new country needs to flourish. Ethical land procurement is not a constraint on ambition; it is the condition under which ambition becomes fundable.

12.9 From Procurement to Partnership

The framework examined in this chapter, clean title, the sovereign lease or condominium as the primary acquisition instrument, careful host state selection, shared financial interest, rigorous citizen vetting, cultural sensitivity, and the bankability test as the ultimate benchmark of adequacy, constitutes the ethical and practical foundation on which a Startup State can be built.

The transition from procurement to partnership is not a sharp boundary. The founding treaty that acquires the territory is also the instrument that establishes the long-term relationship with the host state. The due diligence that confirms clean title also initiates the ongoing transparency that sustains the arrangement across governmental transitions. The citizen selection process that vets the initial population also establishes the

standards and the values that will define the new country's civic culture over generations.

The chapters that follow examine what is built on this foundation: the features, prototypes, and archetypes of Startup States as functioning governmental entities; the lifecycle of their development from provisional governance to full institutional maturity; the governance models and financial structures through which they sustain themselves; and the value they create for each of the constituencies they serve. The foundation must be clean before any of that construction can begin, and the principles examined in this chapter are the specifications to which that foundation must be built.

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NOTES

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INTERLUDE III

A Letter to the Readers of Farewell to Westphalia

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Dear Reader,

It is with genuine respect and deep intellectual admiration that this letter is written to you as a fellow traveller in the ongoing project of reimagining human governance for the twenty-first century. Farewell to Westphalia, the ambitious and often beautiful work by Hope and Ludlow, confronts questions that far too many institutions and thinkers have avoided for generations. It dares to say aloud that the modern nation-state, as conceived in the arrangements of 1648, may no longer represent the optimal institutional framework for a global civilisation whose technological, economic, and social realities have changed beyond recognition.

Their insistence that governance is a design problem, that centralisation breeds fragility and corruption, that decentralised yet co-operative systems offer a superior foundation for human flourishing, and that cryptographic technologies open unprecedented possibilities for transparency, accountability, and voluntary co-ordination: all of this resonates profoundly with the core philosophical commitments of the Startup States framework. In many respects, Farewell to Westphalia describes a destination toward which a more mature civilisation might eventually travel.

Where Startup States respectfully but decisively diverges is not in aspiration but in architecture. Farewell to Westphalia paints an inspiring portrait of post-state governance rooted in blockchain communities, decentralised autonomous organisations, and distributed co-ordination mechanisms. Yet its proposals, precisely because of their radical moral

clarity, leave largely unresolved the institutional realities that ultimately determine whether any governance system can endure. How is binding authority established? How are borders, jurisdiction, and territory defined? How is treaty-making capacity acquired? How does an entity secure recognition, diplomatic personality, and a lawful monopoly on the use of force within its territory? How are disputes resolved when physical land, resources, and populations are at stake?

These questions are not peripheral. They are the difference between governance as an intellectual proposition and governance as a lived system. And they cannot be answered by technical architecture alone, however elegant. They require engagement with the existing international legal order: with the law of treaties, with the Montevideo criteria for statehood, with the recognition practices of UN member states, and with the institutions whose membership and endorsement determine whether a polity can function in the world as it actually is.

The Startup States model begins precisely where these questions must be answered. It does not attempt to leap beyond the international legal order; it works deliberately within it, seeking to transform it from within. It recognises that the Westphalian architecture of territorial states is not an obstacle to human freedom but the most successful framework yet devised for managing relations among large human communities in conditions of imperfect information, competing interests, and enduring conflict. It is not a perfect framework. But it has endured because it solved real problems, and those problems have not disappeared.

At the same time, it would be a grave error to dismiss the legacy of the Peace of Westphalia as merely a historical failure. The settlements of 1648 were among the most successful peace technologies ever devised. They ended decades of religious annihilation across a continent and created a framework in which plural societies could coexist without perpetual war. The recognition of the Dutch Republic as a consequence of those settlements stands as a particular achievement: a freedom-minded, commercially vibrant, intellectually brilliant society was given the institutional standing to flourish, to trade, and to resist imperial domination in ways that profoundly shaped the subsequent development of human liberty. Westphalia did not fail because it existed. It succeeded because it solved the problems of its age. Its limitation lies only in having been preserved long after those problems changed.

In this light, Startup States does not seek to overthrow the Westphalian inheritance. It seeks to extend and complete it: to apply its fundamen-

tal insight, that peace and co-operation require institutionally grounded agreement among entities that recognise each other's legitimacy, to new configurations of community and governance that the original framework did not anticipate.

The convergence between Startup States and the vision of Farewell to Westphalia remains profound despite these architectural differences. Both reject the inevitability of centralised authority as the only viable form of governance. Both prioritise human flourishing, voluntary association, transparency, and the reduction of corruption. Both are animated by the conviction that humanity can govern itself better than it currently does, and that deliberate institutional design is more likely to produce that improvement than the passive inheritance of arrangements designed for a different era.

Perhaps the most honest formulation is this: Farewell to Westphalia articulates the ideals of a future civilisation, while Startup States constructs the mechanisms by which that civilisation may safely and lawfully begin to emerge. Not by abandoning the institutional scaffolding of the nation-state before something more durable has been built, but by adding new kinds of nations to the existing system: nations designed by consent, governed by transparency, and committed to the progressive development of the international order rather than to its disruption.

Whether that progress arrives through the bold decentralised visions championed in Farewell to Westphalia or through the lawful creation of new countries under the Startup States model, every step that expands human liberty, strengthens human dignity, and improves the quality of governance for those who live within it moves the world in the right direction. That shared commitment is the strongest possible foundation for the conversation between these two projects.

With sincere respect and enduring optimism for what lies ahead.

PART FOUR

Building the Startup State



CHAPTER 13

Features, Prototypes, and Archetypes

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The preceding three chapters of Part Three established the legal foundation on which a Startup State is built: the Montevideo criteria and the instruments of international law that give a new country its formal standing, the mechanics of recognition and the protective doctrine of estoppel, and the ethical and practical requirements for acquiring the territory on which the new country will sit. Those chapters addressed the conditions of validity. This chapter, opening Part Four, addresses the conditions of design.

A Startup State that satisfies every legal requirement for valid formation is not yet a country in any meaningful sense. It is a legal framework in search of an institutional reality. The transition from legal validity to operational existence requires deliberate choices about what kind of country this will be, what governance model it will adopt, how it will sustain itself financially, what it will offer to those who choose to affiliate with it, and how it will position itself within the international system. These are the questions of features, prototypes, and archetypes: the design decisions that transform an abstract legal structure into a functioning polity with a distinct identity and a credible value proposition.

The Startup State model is not a monolithic construct. It is a versatile framework within which a wide range of institutional designs are possible, each suited to different geographical contexts, different host state relationships, different economic strategies, and different communities of founding citizens. This chapter examines the defining features that all Startup States share, the major prototypical configurations in which those features can be assembled, the historical and contemporary antecedents that each prototype draws on, and the archetypes that emerge from com-

bining features and prototypes in response to specific opportunities and constraints.

13.1 Defining Features of All Startup States

Before examining the diversity of possible configurations, it is important to establish what every Startup State must have, regardless of its specific design. These are not merely aspirational characteristics; they are the features that distinguish a Startup State from the alternatives surveyed in Parts One and Two, and their presence in any specific case is the test of whether what is being described is genuinely a Startup State or something else.[1]

13.1.1 Treaty-Based Foundation

Every Startup State is founded through a treaty concluded between the host state and the founding consortium. This is the defining feature from which all others flow. The founding treaty is the instrument through which the new country acquires its territorial basis, its governmental authority, its recognition by the host state, and its capacity for international relations. It is also the instrument that distinguishes the Startup State from every other form of governance innovation: from subnational zones whose authority derives from domestic statutory delegation, from micronations that rest on unilateral assertion, from seasteads that lack any recognised governmental authority at all, and from the various illegitimate pathways that Part Two catalogued.

The treaty-based foundation means that the Startup State's legal existence is grounded in the highest available level of international legal protection from its first day.[2] Its territory is held under international treaty, not under a domestic concession that can be revoked by legislation. Its governmental authority is transferred by act of state, not delegated under a power that the delegating authority retains the right to withdraw. And its recognition is embedded in the founding instrument itself, not dependent on a subsequent political decision by a government whose preferences may change.

13.1.2 Full Independent Legal Personality

A Startup State possesses the full international legal personality of an independent country. It can conclude treaties on its own behalf.[3] It can send and receive diplomatic missions. It can participate in international organisations as a member. It can issue travel documents that are recog-

nised across the international system. It can establish its own monetary and fiscal regime. And it can govern its own affairs without reference to any superior authority: its governmental decisions are its own, not subject to review or override by the host state.

This feature is what separates the Startup State from a charter city, an autonomous zone, or a special economic zone, however innovative and commercially successful those arrangements may be. The structural ceiling that Chapter Four examined in detail applies to all of them. Only full independent legal personality, grounded in international law rather than in domestic delegation, provides the institutional permanence and the operational freedom that the Startup State model offers.

13.1.3 Opt-In Citizenship and Voluntary Affiliation

Every member of a Startup State's civic community is there by choice. Citizenship is not inherited by birth within the territory and is not assigned by the accident of parentage.[4] It is extended through an explicit affiliation process, accepted through an equally explicit act of acceptance, and sustained by the continuing consent of both the new country and the individual. Exit rights are clear, accessible, and genuinely available: a resident who wishes to leave may do so without penalty, without confiscation, and without the bureaucratic obstacles that make exit from most existing countries costly and slow.

This feature operationalises the Consensual Theory of Statehood in its most direct and personal form. The Startup State's civic community is composed of people who have chosen to be there, who have been vetted through a process that ensures alignment with the founding values of the new country, and who have accepted the obligations as well as the rights that membership involves. The result is a founding population with a depth of commitment and a quality of alignment that no country constituted by the accidents of birth and geography can match.

13.1.4 Designed Governance from First Principles

Every Startup State's governance framework is designed deliberately, from first principles, rather than inherited from historical accident or assembled through the accretion of centuries of political compromise.[5] The constitutional order, the legal code, the administrative structures, the dispute-resolution mechanisms, and the fiscal framework are all the product of explicit choices, made by the founding consortium in consul-

tation with the future citizens, and codified in instruments that are clear, accessible, and coherent.

This does not mean that Startup States reject the accumulated wisdom of existing legal traditions. A Startup State may adopt the common law tradition, or the civil law tradition, or a hybrid of the two, as the basis for its legal system; it may incorporate international best practice in corporate law, financial regulation, environmental protection, and human rights; and it may draw on the governance innovations developed by the most successful small jurisdictions in the world. What it does not do is inherit a legal system that was designed for different purposes, in a different era, for a different population, and then attempt to make it fit the needs of a community whose values and aspirations it was never designed to serve.

13.1.5 Investment-Grade Institutional Design

A Startup State is built to command the confidence of sophisticated capital markets from its first day of operation.[6] This means that its property rights are clearly defined and robustly enforceable. Its dispute-resolution mechanisms provide access to internationally recognised arbitral forums. Its fiscal framework is transparent, predictable, and resistant to retroactive alteration. Its regulatory environment is clear, consistent, and proportionate. And its institutional structures are designed for durability: capable of sustaining continuity of governance across changes of leadership, changes in the political environment, and the ordinary stresses of a young country's early development.

Investment-grade institutional design is not merely a commercial advantage; it is a constitutional commitment. A Startup State that is designed to attract capital, talent, and enterprise must be genuinely capable of protecting those who respond to that invitation. The confidence of investors, the commitment of residents, and the trust of international partners are all contingent on the quality and the consistency of the institutional environment. Building that quality in from the outset, rather than attempting to add it retrospectively, is one of the fundamental advantages that the deliberate design approach of the Startup States model provides.

13.2 Prototypical Configurations

Within the framework defined by these five universal features, a wide range of specific institutional configurations is possible. The following prototypes represent the major categories of Startup State design, distin-

guished primarily by the nature of the territorial arrangement with the host state, the economic strategy that the new country pursues, and the primary community of citizens it is designed to serve. These are not mutually exclusive: real Startup States will draw on elements from multiple prototypes, and the specific configuration of any given new country will be shaped by the particular opportunities and constraints of its founding context.

13.2.1 The Sovereign Lease Polity

The most straightforward prototype is a new country established on territory leased from a willing host state for a very long term, governed under a founding treaty that transfers full governmental authority to the new country for the duration of the lease whilst leaving ultimate title to the land with the host.[7] The territory is typically uninhabited at the time of the lease, or inhabited only by a small population that has consented to the arrangement, and is made available by the host state in return for a combination of financial consideration and the broader package of benefits examined in Chapter Twelve.

The sovereign lease polity is the configuration most directly analogous to the commercial ground lease model, and it offers the clearest possible expression of the Startup States model's core insight: that governmental authority can be separated from territorial ownership, and that the combination of full governmental independence with treaty-protected land tenure provides a stronger institutional foundation than either ownership without governance or governance without secure land tenure.

The Lateran Treaty model, examined in Chapter Eleven, represents the purest historical expression of this prototype: a new state established by bilateral treaty on defined territory, with the Vatican City exercising full independent legal personality within the limits of its small territory whilst the Holy See's relationship with the surrounding Italian state is governed by the treaty and subsequent concordats. The key difference in the Startup State version is the deliberate design of the new country's institutional framework and the explicit structuring of mutual benefit for the host state, rather than the resolution of a specific bilateral religious and political dispute.

13.2.2 The Condominium New Country

The condominium prototype, examined in Chapter Twelve, involves the joint exercise of governmental authority by the host state and the new

country over a defined territory, with specific governmental functions allocated between them by treaty.[8] This configuration is most appropriate where the host state has legitimate concerns about the perception of territorial alienation, or where layered governance structures are needed to manage the relationship between the existing population of the relevant territory and the new community that will be established within it.

The condominium prototype requires more complex institutional design than the sovereign lease polity, because the allocation of governmental functions between the two parties must be clearly specified and the mechanisms for managing disagreements between them must be robust. But it offers a political advantage that can be decisive in some contexts: the host state retains a formal role in the governance of the territory, which makes the arrangement easier to defend domestically and easier to sustain across changes of government.

Andorra provides the most instructive historical antecedent for this prototype.[9] Its co-princes exercise a largely ceremonial sovereignty, with real governmental authority vested in elected domestic institutions, but the formal structure of shared sovereignty has provided the political framework within which a highly successful and genuinely independent small country has developed over many centuries. The lesson for Startup State design is that the condominium structure does not preclude genuine independence; it simply requires that the allocation of authority be designed with sufficient care that the new country's governing institutions are genuinely capable of exercising their functions without reference to the co-sovereigns for routine matters.

13.2.3 The Compact of Free Association

The Compact of Free Association prototype draws on the model developed by the United States in its relationships with Palau, the Federated States of Micronesia, and the Marshall Islands.[10] Under a compact of free association, the new country exercises full internal self-governance and most of the attributes of independent statehood, whilst entering into a defined relationship with a larger partner state that covers specific matters of mutual interest, typically including defence, certain aspects of foreign affairs, and access to specified financial and economic arrangements.

The compact of free association offers a distinctive value proposition for a Startup State that is seeking to establish itself quickly and with maximum institutional support during its early years. The association with an established recognised state provides a measure of security and

legitimacy that a newly independent country would take many years to build on its own. The tradeoff is a degree of constraint on the new country's freedom of action in the specified areas of the association arrangement, which must be carefully calibrated to ensure that the new country's genuine independence is preserved in the areas that matter most to its founding community.

For the associated partner state, a compact of free association with a well-designed Startup State offers a different set of benefits from those associated with the sovereign lease or condominium models: less immediate financial return, but a durable diplomatic relationship and a degree of influence over the new country's development that can serve the associated state's strategic interests over the long term. The design challenge is to structure the compact so that the associated state's interests are genuinely served without the relationship becoming one of dependency or subordination of the kind that Chapter Nine identified as incompatible with the Startup States model.

13.2.4 The Innovation Jurisdiction

The innovation jurisdiction prototype is distinguished not primarily by the form of its territorial arrangement but by the economic and regulatory strategy that defines its purpose.[11] An innovation jurisdiction is a Startup State whose founding vision centres on the creation of a governance environment specifically calibrated for a defined class of economic activity: financial services, biotechnology, artificial intelligence, digital assets, space industry, longevity research, or some other frontier domain where the gap between the pace of innovation and the responsiveness of existing regulatory frameworks has created a persistent institutional opportunity.

The innovation jurisdiction draws on a tradition of regulatory innovation that runs through the history of international financial centres: from the free ports of the mediaeval Hanseatic League through the offshore financial centres of the twentieth century to the more recent experiments with regulatory sandboxes and fintech innovation zones. What distinguishes the Startup State version of this model from its predecessors is full independent legal personality: the innovation jurisdiction is not a zone within an existing country whose rules can be changed by the parent government, but an independent country whose regulatory framework is protected by international treaty and designed for permanence.

The competitive advantage of the innovation jurisdiction rests on four foundations: legal certainty, regulatory responsiveness, institutional

credibility, and the network effects that flow from attracting a critical mass of the relevant industry to a single jurisdiction.[12] Legal certainty means that the rules governing the relevant activity are clear, accessible, and not subject to retroactive alteration. Regulatory responsiveness means that the regulatory framework is designed to evolve in dialogue with the industry it governs, incorporating the insights of practitioners and the lessons of experience rather than lagging behind innovation by years or decades. Institutional credibility means that the regulatory and judicial institutions of the innovation jurisdiction are genuinely independent and genuinely effective, capable of enforcing their rules and adjudicating disputes in a manner that commands the confidence of sophisticated participants. And network effects mean that the concentration of the relevant activity within the jurisdiction creates knowledge, talent, and capital flows that reinforce the jurisdiction's competitive position over time.

13.2.5 The Community Republic

The community republic prototype represents the configuration most directly aligned with the Network State model's founding vision: a Startup State established specifically to give physical and legal expression to an existing digital community of people who share a common set of values, a common vision of how they want to live, and a common commitment to building a country that reflects both.[13]

The community republic begins where the Network State model leaves off. It takes the social capital, the institutional design work, and the founding commitment of a digitally organised community and converts them into a legally recognised independent country through the treaty-first approach of the Startup States framework. The community provides the founding population; the founding treaty provides the legal basis; and the combination of the two produces a genuinely new country whose legitimacy derives both from the genuine consent of its members and from the proper legal instruments of international law.

This prototype requires the most careful attention to the citizen selection and vetting processes examined in Chapter Twelve, because the founding population is the primary source of the new country's institutional culture and its long-term legitimacy. A community republic whose founding population is deeply committed to the new country's values and genuinely aligned around its institutional design has the greatest possible advantage in the early years of its development: a civic culture of en-

gagement, innovation, and mutual accountability that is extraordinarily difficult to build in a country constituted by the accidents of history.

13.3 Historical Antecedents and Proto-Startup States

The design space of Startup States is not entirely without historical precedent. Several entities from the past exhibit features that anticipate the model, though none fully realised it, whether because the legal framework of their era did not permit full independent legal personality to be constituted by bilateral treaty, or because they lacked the deliberate institutional design that distinguishes the Startup States model from its antecedents.[14]

13.3.1 The International Zone of Tangier

Tangier's international zone period, from 1923 to 1956, represents one of the most instructive proto-Startup State experiments in the twentieth century.[15] Governed by an international administration involving multiple European powers, Tangier functioned as a free port with a genuinely liberal economic regime: no tariffs on imports or exports, no exchange controls, no income or revenue taxes, and a policy of unrestricted freedom of establishment. The result was a magnet for international business and a genuinely diverse cosmopolitan community, demonstrating the commercial viability of a deliberately designed low-tax, high-freedom jurisdiction in a way that no other experiment of the era matched.

Tangier's limitations as a Startup State antecedent are instructive. It was administered by a committee of external powers rather than governed by its own independent institutions, which meant that its regulatory framework reflected the competing interests of its administrators rather than the deliberate design choices of its own community. It lacked the full independent legal personality that the Startup States model requires. And it was ultimately absorbed into the newly independent Kingdom of Morocco in 1956, demonstrating the vulnerability of arrangements that depend on the continuing consensus of external powers rather than on treaty-based protections of the kind examined in Chapters Ten through Twelve. But its commercial achievements, its cosmopolitan civic culture, and its demonstration that deliberately designed governance can attract capital and talent from across the world prefigure the Startup States model in ways that deserve recognition.

13.3.2 The Free City of Danzig

The Free City of Danzig, established under the Treaty of Versailles in 1920 and placed under the protection of the League of Nations, represents a more complex and ultimately tragic prototype.[16] Its constitutional status was carefully designed to balance multiple competing interests: the city's predominantly German-speaking population, Poland's need for secure access to the sea, and the League's interest in maintaining a stable settlement. It possessed its own legislature, its own government, and its own currency, although Poland conducted its foreign relations.

Danzig's failure was the failure of its protective framework rather than of the concept of a treaty-established independent city-state. The League of Nations lacked the enforcement capacity to protect Danzig against the political pressure of the Third Reich, and the city was absorbed into Germany in 1939 following the German invasion of Poland. The lessons for Startup State design are specific: the protective framework for a new country must be robust enough to survive the political pressures that major powers can bring to bear; the founding treaty must be designed not only for the co-operation of its initial parties but for durability against adverse geopolitical conditions; and the security arrangements of the new country must be addressed explicitly in the founding instruments.

13.3.3 Monaco: The Durable Small Country

Monaco, the Principality whose legal and institutional arrangements are personally familiar to the author of this book, represents perhaps the most successful example in history of a small, deliberately designed jurisdiction that has achieved both full independent legal personality and extraordinary commercial and institutional success.[17] Its relationship with France, governed by the Treaty of Friendship of 1918 and subsequent bilateral instruments, provides a model of how a small independent country can maintain genuine sovereignty whilst sustaining a close and mutually beneficial relationship with a much larger neighbour.

Monaco's governance model is not a template for Startup States in any simple sense: it is a monarchy, its institutions have developed over centuries, and its particular success reflects a unique combination of historical circumstances, geographical advantages, and institutional choices that cannot be replicated. But its demonstration that a country of about two square kilometres can sustain full independent legal personality, attract extraordinary concentrations of capital and talent, and maintain institutional quality at the highest level is a standing refutation of the

claim that very small countries cannot function effectively as independent states. The difference in property values between Monaco and the adjoining French commune of Beausoleil is itself an illustration of the value that institutional design and recognised sovereignty can create.

13.3.4 The Hanseatic Free Cities

The free cities of the Hanseatic League offer the deepest historical precedent for the innovation jurisdiction prototype.[18] At their height in the fourteenth and fifteenth centuries, the Hanseatic cities represented a network of commercially sophisticated jurisdictions that combined genuine municipal self-governance with a shared commercial legal framework and mutual defence arrangements. Their distinctive contribution to the governance innovation tradition was the insight that commercial law can be designed as a competitive advantage: that a jurisdiction whose legal framework is genuinely calibrated to serve the needs of merchants, manufacturers, and traders will attract those activities in preference to jurisdictions whose legal frameworks are oriented toward other purposes.

The Hanseatic free cities did not possess the full independent legal personality of modern states, and their governance frameworks were not constituted by international treaty in the contemporary sense. But their demonstration that deliberately designed commercial governance can create durable competitive advantages, and that networks of such jurisdictions can develop collective institutions and shared legal frameworks that serve their common interests, anticipates the Startup States model in ways that the innovation jurisdiction prototype makes explicit.

13.4 The Comparative Advantage of Full Sovereignty

A recurring theme in the examination of both prototypes and historical antecedents is the decisive institutional advantage that full independent legal personality provides over every form of delegated, subnational, or informal governance arrangement. This advantage is worth making explicit, because it is the core of the case for the Startup States model over all the alternatives examined in Part Two.

The advantage is most clearly visible in comparison with the special economic zone and charter city models that represent the current frontier of governance innovation short of full independent statehood.[19] Special economic zones and charter cities have demonstrated, in specific contexts, that deliberately designed governance environments can generate substantial economic returns. The Shenzhen Special Economic Zone

transformed from a fishing village to one of the world's major manufacturing and technology centres within a single generation. The Dubai International Financial Centre established a common law jurisdiction within a civil law country that attracted a substantial portion of the region's international financial activity. These are genuine achievements, and the Startup States model draws on the lessons they embody.

But the structural ceiling that Chapter Four identified is real and binding. Every special economic zone and charter city operates at the sufferance of its host state. Its legal framework can be modified by the host state's legislature. Its governance can be overridden by the host state's courts. Its commercial advantages can be eroded by changes in the host state's tax or regulatory policy. And its very existence can be terminated by a change in the host state's political direction. The Próspera experience provided the most recent and dramatic illustration of this vulnerability, but it is not exceptional; it is the structural condition of every subnational governance arrangement.

A Startup State does not face this constraint. Its legal framework is protected by international treaty, not by domestic legislation. Its governance is its own, not subject to override by a superior authority.[20] Its commercial advantages, once established in the founding instruments, can be altered only by the treaty amendment process that requires the consent of both parties. And its existence, once recognised by the international community, cannot be terminated by a unilateral decision of the host state.

This is not a marginal advantage. It is the difference between building on rock and building on sand. The most successful governance innovations in history have been those that combined institutional quality with genuine permanence: the rule of law protected not by the discretion of those who hold power but by institutional arrangements that constrain the exercise of power and provide durable protection for those who rely on the institutional framework. The Startup States model delivers that combination.

13.5 From Archetype to Blueprint

The archetypes that emerge from the combination of the five universal features, the five major prototypes, and the historical antecedents examined in this chapter are not rigid templates. Each specific Startup State will be designed to reflect the particular circumstances of its founding: the specific territory available, the specific relationship with the host

state, the specific community of founding citizens and their particular values and aspirations, and the specific economic and strategic context in which the new country will operate.

What the archetypes provide is a framework for thinking clearly about the design choices that every founding team faces.[21] Should the new country be constituted by sovereign lease or condominium? Should its economic strategy focus on a specific innovative sector or on a broader range of activities? Should it seek the closest possible integration with its host state or the clearest possible institutional independence? Should it prioritise attracting an existing digital community as its founding population or building its civic community from scratch around a specific set of values and opportunities?

None of these questions has a universal answer. Each requires a careful assessment of the specific opportunities and constraints of the founding context, an honest evaluation of the risks and benefits associated with each option, and a coherent vision of what the new country is trying to achieve and for whom. The chapters that follow examine several of these design questions in greater depth: the lifecycle of a Startup State's development from founding through early maturity, the governance models and public service frameworks that different archetypes can adopt, the financial models through which they sustain themselves, and the security and neutrality arrangements that protect their existence and their relationships with the international community.

The fundamental insight is simple, though its implications are profound: the Startup State model is not a single design but a design space, and the diversity of configurations it permits is a feature rather than a weakness. Different communities, different territories, and different institutional visions can all find expression within the framework, provided they adhere to the five universal features and the legal and ethical foundations established in Part Three. The chapters ahead explore that design space in the detail that a founding team would need to build within it.

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NOTES

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3 On international legal personality and its practical manifestations, see: Crawford, *The Creation of States in International Law*, pp. 3-12; and Malcolm Shaw, *International Law*, 9th edn (Cambridge: Cambridge University Press, 2021), pp. 156-165.

4 On opt-in citizenship and the Consensual Theory of Statehood, see Chapters 2 and 3 of this volume; and Michael Walzer, *Spheres of Justice* (New York: Basic Books, 1983), Chapter 2.

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12 On the competitive foundations of the innovation jurisdiction, see: Michael E. Porter, *The Competitive Advantage of Nations* (New York: Free Press, 1990), Chapter 4; and Xavier Sala-i-Martín and Elsa V. Artadi, "The Global Competitiveness Report," in Klaus Schwab (ed), *The Global Competitiveness Report 2004-2005* (World Economic Forum, 2004).

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14 On proto-Startup State antecedents, see: Brendan Simms, *Europe: The Struggle for Supremacy, from 1453 to the Present* (New York: Basic Books, 2013), Chapters 1-4; and John Julius Norwich, *A Short History of Byzantium* (London: Viking, 1997), Introduction.

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CHAPTER 14

The Startup State Lifecycle

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Chapter Thirteen presented the design space: the five universal features that every Startup State must possess, the five major prototypical configurations, and the historical antecedents that each prototype draws upon. This chapter addresses the temporal dimension that design thinking alone cannot capture: not what a Startup State is, but how it comes into being, develops, and matures over time.

A country is not a product to be launched at a fixed date and evaluated against a defined specification. It is an institution that accumulates legitimacy, capability, and social trust through a sequence of phases, each of which builds on the foundations laid by the previous one and creates the conditions for the next. Understanding that sequence, and designing each phase to succeed on its own terms whilst preparing the ground for what follows, is one of the most demanding and most consequential intellectual challenges that a founding team faces.

The lifecycle of a Startup State proceeds through six recognisable phases: pre-formation, foundational treaty and formal establishment, provisional governance, recognition-building, institutional maturation, and full sovereign integration. Each phase has its own objectives, its own critical success factors, its own characteristic risks, and its own institutional design requirements. None of them can be safely skipped, and the sequencing matters: attempting to secure broad diplomatic recognition before effective governance exists, or attempting to attract large-scale capital investment before the legal foundations are secure, produces exactly the kind of instability that the Startup States model is designed to avoid.

The lifecycle framework draws on a rich tradition of thought about institutional development.[1] Douglass North's analysis of how institutions evolve from informal constraints to formal rules backed by enforcement capacity, Elinor Ostrom's work on the conditions under which self-governing communities develop durable institutional arrangements, and the empirical literature on state-building and constitutional design all inform the understanding of how governance capacity is accumulated over time. What distinguishes the Startup State lifecycle from the institutional development of most existing countries is that it is deliberate: the founding team knows in advance what the lifecycle looks like, can design each phase to succeed, and can monitor progress against explicit milestones rather than discovering retrospectively what worked and what did not.

14.1 Phase One: Pre-Formation

The pre-formation phase is the most protracted and in many ways the most intellectually demanding phase of the lifecycle, because it requires the founding team to make the core design decisions that will shape everything that follows, before any of the legal instruments that give those decisions effect have been concluded.[2] It is the equivalent, in startup terms, of the period between the founder's initial insight and the closing of the first funding round: the phase in which the founding vision is clarified, the founding team is assembled, the market is researched, the product is designed, and the conditions for a successful launch are established.

The pre-formation phase has four essential components, each of which must be substantially complete before the formal founding process can responsibly begin.

14.1.1 Foundational Vision and Values

The founding team must develop a clear and coherent account of what the new country is for: what values it will embody, what community it will serve, and what institutional innovations it will introduce.[3] This is not a marketing exercise; it is an act of constitutional imagination, and the clarity and coherence with which it is executed determines the quality of every subsequent design decision. A founding team that has not resolved its core disagreements about governance philosophy, economic model, and civic values before beginning the formal founding process will find those disagreements erupting at the worst possible moments: in treaty negotiations with the host state, in constitutional drafting, in the design

of the citizen selection process, and in the early governance decisions of the new country's first institutions.

The foundational vision must also address the question of what the new country is not. The boundaries of the model are as important as its positive content: what governance approaches will not be adopted, what industries will not be permitted, what values will not be treated as compatible with citizenship. These negative commitments are not exclusionary in an arbitrary sense; they are the means by which a founding community defines its distinctive character and ensures that the new country develops in a direction that reflects the genuine aspirations of those who chose to create it.

14.1.2 Host State Identification and Preliminary Engagement

In parallel with the development of the foundational vision, the founding team must identify and begin preliminary engagement with potential host states.[4] The host state identification process is not simply a matter of finding a government willing to discuss the proposition; it is a rigorous assessment of the criteria examined in Chapter Twelve: institutional stability, constitutional authority to conclude the arrangement, genuine motivation, compatible interests, and the bona fides of the specific individuals involved in the government.

Preliminary engagement with a potential host state should be conducted with maximum discretion and with a clear understanding that the early conversations are exploratory rather than negotiatory. The purpose of this engagement is to assess whether there is a genuine basis for a formal negotiation, not to secure premature commitments that may prove impossible to honour or that may generate political problems for the host government before the arrangement has been properly designed. Many preliminary engagements will not proceed to formal negotiation; this is not a failure of the process but a function of the rigorous selection criteria that the Startup States model applies.

14.1.3 Institutional and Legal Design

The founding team must develop the institutional and legal design of the new country to a sufficient level of detail that it can be presented credibly to a potential host state, to prospective founding citizens, and to capital markets.[5] This is a substantial undertaking, drawing on expertise in constitutional design, administrative law, commercial law, financial regulation, and dispute resolution. The design work must address, at min-

imum: the structure of the new country's government and the allocation of authority among its branches; the framework of fundamental rights and obligations of citizens; the legal code governing commerce, property, and contracts; the regulatory framework for the economic activities the new country intends to attract; the fiscal framework including the tax or revenue model; and the dispute-resolution mechanisms through which legal claims will be adjudicated.

The design work at this stage is necessarily provisional: many of the most important design decisions will be made in dialogue with the founding citizens, in negotiation with the host state, and in response to the specific characteristics of the territory. But the founding team must have enough institutional design clarity to demonstrate, to all of its interlocutors, that it understands what it is building and that the building is sound.

14.1.4 Capital Formation and Founding Consortium

The pre-formation phase must also address the question of how the founding process itself will be financed.[6] Founding a country requires substantial resources: legal and advisory fees for treaty negotiation and institutional design, acquisition costs for the territory, investment in initial infrastructure, working capital to sustain provisional governance during the early phase, and the diplomatic expenses of building the recognition base. The founding consortium must identify the sources of this capital, structure the governance of the consortium in a manner that aligns the interests of its members with the long-term success of the new country, and ensure that the capital structure does not create incentives or obligations that compromise the new country's ability to govern in the genuine interests of its citizens.

The capital formation structure is also one of the primary signals that the founding team sends to the international community about the nature of the enterprise. A founding consortium whose capital structure is transparent, whose investors are identifiable and have passed appropriate due diligence, and whose governance arrangements are clearly aligned with the long-term interests of the new country's citizens is signalling precisely the kind of institutional integrity that the Startup States model requires. A founding consortium whose capital structure is opaque, whose investors are anonymous, or whose governance arrangements suggest that the new country is primarily a vehicle for extracting returns for its founders is signalling the opposite, and no amount of legal sophistication in the

founding instruments will overcome that signal in the minds of the host government, prospective citizens, and third-state partners.

14.2 Phase Two: Foundational Treaty and Formal Establishment

The second phase begins when the founding team and the host state enter into formal negotiation of the founding treaty, and it concludes when that treaty is signed, ratified by both parties, and enters into force.[7] This is the phase in which the legal foundations examined in Chapters Ten through Twelve are implemented in the specific context of the particular new country being created. It is also the phase in which the abstract design work of the pre-formation phase is tested against the practical realities of the host state's constitutional requirements, the specific characteristics of the proposed territory, and the competing interests of all the parties involved in the negotiation.

The treaty negotiation is not simply a legal drafting exercise; it is a diplomatic and political process that requires skills of negotiation, persuasion, and institutional design that go well beyond legal expertise. The founding team must be able to explain, clearly and honestly, what it is proposing and why it serves the interests of the host state. It must be able to respond to the concerns and objections of the host government's various departments and constitutional advisers. It must be able to build the political coalition within the host government that will support the arrangement against domestic opposition. And it must be able to do all of this whilst maintaining the discretion and the care about process that the sensitive nature of the negotiation requires.

14.2.1 Constitutional Ratification in the Host State

One of the most important design decisions of the founding phase concerns the level of domestic constitutional approval that the founding treaty should receive in the host state.[8] As Chapter Twelve noted, the Próspera experience illustrates the risk of grounding a governance arrangement in statutory authority that can be repealed by a subsequent legislature. The founding treaty should, wherever possible, be ratified through the highest available level of domestic constitutional approval in the host state: ideally a constitutional amendment or a supermajority vote in the host state's legislature, rather than a simple majority statute that a subsequent government can reverse by ordinary legislative process.

The requirement for a high threshold of domestic constitutional approval is in the interests of all parties, including the host government.

A founding arrangement that enjoys broad constitutional support within the host state is more durable, generates less political risk for the host government, and signals to the international community that the arrangement reflects a genuine and stable commitment of the host state rather than the preferences of a particular administration. The short-term political cost of securing a constitutional amendment or a supermajority vote is almost always less than the long-term cost of an arrangement that can be undone by ordinary legislation.

14.2.2 International Registration and Initial Diplomatic Outreach

Simultaneously with the domestic ratification process in the host state, the founding team should register the founding treaty with the United Nations Secretariat under Article 102 of the UN Charter and begin the initial diplomatic outreach to prospective recognising states.[9] Registration with the Secretariat is both a legal requirement and a diplomatic signal: it makes the founding treaty a matter of public international record, establishes its date and content beyond dispute, and signals to the international community that the new country is conducting itself with the transparency and legal rigour that recognition requires.

The initial diplomatic outreach should be targeted, strategic, and realistic. The founding team should identify the states whose recognition is most important for the new country's specific interests and circumstances: the host state's immediate neighbours and regional partners, the states that are most active in the relevant economic sectors, and the states that have the strongest interest in the governance innovations the new country embodies. The objective at this stage is not universal recognition but a critical initial coalition whose recognition signals to the broader international community that the new country is a legitimate participant in the international order.

14.3 Phase Three: Provisional Governance

The third phase begins when the founding treaty enters into force and the new country formally comes into existence, and it extends until the new country has established effective governance across its full range of governmental functions.[10] This phase is in many respects the most demanding of the entire lifecycle, because it requires the founding team to transition from the role of designers and negotiators to the role of actual governors: to stand up functional institutions, to deliver real services to real people, and to demonstrate, through actual performance rather than

design documents and legal instruments, that the new country can do what it was created to do.

The provisional governance phase is characterised by resource constraints, institutional immaturity, and the need to establish credibility simultaneously in multiple dimensions: with the new country's founding citizens, with the host state, with the international community, and with the capital markets. The founding team must resist the temptation to prioritise any one of these audiences at the expense of the others.

14.3.1 The Minimum Viable Government

The concept of the minimum viable product, drawn from lean startup methodology, has a direct analogue in the context of provisional governance: the minimum viable government.[11] The minimum viable government is the smallest set of governmental functions that must be operational from the new country's first day in order to demonstrate that it is a genuine country rather than a legal fiction. It does not need to provide every service that a mature country provides; it does need to provide enough to establish, credibly, that it is exercising real governmental authority over a real territory with a real population.

The minimum viable government must be capable of: registering the new country's founding citizens and issuing identity documents; exercising control over the new country's borders and managing entry and exit; maintaining basic public order within the territory; providing the administrative infrastructure for business registration and property registration; adjudicating disputes through accessible dispute-resolution mechanisms; and representing the new country in its external relations with the host state and with the international community.

This is not an undemanding standard. Each of these functions requires institutional capacity that must be built, staffed, and operationalised before the new country opens its borders to its founding citizens.[12] The pre-formation phase's institutional design work should have produced the blueprints for each of these functions; the provisional governance phase is when those blueprints are turned into operating institutions. The founding team should plan for this transition in detail during the pre-formation phase, including the specific staffing requirements, the technology platforms, the physical infrastructure, and the governance procedures that each function requires.

14.3.2 Demonstrating Effectiveness

The Tinoco Arbitration's holding that sovereignty rests on the actual exercise of governmental authority rather than on external recognition is the most direct statement of the principle that governs the provisional governance phase: effectiveness must be demonstrated through action, not asserted through declaration.[13]

The founding team must identify, for each of the new country's primary governmental functions, what specific acts of governmental authority it will perform, how it will document those acts, and how it will make that documentation available to the international community. Border control actions, business registrations, property transfers, dispute resolutions, and the full range of civil status acts should all be recorded in ways that are accessible, verifiable, and capable of being relied upon by third parties in international legal and commercial contexts.

Effectiveness in the provisional governance phase is also the primary credential for the recognition-building that characterises the next phase. States considering whether to extend recognition to the new country will assess its effectiveness in exercising governmental authority as the primary factual basis for their decision. A new country that can demonstrate, through documented administrative practice, that it is genuinely governing its territory and population is in a fundamentally stronger position to secure recognition than one that can only offer legal instruments and governance documents.

14.4 Phase Four: Recognition-Building

The fourth phase, which overlaps with and builds upon the provisional governance phase, is focused on the systematic expansion of the new country's recognition base.[14] As Chapter Eleven established, recognition is a process rather than an event, and it is built through a sequence of bilateral engagements, treaty relationships, and institutional memberships that progressively embed the new country within the fabric of the international order.

14.4.1 Sequential Bilateral Engagement

The recognition-building strategy should be structured around a sequence of bilateral engagements, beginning with the states whose recognition is most immediately valuable and most readily achievable.[15] These will typically include the host state's immediate regional partners, whose

acquiescence to the founding arrangement is implicit in the host state's decision to conclude it, and who have the most direct interest in the new country's stability and good governance. They will also include states with which the new country has specific economic or institutional relationships: the primary sources of its founding capital, the primary markets for its exports, and the primary sources of the talent and enterprise it is designed to attract.

Each bilateral engagement should result in a tangible legal or diplomatic instrument: a bilateral recognition agreement, a treaty of friendship and commerce, a consular convention, or at minimum a formal exchange of communications that establishes the recognising state's position. These instruments serve both as recognition signals to the broader international community and as the legal foundation for the practical bilateral relationships that the new country needs to function.

14.4.2 Regional and Multilateral Integration

In parallel with bilateral engagement, the founding team should pursue integration into the relevant regional and multilateral frameworks.[16] Membership in regional bodies, specialised agencies, and functional international organisations serves multiple purposes simultaneously: it provides the practical infrastructure of international engagement, it signals to the broader international community that the new country is a responsible participant in the international order, and it creates the network of relationships through which bilateral recognition can be progressively extended.

The sequencing of regional and multilateral integration should be designed to maximise the clustering effect identified in Chapter Eleven: each new recognition or membership makes the next easier to secure, as other states and institutions are more willing to engage with an entity that has already been accepted by credible participants in the international order. The founding team should therefore prioritise, in the early phases of recognition-building, the engagements that provide the strongest credibility signal to the broadest range of subsequent recognising states.

14.4.3 United Nations Membership

United Nations membership represents the highest available signal of general acceptance by the international community, and the founding team should develop a clear strategy for pursuing it at the appropriate stage of the recognition-building phase.[17] As Chapter Ten noted, UN

membership is neither a prerequisite for statehood nor a guarantee of it; states may function effectively in international relations for extended periods without UN membership, and some have chosen to maintain non-membership as a matter of policy. But for a Startup State seeking to establish the broadest possible recognition base in the shortest possible time, UN membership is the most powerful single signal available.

The path to UN membership requires a Security Council recommendation, which means securing the support or at minimum the abstention of all five permanent members. This is a political challenge that requires sustained diplomatic engagement with each of the permanent members, careful management of any concerns they may have about the precedent the new country's creation sets, and clear demonstration that the new country is a constructive and responsible addition to the international community rather than a destabilising innovation.

14.5 Phase Five: Institutional Maturation

The fifth phase, which begins once the new country has established effective provisional governance and is building its recognition base, is characterised by the progressive expansion and deepening of the new country's governmental capacity.[18] Where the provisional governance phase focused on establishing the minimum viable government, the institutional maturation phase focuses on building the full range of governmental capacity that a mature independent country requires: a comprehensive legal system, developed public services, robust fiscal institutions, sophisticated regulatory frameworks, and the accumulated administrative experience that allows governance to be conducted with increasing efficiency and effectiveness.

The institutional maturation phase is also the phase in which the new country's distinctive governance innovations are most fully expressed. The deliberate design of the governance framework, which was the subject of the pre-formation phase's most creative work, is tested and refined against the practical experience of actual governance. Some design choices will prove more effective in practice than their designers anticipated; others will require revision. The institutional design of a Startup State must therefore include mechanisms for systematic review and adaptation: not the rigid constitutional processes that make reform in established countries so difficult, but deliberate, structured processes for evaluating performance and making improvements that maintain the

stability and predictability that residents and investors require whilst allowing the governance framework to evolve in response to experience.

14.5.1 Population Growth and Social Development

A critical dimension of institutional maturation is the growth and development of the new country's civic community.[19] The founding population, however carefully selected and however deeply committed, is by definition small. As the new country's institutions mature and its reputation for effective governance develops, it will attract a growing number of prospective citizens and residents: some drawn by the specific economic opportunities the new country offers, others by its governance philosophy and civic culture, and others by the practical advantages of its legal and fiscal framework.

Managing this growth requires deliberate attention to the qualities that made the founding community cohesive and effective. The citizen selection process must be maintained at the high standard established during the pre-formation phase, but adapted to the growing scale of applications and the evolving profile of the community that the new country is developing. The social institutions of the new country, its cultural life, its civic associations, its educational system, must be designed to integrate new citizens into the community's values and practices, rather than simply processing their legal documentation.

14.5.2 Economic Development and Financial Sustainability

The institutional maturation phase is also the phase in which the new country's economic model must demonstrate its sustainability.[20] The financial projections of the pre-formation phase must be tested against the reality of actual economic activity; the revenue model must be validated by actual revenue flows; and the new country's fiscal position must be managed with the discipline and transparency that capital markets and institutional partners require.

A Startup State that reaches the institutional maturation phase with a sound economic base, a growing and committed civic community, an expanding recognition base, and a governance framework that is demonstrably effective is in a position that no alternative governance innovation can match. It has moved from the realm of legal instruments and design documents into the realm of lived institutional reality. It is, in the most practical sense, a country.

14.6 Phase Six: Full Sovereign Integration

The sixth and final phase of the Startup State lifecycle is the achievement of full sovereign integration: the point at which the new country has secured broad international recognition, is participating as an equal in the international institutions relevant to its interests, and has established the full complement of bilateral relationships and multilateral memberships that constitute membership in the international community.[21]

Full sovereign integration does not mean the end of the new country's development, any more than the achievement of full independence by a decolonising country meant the end of its institutional development. It means the achievement of the legal and diplomatic conditions under which the new country can pursue its long-term development without the handicaps of incomplete recognition or limited international standing. From this point, the new country's trajectory is determined primarily by the quality of its governance and the vitality of its civic community rather than by the progress of its recognition strategy.

14.6.1 The Relationship with the Host State at Maturity

One dimension of full sovereign integration that deserves specific attention is the evolution of the relationship with the host state.[22] The founding treaty establishes the framework of this relationship, but a relationship that has been sustained over years of effective governance and mutual benefit will inevitably evolve in ways that the founding treaty could not entirely anticipate. The two parties will have developed practical working arrangements in many areas not addressed by the founding treaty; their bilateral trade and investment relationships will have deepened; and the political relationship between their governments will have its own history of co-operation and occasional disagreement.

The parent-child analogy introduced in Chapter Four applies with particular force at this point in the lifecycle. The new country at full sovereign integration is the adult child of the host state: legally independent, institutionally mature, and capable of standing on its own, but still connected to its parent through a web of shared history, treaty commitments, and mutual interest. The relationship is no longer that of patron and client, or of host and guest, but of allies and partners: two countries with distinct identities and independent interests who nonetheless share a common origin and a set of bilateral commitments that structure their ongoing relationship.

14.6.2 Self-Sustaining Governance and Civic Culture

The most durable sign of full sovereign integration is the achievement of self-sustaining governance and civic culture: the point at which the institutions of the new country are capable of renewing themselves, of training the next generation of governing talent, and of transmitting the founding values and institutional commitments to citizens who were not present at the founding.[23]

This is the most difficult thing to design in advance, because it depends on the accumulation of social capital and institutional legitimacy that can only be built through actual practice over time. But the founding team can create the conditions for it by designing institutions that are genuinely open to scrutiny and reform, that reward competence and integrity rather than mere loyalty, and that embed the founding values in the daily practices of governance rather than merely in constitutional documents. A Startup State that achieves self-sustaining governance has demonstrated, conclusively, that the model works. It has also created the most powerful possible advertisement for the model's replication elsewhere.

14.7 The Business of Statecraft: Discipline and Milestones

The lifecycle framework presented in this chapter is not merely descriptive; it is prescriptive. Each phase has specific milestones that must be met before the transition to the next phase is responsible, and the founding team must develop, during the pre-formation phase, a detailed implementation plan that maps each milestone to a timeline, a resource requirement, and a set of accountabilities.[24]

The discipline of milestone-based planning is borrowed from the startup world, and it is exactly appropriate to the Startup State context. Just as a technology startup that raises capital before achieving product-market fit is likely to spend that capital on the wrong things, a Startup State that pursues broad diplomatic recognition before establishing effective provisional governance is likely to find that its recognition is less durable than it would have been if recognition had followed genuine institutional effectiveness. The sequencing of the lifecycle is not arbitrary; it reflects the logic of institutional development, in which each phase creates the conditions for the next.

The governance structures established in the pre-formation phase, both the governance of the founding consortium and the provisional governance of the new country itself, must include mechanisms for moni-

toring progress against the lifecycle milestones, for identifying deviations from the plan early enough to correct them, and for making the difficult decisions that any genuine governance process will eventually require. The founding team that approaches these responsibilities with the same rigour and discipline that a well-managed company brings to its operations will find that the lifecycle framework provides a powerful tool for navigating the complexity of creating a new country.

The next chapter examines in detail the governance models and public service frameworks that Startup States can adopt within the lifecycle framework: the specific institutional choices that determine the character of the new country's government and the quality of the services it provides to its citizens.

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NOTES

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CHAPTER 15

Governance Models and Public Services

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Chapter Fourteen established the lifecycle through which a Startup State moves from pre-formation through provisional governance to full institutional maturity. This chapter asks the question that the lifecycle framework necessarily defers: what, specifically, is being built at each stage? What governance model does the Startup State adopt, and how does it deliver the public services that its residents require?

These are not merely administrative questions. The governance model is the expression of the new country's founding values in institutional form; it is the mechanism through which the consent of the civic community is translated into the decisions that shape their daily lives. A founding team that has done everything right at the legal and diplomatic level but has not thought carefully about the governance model will find that its beautiful legal framework is inhabited by an institution that does not function as intended. Governance design is not secondary to the founding process; it is coextensive with it.

This chapter proceeds in three parts. The first examines the range of constitutional and governmental models available to a Startup State, the choices that define the fundamental character of its political institutions. The second addresses the specific design principles that should govern the provision of public services in a new country that begins with no inherited institutional infrastructure. The third considers how the Startup State's governance model can be kept adaptive and responsive over time without sacrificing the stability and predictability that residents and investors require.[1]

15.1 Constitutional Design: The Foundational Choices

Every Startup State must make a small number of foundational constitutional choices that determine the character of its political institutions for generations. These choices are not technical details to be worked out by lawyers after the political vision has been established; they are the political vision, expressed in legal form. The founding team that treats them as secondary will discover, once the new country is operational, that they are primary.

15.1.1 The Form of Government

The most fundamental choice is the form of government: the structure of the relationship between the governing institutions and the civic community they serve. The principal options available to a new country are a constitutional republic, a constitutional monarchy, a parliamentary system, a presidential system, and various hybrid forms that combine elements of these.[2]

A constitutional republic, in which the head of state is elected directly or indirectly by the civic community, offers the clearest possible expression of the principle that governmental authority derives from the consent of those governed. The American, French, and German republican traditions each provide different models of how executive, legislative, and judicial authority can be structured and balanced. For a Startup State whose founding community has organised itself around a shared vision of governance, a republican constitution may be the most natural expression of the consensual principles on which the new country is built.

A constitutional monarchy, in which a hereditary head of state exercises ceremonial functions while real governmental authority is exercised by elected institutions, has the advantage of providing a stable and symbolically significant figurehead whose continuity transcends electoral cycles. The success of constitutional monarchies in countries such as Sweden, the Netherlands, and Denmark demonstrates that this form can be entirely compatible with liberal democracy and the rule of law. For a Startup State established in the context of a condominium arrangement with a host state whose head of state holds a formal position in the new country's governance, a constitutional monarchy may be the natural institutional expression of that relationship.

A parliamentary system, in which the government derives its authority from and is accountable to an elected legislature, concentrates demo-

cratic accountability and creates close alignment between the executive and the legislative majority.[3] A presidential system, in which the executive is directly elected and exercises authority independently of the legislature, provides a clearer separation of powers and may be more appropriate for a new country whose founding community expects strong executive leadership during the challenging early years of its development. A semi-presidential system, combining a directly elected president with a prime minister accountable to the legislature, offers a middle ground that many new democracies have found appropriate.

The choice among these forms is not primarily a question of which is abstractly best; each has proved capable of producing well-governed, stable, and prosperous countries. The relevant question for a founding team is which form best serves the specific values and aspirations of the founding community, the specific governance challenges of the new country's context, and the specific institutional capabilities available to the founding team during the provisional governance phase.

15.1.2 The Bill of Rights and Fundamental Guarantees

A Bill of Rights, or its equivalent in a civil law tradition, is not merely a catalogue of protections; it is the constitutional expression of the relationship between the individual and the state, and it communicates to prospective residents, investors, and third-state partners what kind of political community the new country is.[4]

The fundamental protections that any credible Startup State must enshrine include: the right to life and physical integrity; the prohibition of torture and inhuman or degrading treatment; freedom of thought, conscience, and expression; the right to a fair trial and access to justice; the protection of private property against arbitrary seizure; the right to leave and to return; and the prohibition of discrimination on grounds of race, sex, religion, national origin, or political opinion. These are not optional additions to the constitutional framework; they are conditions of the new country's legitimacy in the international order, required by the major human rights instruments to which the new country should seek to become party.

Beyond these foundational guarantees, a Startup State may choose to enshrine in its constitution specific protections that reflect the particular values of its founding community: the right to privacy and digital autonomy; property rights in intellectual creations; protections for economic freedom including the freedom to contract and the right to operate a

business; environmental rights; and the full range of social and economic rights recognised in the International Covenant on Economic, Social and Cultural Rights.[5] The specific content of these additional protections will vary with the founding vision of each new country; what matters is that they be genuinely enforceable rather than merely hortatory, and that the institutions created to enforce them be genuinely independent from the executive power.

15.1.3 The Judiciary and the Rule of Law

An independent judiciary is not merely a governance feature; it is the institution that makes everything else in the constitutional framework real.[6] Property rights are only as secure as the courts that enforce them. Contracts are only as binding as the tribunals that adjudicate disputes about them. Constitutional protections are only as effective as the judges who apply them. A Startup State that has excellent constitutional text but a dependent or incompetent judiciary has not built the rule of law; it has built its appearance.

The establishment of genuine judicial independence is one of the most demanding governance challenges a new country faces, because judicial independence is ultimately a cultural achievement as well as an institutional one: it requires not only the right formal rules but also a community of lawyers, judges, and citizens who genuinely understand and defend the principle. During the provisional governance phase, when the new country is unlikely to have developed a substantial indigenous legal community, the most practical path to genuine judicial independence may involve a commercial arbitration framework for business disputes, a small panel of internationally recruited judges for constitutional matters, and a clear commitment to evolving toward a fully indigenous judiciary as the country's legal community develops.

The choice of applicable law is intimately connected to the choice of judicial model. A Startup State that adopts English common law as the basis of its legal system immediately gains access to a vast body of commercial law precedent and a large global community of trained lawyers. A Startup State that adopts a civil law tradition draws on the systematic legal codes of the French, German, or Swiss traditions and their derivatives, which may be more accessible to residents from civil law countries. A hybrid approach, combining common law principles for commercial matters with a civil law structure for public law and personal status, may best serve the particular needs of the founding community.

15.2 Law as Operating System: The Designed Legal Code

One of the most significant governance innovations available to a Startup State is the opportunity to design its legal code from first principles rather than inheriting an accumulated system of statutes and precedents.[7] In most existing countries, the legal system is the product of centuries of legislative accretion, judicial interpretation, and political compromise: a palimpsest in which contemporary needs are addressed through layers of amendment and reinterpretation built on top of foundations designed for a different society in a different era.

A Startup State begins with a blank legislative page. This is an extraordinary opportunity, and it must be approached with corresponding seriousness. Legal codes designed from first principles can be written in plain language that is accessible to those they govern, not as the output of a professional guild that has an institutional interest in complexity. They can be internally consistent, avoiding the contradictions that accumulate in legal systems where different pieces of legislation are enacted by different parliaments responding to different pressures at different times. They can be forward-looking, addressing the realities of digital commerce, platform-based economic activity, decentralised finance, and artificial intelligence from the outset rather than attempting to apply nineteenth-century categories to twenty-first-century phenomena.

The design of the legal code must balance completeness, the need to address all the situations that will actually arise, with accessibility, the need for the code to be comprehensible to those it governs without the assistance of professional lawyers. The most successful recent exercises in deliberate legal design, such as the Estonian digital infrastructure or Singapore's commercial courts, have achieved this balance by focusing on clear principles and transparent procedures rather than exhaustive technical detail, and by building robust mechanisms for systematic review and updating that keep the code current with developing commercial practice.

15.2.1 Regulatory Architecture

The regulatory framework of a Startup State must be designed with the same care as its constitutional framework, because regulation is the interface between the constitutional order and the daily economic life of the country's residents and businesses.[8]

Several principles should govern the design of a Startup State's regulatory architecture. The first is proportionality: the regulatory burden

imposed on any activity should be proportionate to the risk that activity creates, avoiding the regulatory overextension that stifles innovation in most existing jurisdictions. The second is predictability: those subject to regulation should be able to understand, in advance, what is required of them and what consequences follow from non-compliance, creating the certainty that investment and business planning require. The third is responsiveness: the regulatory framework should be capable of evolving in response to new activities and new risks without requiring legislative action for every adjustment, through a combination of principle-based regulation and delegated regulatory authority with appropriate oversight.

Regulatory sandboxes, in which new activities can be piloted under close regulatory oversight before being subjected to full regulatory requirements, are one of the most valuable governance innovations of the past two decades. The UK Financial Conduct Authority's sandbox for fintech innovation, Singapore's Project Ubin for digital currency, and Estonia's regulatory programme for AI have each demonstrated that carefully designed sandboxes can accelerate innovation whilst maintaining appropriate consumer and systemic protections. A Startup State is uniquely positioned to embed the sandbox principle into its foundational regulatory architecture rather than grafting it onto an existing system designed for different purposes.

15.3 Public Services: Design Principles

A new country must provide a range of public services to its residents from the first day of its operation. Some of these services are fundamental to the basic functioning of the state: the identification of residents and the management of civil status, the registration of property and business, the adjudication of disputes, and the maintenance of public order. Others are important for the quality of life and productive engagement of residents: healthcare, education, infrastructure, and social safety nets. The design of each of these services in a new country beginning without inherited infrastructure is both a challenge and an opportunity.

15.3.1 Digital-First Administration

The most significant administrative advantage available to a Startup State is the ability to design its public administration as a digital-native system rather than retrofitting digital technology onto paper-based processes designed in a different era.[9] Estonia's digital governance infrastructure, which provides every resident with a secure digital identity, enables fully

digital interaction with all government services, and uses a decentralised data exchange layer to prevent the concentration of personal information in any single system, provides the most developed real-world model of what digital-native governance can achieve.

A Startup State can build on Estonia's model, incorporating advances in cryptographic identity verification, smart contract-based administrative processes, and distributed ledger technology for land and business registries that have developed since Estonia built its foundational infrastructure in the early 2000s. The result is an administrative system that is more efficient, more transparent, and more accessible than anything that can be achieved by digitising processes originally designed for paper, whilst being more resistant to the specific failure modes of centralised digital systems.

Digital-first administration also enables a form of transparency in governance that paper-based systems cannot achieve: when administrative processes are encoded in transparent digital systems, the decisions made within those systems are visible, auditable, and contestable in ways that opaque bureaucratic processes cannot be. This transparency is not merely a governance virtue; it is a competitive advantage in attracting residents, businesses, and investment that value accountability and predictability.

15.3.2 Healthcare

Healthcare is one of the most demanding public services to design in a new country because it requires both complex institutional infrastructure and a substantial ongoing fiscal commitment.[10] The range of viable models for a Startup State healthcare system spans from a fully publicly funded and delivered system, through various forms of regulated private provision with public funding mechanisms, to a system in which private insurance is the primary funding mechanism with a safety net for those unable to afford private coverage.

The choice among these models should be driven by the specific circumstances of the founding community and the new country's fiscal position, rather than by ideology. A small and affluent founding community may be best served by a regulated private insurance system with a publicly funded safety net; a larger and more diverse community may require a more extensive public system. What matters in either case is that the framework is genuinely accessible to all residents regardless of their economic means, that the quality of care is maintained through

independent quality standards and inspection, and that the system is designed to be financially sustainable as the population grows and ages.

Healthcare partnerships with the host state and with neighbouring countries are likely to be essential during the provisional governance phase, because building the institutional infrastructure for acute hospital care, specialist medicine, and medical education from scratch requires resources and timescales that exceed those available during the new country's early years. The founding treaty should address these partnerships explicitly, ensuring that residents have access to healthcare services that are adequate for their needs from the first day of the new country's operation, even if the full range of services is developed over time.

15.3.3 Education

Education is both a public service and a constitutional commitment: it is the primary mechanism through which the civic community transmits its values, develops its human capital, and sustains its institutional culture across generations.[11] A Startup State that neglects its educational system, or that treats it as a secondary priority relative to its commercial and governance ambitions, is compromising its own long-term sustainability.

The design of a Startup State's educational system should reflect the same first-principles approach that characterises its other governance innovations. Rather than replicating the industrial-age school model that most existing countries inherited, a new country has the opportunity to design an educational system that genuinely serves the needs of twenty-first-century learners: combining rigorous academic content with practical competencies, embedding critical thinking and civic participation as foundational skills, and using technology as a genuine pedagogical tool rather than as a supplement to unchanged teaching practices.

Partnerships with established universities and educational institutions in other countries can provide academic credibility and curriculum resources that a new country cannot develop internally in its early years. A Startup State that has an agreement with a recognised university to confer jointly accredited degrees, or that uses an internationally recognised curriculum framework such as the International Baccalaureate, can provide its students with educational credentials that are recognised across the international system from the beginning of the new country's operation.

15.3.4 Security and Public Order

The maintenance of public order and the provision of security are foundational governmental functions whose adequate performance during the provisional governance phase is essential to the new country's credibility.[12] As Chapter Fourteen noted, the minimum viable government must be capable of maintaining basic public order within the territory from its first day of operation. This requires, at minimum: a police force or its equivalent, with clear rules of engagement, robust accountability mechanisms, and training in both law enforcement and community engagement; a border management capability; and arrangements for the investigation and prosecution of criminal offences.

The security architecture of a Startup State must be carefully distinguished from a military capability. Chapter Seventeen examines the security and neutrality arrangements of Startup States in detail; the point to be made here is simply that public order and national security are distinct functions requiring distinct institutional frameworks. The police function, which is concerned with the enforcement of domestic law and the protection of residents from crime, must be institutionally independent from any military or paramilitary functions, and must be subject to civilian oversight and independent accountability mechanisms from the outset.

15.4 Governance as a Product: The Participatory Dimension

One of the most significant governance innovations that a Startup State can offer is the genuine participation of its residents in the governance decisions that affect their lives.[13] In most existing countries, democratic participation is limited to periodic elections in which residents choose among competing slates of candidates, with little direct influence over the specific decisions made between elections. A Startup State can go further, embedding participatory mechanisms into its governance framework that give residents a genuine and ongoing voice in the decisions that shape their community.

These mechanisms might include regular citizens' assemblies, in which randomly selected residents deliberate on specific policy questions and whose recommendations carry formal constitutional weight; participatory budgeting processes, in which residents directly allocate a defined proportion of the public budget to the priorities they identify; structured consultation processes, in which proposed regulatory changes

are subject to public comment with a genuine obligation to respond to substantive submissions; and digital deliberation platforms that enable asynchronous participation by residents who cannot attend physical meetings.

The participatory dimension of governance design is not merely a democratic nicety; it is a mechanism for generating the institutional knowledge and the community commitment that make governance effective. A resident who has participated in shaping the rules they live under is more likely to comply with those rules, more likely to contribute to their improvement, and more likely to develop the civic trust that is the foundation of a functioning political community. The deliberate design of participatory mechanisms from the founding is one of the most powerful investments a new country can make in its own long-term institutional health.

15.5 The Adaptive State: Keeping Governance Current

Perhaps the most challenging governance design problem for a new country is how to keep its institutions adaptive and responsive over time without sacrificing the stability and predictability that residents and investors require.[14] The tension between adaptability and stability is not a design flaw; it is an inherent feature of any governance system that is attempting to serve a changing community in a changing world whilst protecting the legitimate expectations of those who have made long-term commitments on the basis of existing rules.

The constitutional design of a Startup State should distinguish clearly between the different tiers of its normative framework and calibrate the amendment requirements for each tier accordingly. Fundamental constitutional provisions, including the bill of rights, the structure of government, and the core protections of the founding treaty, should be amendable only by a supermajority and, for provisions that affect the relationship with the host state, with the host state's consent. Ordinary legislation and regulatory instruments should be amendable by normal legislative process, with appropriate notice and consultation requirements. Administrative procedures and technical standards should be delegated to regulatory authorities with the flexibility to adapt quickly to changing circumstances.

The systematic review of the governance framework at defined intervals, drawing on the accumulated experience of residents, businesses, and public institutions, is one of the most valuable governance practices

that a new country can institutionalise. Rather than waiting for a crisis to expose the inadequacy of an existing rule, a structured review process enables the governance framework to evolve continuously in response to the insights of those who work within it. The founding community that builds this review process into the constitutional architecture of the new country from the beginning is investing in its own capacity to improve over time.

15.6 Learning from the World's Best Governance

A Startup State has the extraordinary advantage of being able to learn from the accumulated governance experience of every country in the world before making its own institutional choices.[15] This advantage should be exploited deliberately and systematically. The founding team should study not only the governance models of the most successful small countries, Monaco, Singapore, Luxembourg, New Zealand, Switzerland, and Estonia among them, but also the specific institutional innovations that have proved most effective in each domain of governance, drawing selectively on the best available practice rather than copying any single model wholesale.

Singapore's combination of strong rule of law, meritocratic public service, strategic long-term planning, and aggressive attraction of foreign talent and capital provides one set of lessons. Switzerland's federalism, direct democracy, and multilingual neutrality provides another. New Zealand's transparency legislation, its innovative regulatory frameworks, and its proportional representation system provide a third. Estonia's digital governance infrastructure, its flat tax system, and its e-residency programme provide a fourth. Luxembourg's financial services regulatory framework, its multilingual cosmopolitanism, and its strategic positioning within the European Union provide a fifth.

None of these countries provides a complete template for a Startup State; each has emerged from a specific historical context, geographical setting, and cultural tradition that cannot be simply transplanted. But each has developed specific governance innovations that can be studied, adapted, and selectively incorporated into the institutional design of a new country whose founding team approaches this process with the same rigour that a good engineer brings to the selection of components for a new system.

The next chapter turns from governance design to financial models and strategies: the question of how a Startup State sustains itself econom-

ically, how it generates the revenues it needs to deliver public services and invest in its development, and how it positions itself as a compelling destination for the capital, enterprise, and talent that will determine its long-term success.

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NOTES

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CHAPTER 16

Financial Models and Strategies

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Chapter Fifteen addressed the governance architecture and the public services that a Startup State must design and deliver. This chapter addresses the question that underlies the viability of everything in Chapter Fifteen: how does a Startup State pay for itself? What financial models can a new country adopt to generate the revenues it needs to fund its institutions, deliver its public services, invest in its infrastructure, and sustain itself through the challenging early years of its development until its economy achieves self-sustaining momentum?

Financial sustainability is not a secondary concern to be addressed after the more interesting questions of governance design have been resolved. It is a first-order constraint on every other dimension of the founding process. A new country that is financially unsustainable will not remain institutionally sound for long, regardless of how carefully its constitutional framework has been designed. And a new country whose financial model is not credible to the capital markets, the institutional investors, and the host state government that must evaluate it will not secure the investment it needs to make its governance model operational.

The financial model of a Startup State must satisfy several requirements simultaneously. It must generate sufficient revenue to fund the public services the new country is committed to providing. It must be genuinely competitive: offering residents, businesses, and investors fiscal terms that are more attractive than comparable alternatives. It must be transparent, predictable, and stable. And it must be structured to align the financial interests of the host state, the founding consortium, the residents, and the new country's government, ensuring that all parties have ongoing material incentives to sustain the arrangement.[1]

16.1 The Competitive Position: What a Startup State Is Not

Before examining what financial models a Startup State can adopt, it is worth being direct about what it should not try to be. The global market for competitive jurisdictions is well populated. Luxembourg, Singapore, the Cayman Islands, the British Virgin Islands, Mauritius, Liechtenstein, Jersey, and Guernsey have each spent decades developing their positions as leading centres for financial services, corporate structuring, fund administration, and related activities. A new country that enters this space offering marginally lower tax rates will not attract the critical mass of residents and businesses it needs. Competing against incumbents on price alone, in a market where network effects powerfully reinforce the incumbents' positions, is a strategy unlikely to succeed.

Moreover, positioning a new country primarily as an offshore financial centre tends to attract exactly the kind of unwanted regulatory and reputational attention from the OECD's harmful tax competition frameworks, from the FATF's grey-listing processes, and from the foreign ministries of major powers that a new country in its recognition-building phase can least afford. Equally, a Startup State that attempts to attract residents and businesses by offering Scandinavian-style public services funded by Scandinavian-style taxation is competing against countries that have been operating such systems for generations and that offer cultural, social, and geographic advantages that a new country cannot replicate. The genuine competitive advantage of a new country lies not in its tax rate but in its institutional design: the clarity, stability, and alignment of its governance framework with the needs of the community it is building.

16.2 The Revenue Architecture: Beyond Conventional Taxation

The conventional model of state finance, in which governments extract revenue primarily through taxes on income, consumption, and corporate profits, is neither the only available model nor, for a Startup State, the most appropriate one. A new country that begins its fiscal life with a comprehensive tax system designed to fund the full range of public services that large established states provide will be uncompetitive from the outset, imposing a fiscal burden on residents and businesses that alternative jurisdictions do not impose without yet having the institutional infrastructure to justify that burden.

A Startup State should think of its revenue architecture in terms of multiple distinct streams, each calibrated to the specific circumstances of the

founding phase and the growth trajectory of the new country.[2] The primary revenue streams available include: founding capital contributions from the founding consortium; lease revenues and royalties from the host state arrangement; fees for governmental services; corporate and business registration revenues; residency and citizenship programme fees; land lease and development revenues; and, at a later stage in the country's development, appropriately structured tax revenues. The mix of these streams will vary with the specific archetype and prototype of each Startup State; what matters is that the overall architecture is credible, sustainable, and genuinely competitive.

16.2.1 Founding Capital and the Pre-Revenue Phase

Every Startup State requires capital to fund its founding phase: the treaty negotiations, the institutional design work, the infrastructure investment, and the provisional governance operations that precede the generation of sustainable revenue streams.[3] This founding capital is analogous to the pre-revenue investment that a startup company requires before it has achieved product-market fit and begun generating sustainable revenues. Like a startup, the Startup State must raise this capital from investors who understand the risk profile of the founding phase and are prepared to accept that the returns from their investment will be realised over a longer timeframe than a conventional commercial investment.

The founding consortium, as examined in Chapter Fourteen, is the vehicle through which this founding capital is raised and governed. The structure of the founding consortium and the rights it receives in exchange for the capital it contributes determine the economic relationship between the founders and the new country during its most formative period. This structure must be carefully designed to ensure that the founders' financial interests are genuinely aligned with the long-term success of the new country, rather than creating incentives to extract value in the short term at the expense of institutional sustainability.

The capital structure of the founding consortium should be transparent to the host state government, to prospective citizens, and to the capital markets that the new country will eventually seek to access. Opacity about the founding capital structure is one of the primary signals that a governance innovation project is not the legitimate enterprise it claims to be; transparency is both an ethical requirement and a competitive advantage in building the institutional credibility on which everything else depends.

16.2.2 Real Estate as the Foundation: The Master Builder Model

In the preponderance of cases, the primary revenue engine of a Startup State will be real estate.[4] This follows directly from the nature of the founding arrangement: the new country holds long-term governmental authority over a defined territory, and the development of that territory from raw or underused land into a functioning community generates substantial economic value that the governing authority is well positioned to capture.

A master builder model is one particularly powerful expression of this approach. The new country acts as the developer of its territory at the highest level, establishing the infrastructure, the legal framework, and the governance environment that makes the land valuable. It then contracts with private developers to build out specific parcels: residential communities, commercial districts, industrial zones, research campuses, or combinations of these. Each developer pays rent to the new country for the right to develop and operate within its territory, and the new country in turn pays rent to the host state under the terms of the founding treaty. This three-tier structure creates a clean hierarchy of obligations with guaranteed returns flowing to the host state regardless of the commercial outcomes of individual development projects within the new country.

The model permits a considerable range of subsidiary configurations. The new country may permit individual residential communities to be governed primarily by their own homeowners' associations, with the new country's governmental role limited to setting and enforcing the overarching standards. It may contract with a developer to build and operate a free private city within its territory. Or it may adopt intermediate arrangements, ranging from highly integrated governance to highly decentralised community self-management, depending on the founding vision and the preferences of the resident community.

16.2.3 Initial Citizenship Offerings and Subscription-Based Models

Alongside real estate, founding teams have a range of innovative models available for generating revenue from the citizenship and residency dimension of the new country's offering.[5]

An initial citizenship offering, analogous in its logic to the initial public offering that a company uses to raise capital from the public at the moment of its founding, would invite individuals to become founding citizens at a defined price, acquiring thereby the specific rights and obligations of citizenship in the new country from the moment of its for-

mal establishment. Unlike a conventional citizenship-by-investment programme, which tends to sell citizenship primarily as a travel document or a tax planning tool, an initial citizenship offering would be positioned as an invitation to participate in the founding of something genuinely new: to be among the people who help determine what the new country becomes. The founding price would reflect not merely the monetary value of citizenship itself but the opportunity to be part of a historical and institutional first.

A subscription-based citizenship model offers a structurally different approach. Rather than a single upfront payment, residents contribute a recurring subscription fee in return for access to the new country's governance, public services, and community. This model aligns the government's revenue directly with its continuing delivery of value: residents who find that the services and community are worth the subscription renew; those who do not, exit. The subscription model is a direct and visible expression of the Consensual Theory of Statehood that underlies the Startup States framework: affiliation is voluntary, ongoing, and priced at a rate that the resident can evaluate and contest through the most powerful mechanism available, the exit right.

16.2.4 Fee-for-Service: The Governmental Revenue Model

The most distinctive financial innovation available to a Startup State is a fee-for-service revenue model, in which the government charges directly for the services it provides rather than funding those services through general taxation.[6] This model represents a fundamentally different relationship between the government and those it serves. Under a fee-for-service model, each resident and business pays for the governmental services it actually uses, rather than contributing to a general fund from which services are allocated by political decision. The government's revenue is therefore directly tied to the value it delivers, creating a powerful institutional incentive for efficiency and quality.

Business registration fees, licensing fees, property registration fees, residency and citizenship fees, dispute resolution fees, and the full range of charges for specific governmental services can collectively provide a substantial and growing revenue base as the new country's resident and business community expands. These revenues have the advantage of being directly correlated with the economic activity the government is supporting, providing a natural fiscal stabiliser.

The fee-for-service model also creates transparency in the cost of governance that conventional taxation obscures.[7] When residents and businesses can see exactly what they are paying for specific governmental services, they have both the information and the incentive to hold the government accountable for the quality of those services.

16.2.5 Land Revenue and Developmental Finance

For a Startup State established on territory acquired through a long-term lease, the development and allocation of land within the new country provides a significant and potentially growing revenue stream.[8] The zoning and developmental allocation of land within the new country's territory is an exercise of governmental authority that creates economic value, and a portion of that value can appropriately be captured by the government to fund public services and infrastructure investment.

The analogy to municipal land value capture is instructive. When a municipality invests in public infrastructure, the resulting increase in land values in the surrounding area represents a return on that investment that can be captured through land value taxes or development levies to fund further investment. Land lease revenues flowing from agreements with residents and businesses who occupy and develop land within the new country's territory provide a predictable, long-term revenue stream that grows as the country develops and the value of its territory increases. Revenue from real estate may take many forms: ground rent from developers and residents, a share of development profits, infrastructure user charges, and transaction fees on property transfers within the territory.

16.2.6 Post-Taxation Models and Debt-Free Finance

One of the most radical and commercially interesting financial positions a new country can adopt is the post-taxation model: a governing framework in which the government generates all of its revenues from non-tax sources, primarily real estate, service fees, and the returns on its capital assets, without ever imposing a general tax on the income, consumption, or property of its residents and businesses.

Henry George's analysis of land value taxation demonstrated over a century ago that the full cost of government can in principle be funded from the returns generated by land held in common ownership or subject to community charge.[9] A Startup State whose territory is largely undeveloped at founding, and whose government is positioned as the master developer of that territory, is in an ideal structural position to

implement a post-taxation model, generating all of its revenues from the value created by development rather than from the income generated by those who live within the country. Some founding teams may choose to issue bonds, either to the host state as an upfront lump sum indemnity or to the capital markets, as a means of funding initial infrastructure investment. Others will avoid debt entirely. The host state may be offered preferred stock in infrastructure companies operating within the new country, providing dividends that supplement the lease payments. Each choice reflects a different view of how to balance the interests of current and future generations.

16.3 Fiscal Policy as Constitutional Commitment

The most powerful fiscal signal that a Startup State can send to prospective residents, businesses, and investors is a constitutional commitment to the fiscal framework that governs the new country's relationship with those it serves.[10] In most existing jurisdictions, fiscal policy is a political variable that changes with each election cycle and each shift in the balance of power between competing interest groups. Residents and businesses must constantly adapt to changing fiscal rules, investing resources in understanding and complying with each new configuration rather than deploying those resources productively.

A Startup State can break this pattern by embedding core fiscal commitments in its constitution rather than in ordinary legislation. If the maximum rate of any income tax is capped in the constitution, a business planning for a twenty-year investment horizon knows that rate will not change without the supermajority support required to amend the constitution. If the government's obligation to maintain balanced budgets over defined periods is constitutionally entrenched, long-term creditors can lend to the new country with confidence. If the fee-for-service rates for specific governmental services are set by an independent regulatory body with a statutory duty to maintain competitive pricing, residents and businesses can plan on the basis of a stable and predictable cost of governance.

These constitutional fiscal commitments can also be backed by international arbitration clauses, giving residents and businesses legal recourse if the government breaches its constitutional fiscal obligations.[11] The combination of constitutional entrenchment and international arbitration access provides the highest available level of fiscal certainty:

fiscal policy as a credible, legally protected commitment rather than a reversible political decision.

16.3.1 Tax Neutrality and Competitive Positioning

Not every Startup State will choose to position itself as a low-tax or zero-tax jurisdiction, and the assumption that all new countries should compete primarily on tax rates is neither inevitable nor always correct. In some cases, a Startup State may choose to focus not on financial services or corporate structuring but on a specific sector where its governance model creates a distinctive competitive advantage: biotechnology research, digital health, longevity research, renewable energy development, space industry support, or some other frontier domain where the gap between the pace of innovation and the responsiveness of existing regulatory frameworks has created a persistent institutional opportunity.

The more compelling fiscal positioning for most Startup States is not the lowest possible tax rates but the highest possible fiscal predictability, transparency, and alignment with the value created by the governmental services being provided.[12] A jurisdiction where the fiscal rules are absolutely clear, absolutely stable, and absolutely proportionate to the services received will attract residents and businesses who value certainty and efficiency over marginal differences in rates. This is a more defensible competitive position than the pure tax competition strategy, because it is based on genuine institutional quality rather than on a race to the bottom that any jurisdiction willing to reduce its rates can match.

16.4 The Citizen Dividend Model

One of the most innovative fiscal concepts available to a Startup State is the citizen dividend: a periodic payment made directly to all citizens from the revenues generated by the country's collective assets and economic activities.[13] The Alaska Permanent Fund, established in 1976 and paying annual dividends to all Alaskan residents from the state's oil revenues since 1982, provides the most developed real-world model. The Fund holds some 80 billion dollars in assets and has paid dividends ranging from about 331 dollars (1984) to 3,284 dollars (2022, including a one-off energy relief payment) per resident, providing every Alaskan with a direct material stake in the state's economic performance.

A Startup State can adapt this model for its specific circumstances, drawing on a broader range of revenue sources than a single natural resource. Strategic investments in infrastructure whose value grows as

the country develops, profits from state-backed enterprises, revenues from the licensing of intellectual property developed within the country's research institutions, and the land value appreciation that follows from successful economic development can all contribute to a citizen wealth fund whose dividends are distributed to all residents.

The citizen dividend model serves several purposes simultaneously. It gives every resident a direct material stake in the country's economic success. It provides a basic layer of economic security without the administrative complexity of means-tested social welfare programmes. And it signals that the new country's governance model is oriented toward the welfare of its residents rather than toward the enrichment of its founders. At its most ambitious, the citizen dividend can function as a form of universal basic income that is genuinely voluntary and genuinely debt-free, funded from real economic surpluses rather than from compulsory taxation or government borrowing. Some founding teams may design a negative income tax structure in which the dividend paid to residents below a defined income threshold is automatically topped up from the collective wealth fund, providing economic security at the base without means-testing or administrative complexity.

16.5 The Host State Revenue Relationship

As Chapter Twelve emphasised at length, the financial relationship between the Startup State and the host state is not merely a transactional dimension of the founding arrangement; it is the structural mechanism that gives the host state a continuing material incentive to protect and promote the new country throughout the life of the arrangement.[14]

The specific form of the host state's financial participation should be designed to track the new country's economic performance over time, rather than providing a fixed payment that loses its incentive effect as the country grows. An equity stake in the commercial entities that provide governmental services within the new country, combined with a revenue-sharing arrangement that provides the host state with a percentage of the new country's total revenues, ensures that the host state's financial return grows as the country grows, creating a permanent alignment of fiscal interests.

The precise structure of this revenue relationship must be negotiated between the founding consortium and the host state's government, reflecting the specific circumstances of each arrangement. What must not be negotiated away is the structural principle: the host state must

receive a meaningful, ongoing, and growing financial return from the new country's success.[15] A host state that receives a fixed and declining real payment for its participation in the founding arrangement has no financial incentive to defend the arrangement against domestic political opposition; a host state that receives a growing share of a growing economic enterprise has every incentive to do so.

Crucially, the host state's financial return must be structured so that it flows from the first day of the arrangement regardless of the commercial performance of any specific project within the new country. The upfront lump sum or indemnity payment provides immediate consideration at signing. The annual lease payments flow unconditionally. The market-rate fees for defence, policing, and other services billed to the new country create a guaranteed revenue stream from the first year of operation. The host gets paid win, lose, or draw. This unconditional payment structure is the decisive financial distinction between the Startup States model and every subnational alternative, in which the host state's return is contingent on the zone's commercial success and may never materialise at all.

16.6 Investment-Grade Positioning: Accessing Capital Markets

One of the most significant competitive advantages that a Startup State's legal architecture provides over every alternative governance model is the ability to access international capital markets on the terms available to recognised independent countries.[16] A new country that has been constituted by international treaty, that has a clearly defined territory and a functional government, and that has been recognised by a growing number of member states of the United Nations, can issue bonds in its own name, seek credit ratings from established rating agencies, and access the full range of development finance instruments that are available only to recognised countries.

The credit rating process for a new country will inevitably be demanding: rating agencies will scrutinise the legal foundation of the territorial arrangement, the financial structure of the founding consortium, the quality of the governance institutions, the fiscal framework, and the track record of the provisional governance phase. Each of these dimensions is an area where the careful institutional design described in this book provides a genuine competitive advantage over alternative governance models that cannot point to equivalent legal foundations and institutional quality.

Development finance institutions, including the World Bank Group, the regional development banks, and bilateral development finance agencies, provide additional sources of capital for a new country that can demonstrate alignment with their mandates: sustainable development, poverty reduction, institutional capacity building, and environmental protection. A Startup State that has embedded genuine commitments to these objectives in its founding instruments and governance framework is in a strong position to access this capital, which can supplement the returns from the founding consortium's investment during the critical early years of the country's development.

16.7 Financial Resilience and Fiscal Risk Management

Every new country faces financial risks that must be identified and managed: the risk of a shortfall in founding capital that leaves the provisional governance phase underfunded; the risk of a slower-than-projected growth trajectory that reduces revenues below the levels needed to sustain public services; the risk of a political or economic shock in the host state that disrupts the founding arrangement; and the risk of external economic shocks that reduce the attractiveness of the new country's offering to the residents and businesses it is seeking to attract.[17]

The financial architecture of the Startup State should include explicit provisions for managing each of these risks. A capital reserve fund, maintained at a level sufficient to sustain the minimum viable government for a defined period without new revenues, provides resilience against revenue shortfalls during the early years. A diversified revenue model that does not depend on any single source of revenue reduces vulnerability to sector-specific economic shocks. The international arbitration provisions of the founding treaty provide legal protection against unilateral changes by the host state. And the systematic fiscal review processes described in Chapter Fifteen provide an early warning system that enables the government to adjust its fiscal position before a manageable challenge becomes a crisis.

Section 11.4.7 sets out what international law provides if, despite these measures, the rent owed to the host state goes unpaid, and why the reserve, the disaster clause, and the rent review belong in the founding treaty itself.

Insurance instruments available to recognised independent countries, including political risk insurance from the Multilateral Investment Guarantee Agency and the various national export credit agencies, provide

an additional layer of financial protection during the new country's early years. A founding team that has engaged proactively with these institutions during the pre-formation phase, and that has structured the founding arrangement to qualify for their coverage, has significantly reduced the financial risk profile of the venture.

16.8 The Economic Strategy: What Business the New Country Is In

The financial model of a Startup State is inseparable from its economic strategy: the choices about what economic activities it will attract, what value propositions it will offer to different categories of residents and businesses, and how it will position itself competitively within the global market for jurisdictions.

The economic strategy of a new country is not simply a tax and regulatory choice; it is an institutional design choice that must be integrated into the constitutional and governance framework from the beginning.[18] A Startup State that has chosen to position itself as a global centre for longevity research must design its regulatory framework, its intellectual property law, its immigration policy, its educational institutions, and its public research investment all to support that positioning. A Startup State that has chosen to position itself as a digital governance hub must design its legal framework for digital assets, its data protection regime, its broadband infrastructure, and its talent attraction policies to create the ecosystem that the relevant community of practice requires.

The most successful small jurisdictions in the world have all achieved their success through this kind of integrated economic strategy: Singapore's combination of financial services, logistics, manufacturing, and technology has been supported by a consistent and coherent package of governance, infrastructure, education, and immigration policies maintained across four decades of rapid development. Luxembourg's position as Europe's leading investment fund jurisdiction has been built on a legal framework for collective investment vehicles, a skilled multilingual workforce, a favourable tax treatment for fund structures, and a reliable judicial system for dispute resolution, each element reinforcing the others. A Startup State that achieves this level of strategic coherence across its governance, fiscal, and economic design is in the strongest possible position to attract the residents, businesses, and capital that will make it financially sustainable and institutionally self-reinforcing over time.

The central message of this chapter is that the Startup States model does not prescribe a single financial architecture. It prescribes a set of

structural principles: genuine competitive differentiation from existing jurisdictions, constitutional fiscal commitment, transparent alignment of financial interests across all parties, and a host state financial relationship that is positive from the first day of the arrangement. Within those principles, there is an extraordinary range of possibilities. The diversity of approaches that different founding teams will choose to experiment with is itself a strength of the model, turning the field of governance finance into a genuine marketplace of ideas in which different configurations are tested, refined, and evaluated against the actual experience of communities who have chosen to live within them.

The next chapter turns from the financial dimension of a Startup State's sustainability to its security dimension: the arrangements for neutrality, defence, and international security that protect a new country's institutional integrity against external threats and that establish its position within the regional and global security order.

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CHAPTER 17

Security and Neutrality

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Every new country faces a fundamental security paradox. It must be capable of maintaining public order and protecting its residents from harm. Yet it must do so without the military capacity, the alliance structures, or the decades of institutional credibility that established states possess. And it must achieve this whilst managing the perceptions of its neighbours, its host state, and the broader international community, each of which has its own interests in the security posture of the new entrant to the international order.

For a Startup State, this paradox is particularly acute because the new country's very existence depends on the goodwill of the international community. A Startup State that is perceived as a potential security threat, as a vehicle for great-power competition, or as a destabilising presence in its region will find that perception undermining its recognition strategy, its diplomatic relationships, and ultimately the treaty-based foundations on which its institutional existence rests. Security and diplomacy are inseparable for a new country: the way a Startup State manages its security posture is itself a diplomatic act, communicating to every observer what kind of country it intends to be.

The resolution of the security paradox lies in the concept of permanent neutrality: the deliberate and legally formalised decision by a new country to remain outside military alliances, to renounce any offensive military capability, and to commit to the peaceful resolution of all disputes.[1] Neutrality is not weakness; it is a sophisticated diplomatic strategy that has been successfully pursued by some of the world's most stable, prosperous, and respected countries for centuries. It is also the security posture most compatible with the Startup States model's foundational

commitments: to consensual formation, to mutual benefit with the host state, and to integration into the international order as a constructive and non-threatening participant.

17.1 The History and Law of Neutrality

Neutrality in international law is the legal status of a state that remains outside an armed conflict, abstaining from participation on either side and maintaining equal relations with the belligerent parties.[2] Permanent neutrality is a more specific and more powerful concept: the formalised commitment of a state, typically guaranteed by treaty, to abstain from participation in all future armed conflicts as a matter of constitutional and international law rather than as an ad hoc policy decision.

Switzerland is the archetype of permanent neutrality in the modern state system. Swiss neutrality was recognised at the Congress of Vienna in 1815, which established Switzerland's perpetual neutrality and guaranteed its territorial inviolability in the Final Act of 9 June 1815 and the Declaration of the Powers on the Affairs of the Helvetic Confederation, and the Powers formally acknowledged it in the Act of Paris of 20 November 1815.[3] That status has been maintained continuously for over two centuries, surviving two world wars, the Cold War, and the post-Cold War reshaping of European security arrangements. Switzerland has never joined any military alliance. Its neutrality has not prevented it from becoming one of the world's most prosperous and internationally respected countries; it has, if anything, reinforced that prosperity by making Switzerland a trusted venue for international diplomacy, a reliable domicile for international organisations, and a credible neutral party in disputes that benefit from such a presence.

One aspect of the Swiss precedent is particularly instructive for the design of new countries: Switzerland did not join the United Nations until 2002, despite hosting the United Nations Office at Geneva on its own soil for decades, and despite being a founding host of the League of Nations before that.[4] This deliberate non-membership was maintained for more than half a century as a conscious expression of the neutrality commitment. The Swiss constitutional position was that UN membership, which could in principle require participation in collective security measures under Chapter VII of the UN Charter, was incompatible with the obligation of perpetual neutrality. When Switzerland ultimately voted in a nationwide referendum in March 2002 to join the United Nations, it did so having secured a formal understanding that its neutrality obliga-

tions would be accommodated within the framework of UN membership. The Swiss precedent establishes something of considerable importance: a country can be a fully engaged and deeply respected member of the international community, hosting major international institutions, participating actively in multilateral diplomacy, and making substantial contributions to the fabric of international governance, without being a UN member state.

Austria's permanent neutrality, established by the Austrian State Treaty of 15 May 1955 and the Federal Constitutional Law on the Neutrality of Austria of 26 October 1955, provides a further instructive precedent.[5] Austrian neutrality was a negotiated solution to the Cold War deadlock over Austria's post-war occupation: the Soviet Union accepted the withdrawal of occupation forces in exchange for a constitutional commitment to permanent neutrality that removed Austria from the Western alliance system. The Austrian precedent demonstrates that permanent neutrality can be both a domestic constitutional commitment and an internationally recognised legal status, and that it can serve as the price of independence when a new country's creation involves the competing interests of major powers that must be reassured about the new entrant's strategic posture.

Liechtenstein, Costa Rica, and Panama each illustrate different dimensions of the security arrangements available to small countries that choose not to maintain significant armed forces. Liechtenstein abolished its army in 1868 following the Austro-Prussian War and has maintained no military forces since; it relies on Switzerland for customs administration and external representation in some contexts, and on its status as a prosperous, law-abiding, and internationally respected microstate for its security. Costa Rica abolished its army in 1948, a decision entrenched in Article 12 of its Constitution of 1949, and has maintained no military forces since, relying on diplomacy, international institutions, and its reputation for democratic stability as its primary security instruments. Panama's constitution prohibits a standing army, and the country relies on security co-operation with the United States and its own national police force for internal order.

A further and particularly distinctive precedent is the permanent neutrality of Turkmenistan, which stands as the only case in which the United Nations General Assembly has formally recognised a state's permanent neutrality by resolution.[6] On 12 December 1995, the Assembly adopted Resolution 50/80, recognising Turkmenistan's status of permanent neutrality. This was a unilateral declaration by a newly independent state,

subsequently endorsed at the highest multilateral level. For a founding team that believes General Assembly recognition of permanent neutrality would strengthen the new country's diplomatic positioning, the Turkmenistan precedent establishes that this pathway is legally available and has been successfully walked before.

17.2 Neutrality and European Integration: The Irish and Maltese Cases

The question of how permanent neutrality interacts with membership in organisations whose members have military commitments is one that several European states have navigated with varying degrees of success. The lessons are directly relevant to the founders of new countries designing their own neutrality arrangements.

Ireland presents one model. Irish neutrality is a matter of policy and constitutional tradition rather than a formally guaranteed status of the kind established by treaty.[7] It has coexisted with EU membership since 1973. Ireland is not a member of NATO, and successive Irish governments have maintained what is known as the "triple lock" policy: military deployment abroad requires a United Nations mandate, government decision, and parliamentary approval, although the Defence (Amendment) Bill 2025 proposes to remove the requirement of a United Nations mandate.[8] Ireland participates in the EU's Common Foreign and Security Policy and in its Common Security and Defence Policy missions, but has consistently maintained that participation in those frameworks does not involve membership of a military alliance in the traditional sense. The Irish experience demonstrates that EU membership and a robust tradition of non-alignment can coexist, but that sustained political attention and explicit constitutional safeguards are required to prevent the gradual erosion of the commitment through the cumulative effect of incremental integration obligations.

Malta's case is more complex and, for the purposes of constitutional drafting, more cautionary.[9] Article 1(3) of Malta's Constitution, inserted in 1987, declares the country to be "a neutral state actively pursuing peace, security and social progress among all nations by adhering to a policy of non-alignment and refusing to participate in any military alliance." When Malta joined the European Union in 2004, the compatibility of its constitutional neutrality with EU membership became a live legal and political question. Malta has subsequently participated in EU defence initiatives and Common Security and Defence Policy missions in ways that have generated ongoing domestic debate about whether its neutrality

commitment has been substantively maintained. The Maltese experience is a cautionary illustration for any founding team: constitutional neutrality provisions that are not drafted with sufficient precision, and not defended with consistent political will, can be gradually hollowed out by the cumulative effect of membership obligations in organisations that have security dimensions. The lesson for founding teams is that the constitutional and treaty architecture of neutrality must be robust enough to survive not only hostile external pressure but also the gentler pressure of incremental multilateral integration.

17.3 United Nations Membership as a Strategic Choice

The conventional assumption in state-building discourse is that United Nations membership is a goal that every new country should pursue as quickly as possible, because it represents the highest available signal of general international acceptance.[10] This assumption is well-founded as a general matter and for most Startup States the pursuit of UN membership will be among the primary objectives of the recognition-building strategy described in Chapter Fourteen. But it is not, and should not be treated as, a universal rule.

The Swiss precedent, examined in Section 17.1, demonstrates that a country can be a fully engaged and respected international participant without UN membership. A new country founded by a community that is deeply committed to a principle of neutrality may conclude, as Switzerland concluded for more than fifty years, that the obligations of UN membership under Chapter VII create tensions with its constitutional neutrality commitment that are not worth accepting until those tensions have been formally addressed. This is not a hostile posture toward the United Nations; it is a position of principled consistency, and one that the international community has respected in practice.

A new country that has pursued this path should be clear and transparent in its public communications about the reasons for it. The founding team should emphasise that the decision does not reflect an inability to meet the criteria for membership, nor a disagreement with the values and mission of the United Nations. It reflects a considered strategic judgment, specific to the founding community's vision for the country, about the relationship between the neutrality commitment and the obligations of membership at this stage of the country's development. That judgment may be revisited, as Switzerland's was in 2002, when the specific tensions

have been addressed or when the costs of non-membership outweigh the benefits of maintaining the original position.

17.4 Why Neutrality Is Right for Startup States

For a Startup State, permanent neutrality is not merely a pragmatic security strategy; it is the security posture most coherent with the foundational principles of the model. Consider the alternatives.

A new country that seeks to join a military alliance is immediately entangled in the geopolitical calculations of the major powers whose alliance it is joining. The host state, whose consent and continuing goodwill are essential to the new country's legal existence, may have its own complex relationship with the relevant alliance, and may view the new country's alignment as a complication of its own foreign policy. Neighbouring states and regional organisations may view the new country's alignment as a destabilising presence in the region. And the major powers on the other side of the alliance structure will have every incentive to resist the new country's recognition and to undermine its institutional foundations wherever possible.

A new country that attempts to build significant offensive military capability faces the same set of problems in a more acute form. The founding resources that would need to be devoted to military capability are resources not available for public services, institutional development, and the building of the human capital and physical infrastructure on which long-term prosperity depends.[11] The perception of military capability in a newly established state generates anxiety in every neighbouring government about the new country's intentions, regardless of how clearly its founders articulate peaceful purposes. And the maintenance of military forces creates institutional pressures, in civil-military relations, in budget allocation, and in the political dynamics of the founding community, that have derailed more new country projects than most analyses acknowledge.

Permanent neutrality resolves all of these problems simultaneously. It signals to every observer that the new country is not a vehicle for advancing any existing power's strategic interests. It reassures the host state that the new country will not draw it into military conflicts or complicate its own foreign policy. It addresses the anxieties of neighbouring states and regional organisations by making explicit that the new country does not constitute a military threat. And it frees the founding resources that would otherwise need to be devoted to military capability for the public

services, institutional development, and economic investment that determine whether a new country succeeds on its own terms.

17.5 Navigating Geopolitical Fault Lines and Recognition Sequencing

One of the most demanding diplomatic challenges that a new country faces during its recognition-building phase is the need to navigate, with great care, the geopolitical fault lines that divide the international community on contested questions of statehood, territory, and political legitimacy.[12] This dimension bears directly on recognition sequencing: the international system contains several such fault lines whose gravitational pull is powerful enough to affect the diplomatic relationships of any new country that does not manage its position on them with exceptional care.

The most consequential of these fault lines, from the perspective of a new country seeking broad recognition, is the question of cross-strait relations between the People's Republic of China and Taiwan. Any country that recognises Taiwan as an independent state risks severely complicating its relationship with the People's Republic; any country that fails to extend that recognition risks signal costs in its relationships with democratic governments that regard Taiwanese self-governance as legitimate and valuable. For a Startup State in its formative years, when every diplomatic relationship matters and when the capacity to absorb the friction of major power displeasure is limited, the management of this particular fault line is not a philosophical question but an existential question of diplomatic sequencing.

The question of Palestinian statehood presents a related challenge. More than 150 UN member states have recognised Palestine as a state, after a wave of recognitions in September 2025, whilst several of the world's most economically powerful countries do not. A Startup State that takes a strong public position on either side of this question will find that position facilitating certain relationships and complicating others, in ways that its founders must calculate carefully against the new country's specific interests and circumstances.

The status of Crimea, and more broadly of the territories whose annexation by Russia was rejected by 143 states in United Nations General Assembly Resolution ES-11/4 of October 2022, is a further fault line whose management requires attention. The non-recognition of those annexations is now a matter on which the overwhelming majority of UN member states have publicly committed themselves; a Startup State that appears to depart from this position will face significant friction in its relationships

with the European Union, the United States, and the United Kingdom, all of whom are important potential partners for recognition and commercial engagement.

The foundational principle for navigating all of these fault lines is the same: recognition sequencing must be managed strategically rather than allowed to develop by default.[13] A new country in the early phases of its recognition-building strategy, dependent on the goodwill of a small number of early recognising states, is not in the position to absorb the diplomatic costs of taking strong public positions on fault lines that divide those states from each other. A new country that has achieved broad recognition and full sovereign integration has considerably more latitude to engage on contested international questions than one that is still assembling the coalition of recognising states it needs to function.

The practical management of these questions, including the specific sequencing of which states to approach, in which order, with what recognition requests, and with what positions on contested bilateral and multilateral issues, is ultimately a matter for the specific founding team of each specific new country, working with the specific host state in the specific geopolitical context of the specific territory in question. What this book can prescribe is the general principle: extreme caution, extensive prior diplomatic preparation, and the deliberate deferral of public positions on contested questions until the new country has achieved sufficient recognised standing to absorb the costs of candour.

17.6 The Legal Architecture of Neutrality

The constitutional and treaty-based architecture of a Startup State's neutrality requires careful design, because the legal status of neutrality depends on its being clearly and unambiguously established in the instruments that constitute the new country and that govern its relationships with the international community.[14]

The founding treaty should include explicit provisions committing the new country to permanent neutrality: a prohibition on participation in any military alliance, a prohibition on the establishment of any foreign military base on the new country's territory, a prohibition on any offensive military capability, and a commitment to the peaceful resolution of all disputes through diplomatic, legal, or arbitral means. These provisions should be framed as obligations of the new country to the host state as well as commitments to the international community, creating a bilat-

eral legal foundation for the neutrality commitment that supplements the constitutional dimension.

The constitution of the new country should enshrine the neutrality commitment in its most fundamental and most difficult-to-amend provisions, making it clear that the commitment is not a policy choice of any particular government but a foundational constitutional principle of the country itself.[15] The Austrian model of a separate constitutional law on neutrality, given the same constitutional force as the constitution itself, provides a useful precedent. The Swiss model of a constitutionally entrenched foreign policy principle that has been maintained continuously for over two centuries provides a model of how such a commitment can acquire the character of a genuine state identity rather than a temporary policy choice.

The new country should also seek the endorsement of its neutrality by the regional organisation most relevant to its geographical context: the African Union, the Association of Southeast Asian Nations, the Organisation of American States, or whichever body represents the regional order within which the new country will operate. Regional endorsement of the neutrality commitment transforms it from a unilateral declaration into a multilaterally supported status, significantly reducing the risk that any single regional power will treat the new country's existence as a threat to its interests.

The Turkmenistan precedent, discussed in Section 17.1, provides a further option for founding teams that believe General Assembly recognition of permanent neutrality would strengthen the new country's diplomatic positioning. Pursuing UNGA recognition under Resolution 50/80's precedent is not a guarantee of the same outcome for every applicant, but it establishes the legal and institutional pathway, and the political work required to achieve it is precisely the kind of patient multilateral diplomacy that serves the new country's broader recognition strategy in any event.

17.7 Internal Security: Police, Border Control, and Public Order

Neutrality addresses the external security dimension of a new country's posture. The internal security dimension, the maintenance of public order within the territory and the protection of residents from crime, requires a different institutional framework: a professional, accountable, and effective police service that is clearly distinguished from any military function.

The design of a Startup State's internal security institutions should draw on the best available models of community-based policing, in which the police force is embedded in and accountable to the communities it serves rather than operating as an external enforcement agency.[16] New Zealand's integrated model of community policing, Norway's minimal-use-of-force philosophy, and the various Nordic countries' emphasis on police legitimacy rather than police authority provide instructive models for a new country that is seeking to maintain public order in a community that has chosen to be there and that expects the governance it was promised.

Border management is a related but distinct function. A Startup State must be able to manage its borders effectively: controlling entry to ensure that only those authorised to be in the country are present, and managing exit to ensure that those with obligations to the country cannot evade them. Effective border management is both a security function and a legal necessity: it is part of what makes the new country's citizenship and residency regime meaningful rather than nominal. During the provisional governance phase, border management may need to be conducted in co-operation with the host state, drawing on its existing border management infrastructure and expertise whilst the new country develops its own capability.

17.8 Security Co-operation with the Host State

The founding treaty should include provisions for security co-operation between the new country and the host state, specifying the areas in which co-operation is appropriate, the mechanisms through which it will be conducted, and the limits that protect the new country's independence in the conduct of its own security arrangements.[17]

Intelligence sharing on threats to the security of both parties is one area where co-operation is almost always mutually beneficial: the host state and the new country share an interest in preventing the entry or operation within their respective territories of individuals or organisations that pose security risks, and the sharing of relevant information between their respective security services is a natural expression of that shared interest. The founding treaty should establish the legal framework for this sharing: the categories of information that may be shared, the conditions governing its use, and the mutual obligations of confidentiality.

In the event of a serious security threat to the new country that exceeds its own capacity to manage, the founding treaty should specify the circum-

stances in which the host state may provide security assistance and the mechanisms through which that assistance is requested, authorised, and conducted. These provisions must be carefully balanced: too broad, and they risk making the new country dependent on the host state in ways that compromise its genuine independence; too narrow, and they risk leaving the new country without adequate protection in the event of a genuine emergency.

The Liechtenstein model of relying on Swiss support for certain external representation functions without compromising its internal governance independence provides one useful precedent.[18] The arrangements between the United States and its freely associated states in the Pacific, under which the United States provides defence while the associated states manage their own internal affairs, provide another. What matters is that the security co-operation arrangements be structured to support rather than substitute for the new country's own developing capability, with defined milestones for the transition to full independent security capacity as the country matures.

A dimension of the security co-operation relationship that deserves explicit treatment in the founding treaty is the financial one. The new country should contract and pay for the defence and policing services it receives from the host state at explicitly negotiated, arm's-length commercial rates, rather than treating those services as a residual benefit of the hosting arrangement. This is not merely a question of fairness; it is a structural feature that transforms the security relationship from a potential source of resentment, in which the host state bears genuine costs without corresponding compensation, into a direct commercial arrangement that reinforces the broader financial relationship described in Chapter Sixteen. From the very first day of the arrangement, the new country pays for what it receives, and the host state is made whole for what it provides.

17.9 Cybersecurity and Digital Security

For a Startup State whose governance architecture is, as Chapter Fifteen described, built on digital foundations, cybersecurity is not merely a technical dimension of public services but a core security challenge whose adequate management is essential to the new country's institutional integrity.[19]

The digital infrastructure on which the new country's administrative systems, financial systems, and communications networks depend is vul-

nerable to attack from a wider range of potential adversaries than conventional physical security arrangements need to address. State-sponsored cyber operations, criminal groups, and ideologically motivated hacktivists all represent potential threats to a new country's digital infrastructure, and the consequences of a successful attack on critical systems, the disruption of government services, the compromise of sensitive data, the manipulation of financial systems, can be as damaging as a physical security incident.

The cybersecurity architecture of a Startup State should be designed from the outset as an integral component of its governance infrastructure rather than as an afterthought. This means: redundant systems for critical functions, so that the failure or compromise of one system does not disable the relevant service; rigorous access controls and authentication requirements for all government systems; regular security audits by independent specialists; clear incident response procedures that enable rapid containment and recovery from successful attacks; and engagement with the international cybersecurity community, including information-sharing arrangements with other countries and participation in the relevant international forums.

The capacity to govern a country's own digital infrastructure without dependence on foreign technology providers or foreign-controlled networks that could be used to surveil or interfere with its governance systems, sometimes termed digital autonomy, is of particular importance for a small new country whose institutional integrity is more vulnerable to external interference than that of a large established state.[20] The founding team should make deliberate choices about the technology stack on which the new country's governance systems are built, preferring open-source solutions, locally administered infrastructure, and supply chains that are not dominated by technology providers from any single country with a potential strategic interest in interfering with the new country's governance.

17.10 Environmental Security and Climate Resilience

For a new country choosing its territory in the twenty-first century, environmental security and climate resilience are dimensions of the security analysis that cannot be deferred to later chapters.[21] The physical characteristics of the territory, its vulnerability to flooding, drought, extreme weather events, sea-level rise, or the other physical consequences of climate change, are directly relevant to the new country's long-term viability

and must be addressed in the site selection process and in the planning of the new country's physical infrastructure.

A new country established on low-lying coastal territory without adequate investment in flood defences, drainage infrastructure, and climate-adapted building codes is exposing its residents and its institutional infrastructure to risks that no amount of governance innovation can manage away. A new country established in a region subject to severe water stress without adequate investment in water security infrastructure faces a constraint on its long-term development that may prove binding regardless of its other institutional qualities. The site selection process should include a thorough assessment of climate risks over the fifty-to-hundred-year timeframe relevant to the founding treaty's duration, and the infrastructure investment plan should address those risks explicitly.

Environmental security is also relevant to the new country's relationship with the host state and with its regional neighbours. A Startup State that manages its territory in ways that generate negative environmental externalities for adjacent communities, contaminating shared water sources, contributing to regional pollution, or disrupting local ecological systems, will generate the kind of political hostility that undermines the consensual foundation on which its existence rests. Environmental stewardship is not merely a reputational concern; it is a condition of the new country's good-neighbourliness and, ultimately, of the sustainability of the founding arrangement.

17.11 The Neutrality Dividend

The most important thing to understand about a Startup State's security posture is that neutrality, properly designed and consistently maintained, is not a constraint on the new country's international ambitions but an enabler of them.

Switzerland's neutrality has not prevented it from becoming home to the International Committee of the Red Cross, the World Health Organisation, the United Nations Office at Geneva, the World Trade Organisation, the International Labour Organisation, and dozens of other major international organisations whose presence has made Geneva one of the world's most important venues for international diplomacy and one of its most prosperous cities.[22] Austria's neutrality has not prevented Vienna from becoming the seat of the United Nations Industrial Development Organisation, the International Atomic Energy Agency, the Organisation for Security and Co-operation in Europe, and the Organisation of the

Petroleum Exporting Countries. Small, neutral countries can be extraordinarily influential in international affairs precisely because their neutrality makes them trusted by all parties, capable of hosting the conversations that parties in direct conflict cannot conduct directly.

For a Startup State, the neutrality dividend takes a specific form: the combination of neutrality with institutional quality, the rule of law, and a demonstrated commitment to international norms creates a profile that is attractive not only to individuals and businesses seeking stable governance but to international organisations seeking reliable and politically unconflicted domiciles. The prospect of hosting an international organisation, a regional secretariat, or a specialised agency of the United Nations system is a realistic and valuable objective for a well-designed new country that has established its neutrality, its legal reliability, and its international respectability through the careful management of the recognition-building phase described in Chapter Fourteen.

The new country that achieves this status has converted its neutrality from a security arrangement into an economic asset, a diplomatic credential, and an institutional identity that reinforces every other dimension of its competitive positioning. It is a country that the world needs: stable, predictable, neutral, and genuinely oriented toward the common good of the international community rather than the advancement of any particular national interest. That is precisely the kind of country that the Startup States model is designed to create.

The next chapter turns from security to sustainability: the environmental, social, and institutional dimensions of long-term development that determine whether a new country's initial achievements endure across generations.

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NOTES

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CHAPTER 18

Sustainable Development and Innovation

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The preceding four chapters of Part Four have addressed what a Startup State is structurally: its features, its lifecycle, its governance models, its financial architecture, and its security posture. This chapter addresses a dimension that is woven through all of these structural elements but deserves treatment in its own right: what a Startup State should actually be trying to achieve for the people who live within it, and for the world it is a part of.

Sustainable development is not a slogan or a box to be ticked in an international reporting framework. It is the substantive answer to the question of what a new country is for. A Startup State that achieves full integration into the international order, attracts substantial capital, and delivers effective public services, but leaves its natural environment degraded, its social inequalities entrenched, and its institutional innovations unable to outlast the founders who created them, has not succeeded. It has built something technically impressive and substantively hollow. The long-term measure of a new country's success is whether the generations who inherit it regard it as a gift.

Innovation, in the sense in which this chapter uses the term, is not primarily technological. It is institutional: the continuous improvement of the governance frameworks, the public services, and the social arrangements through which the new country organises collective life.[1] Technological innovation, which a Startup State can attract and host as part of its economic strategy, is a valuable contributor to sustainable development but it is not a substitute for the harder and less glamorous work

of institutional innovation: designing governance systems that genuinely serve those they govern, delivering public services that are effective and accessible, and building the social trust that enables a diverse community to co-operate productively across generations.

18.1 The Sustainable Development Framework

The United Nations' Sustainable Development Goals, adopted by all 193 UN member states in September 2015 as part of the 2030 Agenda for Sustainable Development, provide the most widely recognised international framework for evaluating whether a country's development trajectory is genuinely sustainable.[2] The seventeen Goals cover the full range of dimensions relevant to sustainable development: the elimination of poverty and hunger; universal access to healthcare and education; gender equality; clean water and sanitation; affordable and clean energy; decent work and economic growth; industry, innovation and infrastructure; reduced inequalities; sustainable cities and communities; responsible consumption and production; climate action; life below water and on land; peace, justice and strong institutions; and partnerships for the goals.

A Startup State should commit to the Sustainable Development Goals in its founding instruments, not as a performative gesture toward international acceptance but as a genuine statement of what the new country is trying to achieve. This commitment has several practical dimensions.

First, the SDG framework provides a standardised set of metrics against which the new country's performance can be measured, reported, and compared with that of other countries. Transparent reporting against these metrics is both an accountability mechanism for the new country's own governance and a credibility signal to the international community that the new country is serious about its development commitments. A Startup State that publishes annual SDG progress reports, prepared by an independent body, is demonstrating the kind of institutional transparency that builds the trust on which its long-term success depends.

Second, the SDG framework provides the new country with a ready-made basis for partnership with the development finance institutions, multilateral organisations, and bilateral development agencies whose resources and expertise can support its development.[3] A Startup State that has embedded the SDGs in its founding instruments and demonstrated progress against them through transparent reporting is in a strong position to access the concessional finance, technical assistance, and part-

nership arrangements that these institutions offer. It has, in effect, prequalified for a category of international support that most new countries take many years to access.

18.2 Environmental Stewardship as Good Business and Founding Principle

The environmental dimension of sustainable development deserves particular attention for a Startup State, for two reasons that are distinct but mutually reinforcing. The first is ethical: a new country that is founded on the principle of consensual formation and mutual benefit has no mandate to impose environmental costs on communities beyond its borders or on future generations who had no voice in the founding. The second is strategic: a new country that establishes itself as a model of environmental stewardship acquires a form of international credibility and diplomatic capital that reinforces its recognition strategy and differentiates it from the exploitative precedents catalogued in Chapter Nine.

But there is a third reason, more immediate and more commercially direct than either of the first two: a clean, beautiful, ecologically intact environment is a product that people want to buy. A country whose natural environment is pristine is a country that individuals and families want to live in, that visitors want to come to, that businesses want to base themselves in, and that investors want to associate their capital with. A country that allows its environment to be degraded, its waterways polluted, its landscapes scarred, and its biodiversity depleted, is systematically destroying the very qualities that made it attractive in the first place. Environmental stewardship is not a cost borne in the interests of the planet; it is the protection of the new country's most fundamental commercial asset. There is simply no business case for desecrating the environment.

The good-neighbour dimension of this argument is particularly direct in the context of a lease arrangement with a host state.[4] The host state owns the land. The new country is, in the most literal sense, a tenant. A tenant who degrades the property they inhabit, who leaves it worth less at the end of the lease than it was at the beginning, has violated the most fundamental obligation of tenancy. The host state will not accept such treatment of its territory, and would be entirely within its rights to invoke the treaty provisions designed to protect against environmental degradation. Sound environmental management is therefore not a choice but a condition: a condition of the lease, a condition of good-neighbourliness,

and a condition of the long-term relationship with the host state on which the new country's existence depends.

The founding treaty should include specific environmental commitments, framed as legally binding obligations rather than aspirational declarations: a commitment to carbon neutrality within a defined timeframe; a prohibition on activities within the territory that would cause significant environmental harm to the host state or neighbouring communities; obligations of compliance with the major international environmental instruments including the Paris Agreement on Climate Change, the Convention on Biological Diversity, and MARPOL if the new country has maritime zones; and a requirement that major infrastructure projects be subject to independent environmental impact assessment before approval.[5]

These commitments are not merely diplomatic; they are deeply practical. A Startup State that develops on a clean, resilient, and biodiverse territorial base has a more valuable physical asset than one that has allowed extractive activities to degrade its environmental foundations. The long-term productivity of the territory, the health of its residents, the attractiveness of the environment as a place to live and work, and the new country's standing as a responsible international partner all depend on the quality of its environmental stewardship.

Some founding teams will go further still, pursuing carbon neutrality or even a carbon-negative environmental footprint as a positive competitive differentiator. A new country that is designed from the outset around renewable energy, sustainable transport, and carbon-sequestering land management has structural advantages that existing countries, whose energy and transport infrastructure was built in a different era, cannot replicate without decades of costly and disruptive transition. The environmental brand value that accrues to a genuinely carbon-neutral or carbon-negative country will appreciate over time as climate concerns become increasingly central to where mobile capital and talent choose to locate.

The most forward-looking new countries may go further still, positioning themselves as genuine laboratories of environmental governance innovation.[6] Costa Rica's payment for environmental services programme, which compensates landowners for maintaining forest cover, has preserved one of the world's most biodiverse environments whilst supporting the rural communities that manage it. Bhutan's constitutional commitment to maintaining forest cover over at least sixty per cent of its territory, combined with a development philosophy that measures success in terms of gross national happiness rather than gross domestic product, provides

a different model of how a small country can organise its development around environmental values. A Startup State committed to genuine environmental stewardship can draw on these precedents and go further, designing its governance model to treat environmental quality as a constitutional commitment rather than a policy preference.

18.3 Social Equity and Inclusion

The social dimension of sustainable development raises a specific tension for the Startup States model that must be addressed honestly. The opt-in citizenship regime, the rigorous vetting process, and the fiscal framework described in the preceding chapters are likely to produce, at least in the founding generation, a civic community that is economically advantaged, internationally mobile, and institutionally sophisticated. These are genuine assets for a new country trying to establish effective governance and attract the capital and talent it needs.[7] They also create a risk: that the new country becomes a club for the already-privileged, inaccessible to those without the resources or the connections to navigate the founding process, and unresponsive to the needs of the less-advantaged populations it may later encounter as it grows.

The founding team must confront this tension directly rather than assuming it away. Several governance design choices address it specifically. The citizen dividend model described in Chapter Sixteen distributes a share of the country's economic gains to all residents, providing a direct material stake in the new country's prosperity regardless of each resident's initial wealth. Progressive fee structures for governmental services ensure that the cost of governance does not fall disproportionately on those with the least resources. Investment in genuinely accessible healthcare and education creates pathways for social mobility that are not dependent on inherited advantage. And the commitment to the SDGs, including specifically SDG 10 (Reduced Inequalities), provides a framework for monitoring and reporting on the new country's progress toward genuine social equity.

The relationship with the host state's population is a further dimension of the social equity question. As Chapter Twelve examined, the new country's arrangements with the host state should include specific provisions for the employment of host state citizens, the procurement of goods and services from host state businesses, and the investment in educational and vocational training that expands the opportunities available to the host state's workforce. These provisions are not charitable; they are struc-

tural: they ensure that the creation of the new country generates genuine and widely distributed benefit for the host state's population rather than concentrating the gains among the founding consortium and the new country's own residents.

18.3a The Citizen Dividend as a Form of Voluntary Universal Basic Income

The citizen dividend model, introduced in Chapter Sixteen in the context of financial architecture, warrants development here in its social and developmental dimensions, because it represents one of the most distinctive and most ambitious things that a Startup State can offer: a universal basic income that is genuinely voluntary and genuinely debt-free.[8]

Almost all existing proposals for universal basic income face the same fundamental funding problem: to be universal, they must be paid to everyone; to be meaningful, they must be substantial; and to be sustained, they must be funded from somewhere. The available funding sources for existing states are, in practice, limited to taxation of income, wealth, or transactions, and government borrowing, which is deferred taxation on future populations. Both create distortions and impose costs on economic activity that reduce the overall size of the economy from which the dividends are drawn. The coercive dimension, which is inherent in any tax-funded programme, sits in permanent tension with the libertarian and voluntaryist principles that underlie the Startup States model.

A Startup State whose revenues come primarily from real estate development, land value appreciation, and the returns on its capital assets can fund a citizen dividend from genuine economic surpluses without those distortions. The value created by the development of the territory, the appreciation of land values that follows from successful community building, and the returns on the infrastructure and enterprises that the new country owns and operates all represent new wealth rather than redistributed wealth. Distributing a share of this new wealth to all residents is not redistributive in the conventional sense; it is a return on the collective asset of membership in a successfully developed community, analogous to the dividend that a shareholder receives on a successful investment.

The Alaska Permanent Fund, which has paid annual dividends to all Alaskan residents from the state's oil revenues since 1982, provides the most developed real-world model of how this concept can work in practice.[9] The Fund holds some 80 billion dollars in assets and has paid

dividends ranging from several hundred to more than three thousand dollars per resident in different years, providing every Alaskan with a direct material stake in the state's economic performance. A Startup State can adapt and extend this model, drawing on a broader range of revenue sources than a single natural resource and distributing the returns to a founding community that has explicitly chosen to be part of the arrangement.

At the most ambitious end of the spectrum, a Startup State could design a framework that functions as a negative income tax: a mechanism under which the dividend paid to residents whose income falls below a defined threshold is automatically topped up to that threshold from the collective wealth fund, providing a universal floor of economic security without means-testing, without bureaucracy, and without the stigma that conventional welfare programmes attach to those who receive them. Milton Friedman's original proposal for a negative income tax was designed precisely to achieve this combination of simplicity and universality; a Startup State funded from non-tax revenues is, structurally, the ideal institutional environment in which to implement it. Because the funding comes from genuine economic surpluses rather than from compulsory levies, the arrangement can be described as voluntary in a sense that no tax-funded welfare programme can claim: residents who join the community contribute to the collective wealth from which the dividend is drawn simply by living, working, and investing within the new country, and the returns flow back to them without the coercive infrastructure of conventional redistribution.

18.4 Innovation Policy: Designing for Discovery

Innovation policy in the conventional sense, the set of government interventions designed to accelerate the creation and diffusion of new knowledge and new technologies, is a field in which the economic literature has generated substantial insights about what works and what does not.[10] A Startup State that approaches this domain as a blank page, unencumbered by the legacy commitments and entrenched interests that make innovation policy reform so difficult in established jurisdictions, has the opportunity to implement the approaches that the evidence supports rather than the approaches that are politically convenient.

The foundational insight of the modern innovation economics literature is that innovation is primarily a social and institutional process rather than a purely individual or technical one. Innovation clusters, in

which geographically proximate firms, universities, research institutions, and supporting organisations interact intensively over time, generate knowledge spillovers that produce rates of innovation far exceeding what dispersed actors could achieve. Silicon Valley, Cambridge, Tel Aviv, and Singapore each illustrate this clustering dynamic in different ways and at different scales.

A Startup State has the opportunity to design its physical planning, its immigration policy, its university and research institution strategy, and its regulatory framework around the goal of creating an innovation cluster from the founding.[11] The physical proximity of research institutions to commercial partners, the immigration pathways that enable the rapid movement of talent, the intellectual property framework that incentivises investment in research whilst enabling the diffusion of knowledge, and the regulatory sandbox arrangements described in Chapter Fifteen that permit the rapid testing of new approaches without the full burden of mature regulatory compliance: all of these are design choices that determine whether the new country becomes a genuine centre of innovation or merely a jurisdiction that talks about innovation whilst replicating the institutional arrangements that constrain it elsewhere.

18.4.1 Frontier Sectors and Specialisation

The question of which innovation domains a Startup State should prioritise is one of the most consequential economic strategy decisions the founding team will make. Not every new country can or should try to compete across the full range of frontier technologies. The competitive dynamics of innovation clusters favour specialisation: a jurisdiction that achieves a critical mass of talent, capital, and institutional support in a defined domain will attract disproportionate shares of the global activity in that domain as its reputation develops.

Several frontier domains are particularly suited to the Startup State model because the gap between the pace of innovation and the responsiveness of existing regulatory frameworks is especially large, and because the potential benefits of regulatory clarity are therefore especially high.[12]

Longevity research and healthy ageing represent one such domain. The scientific understanding of the biology of ageing has advanced dramatically in the past decade, and a number of promising therapeutic approaches are now entering the early stages of clinical development. But the regulatory frameworks governing drug development and clinical

trials in most established jurisdictions were designed around the treatment of specific diseases rather than the modification of ageing processes, and are poorly adapted to the evaluation of interventions whose primary endpoint is the compression of morbidity rather than the treatment of a named condition. A Startup State that designed its regulatory framework specifically for longevity research, in dialogue with the leading scientific and clinical communities in the field, could become the primary global venue for the development and commercialisation of healthy ageing interventions.

Digital health and health technology provide a related opportunity. The integration of genomic data, electronic health records, wearable monitoring devices, and artificial intelligence clinical decision support into clinical practice is transforming the delivery of healthcare, but the regulatory, privacy, and liability frameworks of most existing jurisdictions are poorly adapted to this transformation. A new country with a purpose-built regulatory framework for digital health, and a sufficiently large and engaged resident population to generate the data necessary for the development and validation of digital health tools, could become the primary global venue for digital health innovation.

Sustainable energy and climate technology represent a third domain where regulatory clarity could generate substantial competitive advantage. The development and deployment of next-generation solar, wind, storage, and grid management technologies is constrained in many jurisdictions by regulatory frameworks that favour incumbent utilities and established technology providers. A new country with a clean regulatory slate and a genuine commitment to carbon neutrality has the opportunity to design an energy regulatory framework that accelerates rather than impedes the development and deployment of the clean energy technologies that the world urgently needs.

Digital governance and legal technology provide a fourth domain where a Startup State has inherent advantages. A jurisdiction that is itself an experiment in deliberate governance design has more direct and practical engagement with the questions that legal technology and governance innovation communities are trying to answer than any existing jurisdiction. The new country's own governance system can be a testbed for the governance innovations it is trying to commercialise and export, creating a virtuous cycle in which the country's reputation for institutional quality and innovation attracts the practitioners who generate the innovations that enhance the reputation.

18.5 The Knowledge Economy and Human Capital Development

Innovation in any domain ultimately depends on the quality and diversity of the human capital available to drive it.[13] A Startup State that attracts talented individuals from across the world and gives them the institutional environment, the economic opportunities, and the civic community in which they can do their best work, is investing in the most productive asset available to any economy: the knowledge, creativity, and collaborative capacity of engaged and well-equipped people.

The immigration policy of a new country is therefore as important to its innovation strategy as its regulatory framework or its infrastructure investment. A Startup State that can attract the world's leading researchers, entrepreneurs, engineers, and clinicians in its chosen innovation domains, and that gives them a genuine reason to stay by providing not only career opportunities but also a quality of civic life that they cannot find elsewhere, has the most powerful possible competitive advantage in the global competition for innovation talent.

The educational system described in Chapter Fifteen is the foundation for the next generation of the human capital on which the new country's long-term innovation capacity depends. A Startup State that invests seriously in the education of its own residents, in the quality of its research institutions, and in the pathways that connect educational achievement to economic opportunity, is building the institutional infrastructure for sustainable innovation rather than depending indefinitely on the attraction of talent developed elsewhere.

18.6 Institutional Innovation and the Export of Governance

The most distinctive form of innovation that a Startup State can contribute to the world is institutional: the demonstration that deliberately designed governance, built from first principles on a foundation of consensual formation and genuine accountability, can deliver better outcomes for those it serves than the historically inherited governance frameworks of most existing countries.[14]

This demonstration effect is not merely of theoretical interest. If the Startup States model succeeds, and if the countries it produces demonstrably outperform comparable existing jurisdictions across the range of dimensions that matter to the people who live within them, the governance innovations that produced those outcomes become available for adoption by other countries and other governance experiments. The

Startup State becomes, in effect, a living proof of concept for governance approaches that might otherwise remain theoretical proposals in academic papers and conference presentations.

Several mechanisms can amplify this demonstration effect. Transparent publication of governance data, including performance metrics, audit results, citizen satisfaction surveys, and institutional review findings, makes the new country's experience available to researchers, policymakers, and governance innovators around the world. Active participation in international governance research networks and policy communities ensures that the new country's insights are incorporated into the broader intellectual conversation about governance improvement. And the deliberate training and capacity-building programmes that share governance expertise with other countries and international organisations convert the new country's institutional knowledge into a form of international development assistance that reinforces its diplomatic standing whilst contributing to the improvement of governance globally.

Estonia's development of the e-Governance Academy, which provides training and technical assistance to governments seeking to develop their own digital governance capabilities, provides a model.[15] Singapore's Civil Service College, which provides governance training to public servants from across Asia and beyond, provides another. A Startup State that builds similar capacity-sharing institutions, drawing on its own governance experience and the international network of its founders and residents, is creating diplomatic and institutional relationships that reinforce every other dimension of its international standing.

18.7 Intergenerational Responsibility

Sustainable development, in its deepest sense, is about intergenerational responsibility: the obligation to leave the next generation a world that is at least as good as the one we inherited, and ideally better. For a Startup State, this intergenerational dimension has a particular sharpness, because the new country is being created by a founding generation that will be gone by the time its full consequences are felt, and whose design choices will constrain or enable the options available to those who come after.

The constitutional and institutional design choices described in this and the preceding chapters are, in a direct sense, gifts to the generations who will inherit them. A constitutional framework that protects fundamental rights, a legal system built for clarity and accessibility, gov-

ernance institutions designed for genuine accountability, an environmental baseline maintained in good condition, a fiscal framework that does not accumulate debt that future generations must service: each of these is a form of capital transfer to the future, and each reflects the founding generation's willingness to constrain its own options for the benefit of those who come later.[16]

The most concrete expression of intergenerational responsibility in the financial domain is the decision about how much of the new country's early economic gains to invest in the long-term assets, physical infrastructure, educational institutions, research capabilities, and environmental capital, that will support the productivity of future generations, versus how much to distribute to current residents through the citizen dividend and current public services. There is no universally correct answer to this question; it is a political choice that reflects the founding community's values and its vision of what kind of country they are building. But the choice should be made explicitly, with full awareness of its implications, rather than defaulting to the maximum current distribution and hoping that the long-term assets will somehow accumulate on their own.

A constitutional requirement that a defined proportion of the new country's annual revenues be invested in a long-term wealth fund, whose returns accrue to future generations and whose principal can only be accessed under defined exceptional circumstances, provides an institutional mechanism for this intergenerational commitment. The Norway Government Pension Fund Global, which holds the proceeds of Norway's oil wealth in a fund explicitly managed for the benefit of future generations, provides the most developed model of how this commitment can be embedded in a country's constitutional and financial architecture. A Startup State that builds an equivalent commitment into its founding instruments is making, from its first day, the statement about what kind of country it intends to be that matters most: one that takes seriously its obligations to those who will live within it long after its founders are gone.

The final chapter of Part Four, Chapter Nineteen, brings together all of the dimensions examined in Chapters Thirteen through Eighteen in a comparative matrix that evaluates the Startup States model against the full range of alternatives that Parts One and Two surveyed. Before the book turns to Part Five's examination of the specific benefits the model generates for host states, individuals, and businesses, the matrix provides the analytical foundation for understanding why those benefits are structurally embedded in the model rather than incidental to it.

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NOTES

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CHAPTER 19

The Comparative Matrix

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Part Four has examined what a Startup State is and how it is built: its defining features and prototypical configurations, the lifecycle through which it develops, the governance models and public services it delivers, its financial architecture, its security and neutrality posture, and its commitments to sustainable development and innovation. Part Five turns to the question of value: what the model delivers to each of the constituencies it serves. Before making that turn, this chapter steps back and evaluates the Startup States model against the full range of alternatives surveyed in Parts One and Two, using the analytical dimensions that the preceding chapters have established.

A comparative matrix is a useful analytical tool precisely because it forces the comparison to be conducted systematically across the same dimensions for all alternatives, rather than allowing each alternative to be evaluated only on the dimensions where it performs best. The matrix that follows is not designed to flatter the Startup States model; it is designed to give every alternative its fairest possible assessment on each dimension, so that the comparison is genuinely informative rather than merely confirmatory of the conclusion that the reader may already have reached.

19.1 The Twelve Dimensions of Comparison

Twelve dimensions are used in this analysis, each corresponding to a requirement that any new governance arrangement must satisfy if it is to be genuinely useful to those it serves.[1] The first ten dimensions were identified in the original framework developed in Parts Three and Four; the final two, the legal firewall and the free rider problem, are added here

because the examination of the host state relationship in Chapters Sixteen and Twenty demonstrated their particular importance for evaluating the structural differences between the Startup States model and every form of subnational governance arrangement.

Legal basis addresses the foundational question of what legal instrument constitutes the arrangement and what level of legal protection it provides. This is the dimension that determines whether the governance arrangement is grounded in international law or in domestic legislation, and what the consequences are for its durability.

Territorial title addresses how the arrangement acquires and holds the territory on which it operates, and whether that title is legally secure and internationally recognised.

Governmental authority addresses whether the arrangement actually exercises the governmental functions of an independent country, or whether it exercises only those functions that have been delegated to it by a superior authority that retains the power to withdraw that delegation.

Recognition addresses whether the arrangement has achieved the international diplomatic recognition that determines whether its legal instruments, its travel documents, and its bilateral agreements function in the international system.

Durability addresses how resistant the arrangement is to reversal by political change in the host state, adverse geopolitical developments, or the withdrawal of founding support.

Investment grade addresses whether the arrangement provides the legal certainty, the enforcement mechanisms, and the independent legal personality that sophisticated investors require to commit capital with confidence.

The legal firewall dimension, added to the original ten, addresses the degree to which the host state is genuinely separated, in legal liability and reputational terms, from the consequences of the arrangement's governance decisions. A thin domestic firewall differs fundamentally from the complete legal separation provided by independent international legal personality.

The free rider problem dimension, also added to the original ten, addresses whether the host state is genuinely compensated for the governance services, security infrastructure, and diplomatic standing that it provides to the arrangement, or whether the arrangement rides free on those contributions without contractual payment.

Citizen rights addresses whether the arrangement provides genuine, enforceable protections for the rights of those who live within it, and whether those protections are grounded in law rather than in the discretion of the arrangement's operators.

Host state return addresses whether the arrangement generates genuine and ongoing material benefit for the state whose territory and institutional support underpin it, and whether that benefit is guaranteed or merely contingent.

Ethical standing addresses whether the arrangement was constituted in a manner compatible with the fundamental principles of international law and with the history of state formation, or whether its origins involve coercion, deception, or exploitation.

Environmental commitment addresses whether the arrangement embeds genuine obligations toward environmental stewardship, or whether environmental considerations are absent or subordinate to short-term economic objectives.

19.2 The Matrix

The following table evaluates five categories of arrangement across all twelve dimensions. The five categories are: the Startup States model; the Charter City and Special Economic Zone model; the Network State model; the micronation and terra nullius claim; and the illegitimate pathway, encompassing chartered company proxies, coercive arrangements, manufactured sovereignties, and unilateral declarations of the type examined in Chapter Nine. The Startup State column is shaded.

Dimension	Startup State	Charter City / SEZ	Network State	Micronation	Illegitimate Pathway
Legal Basis	**Bilateral founding treaty under Vienna Convention (1969); pacta sunt servanda; jus cogens protected; inviolable**	Domestic statute or executive order; revocable by legislature overnight	Digital consensus or DAO; no instrument recognised by international law	Unilateral declaration; legally sterile; zero standing	Conquest, fraud, or coercion; invalid ab initio; ex injuria jus non oritur
Territorial Title	**Sovereign lease or condominium; geodetically precise definition in founding treaty; dominium retained by host**	Licence within host state; revocable at any time by the legislature	Crowdfunded parcels in existing countries; no unified jurisdiction; title vests in host state throughout	Claimed unilaterally; contested or patrolled; void in international law	Imposed by force or fraud; violates territorial integrity norms; null and void
Governmental Authority	**Full imperium transferred by treaty from day one; independently exercised; not delegated and not revocable**	Delegated sub lege parentis; survives only at host state's pleasure; ZEDE regime repealed in 2022	Aspirational; not constituted in law; no enforcement mechanism	Nil in practice; denied by every patrol authority	Nil, or coercive and unsustainable; rejected by population and international community
Recognition	**Secured in founding treaty; built progressively via strategic sequencing; estoppel accrues with each recognising state**	Not a state; not applicable; subnational arrangements do not receive diplomatic recognition	Not yet achieved; the goal but not the current reality	Absent; blanket collective non-recognition; Stimson Doctrine applies	Nil or withheld; Manchukuo, TRNC, Bantustans: consistent international rejection
Durability	**Vienna Convention; treaty succession obligations; estoppel doctrine; 999-year horizon; practically irrevocable**	Fragile: one legislative repeal suffices; ZEDE regime repealed 2022, void 2024; SEZs routinely wound up	Speculative; social capital disperses; no treaty protection against reversal	Existentially contested from day one; typically collapses within years	Collapsed historically without exception once patron withdrew or was defeated
Investment Grade	**Full independent legal personality; ICSID/PCA access; rated by credit agencies; bonds issued in own name; capital markets open**	Partial; limited to domestic law remedies; revocation risk priced in by all sophisticated investors	No legal personality for capital markets; documents legally void in all jurisdictions	Nil; unrecognised documents commercially worthless; banking impossible	Nil or sanctions-exposed; pariah status; any investment immediately at risk

Dimension	Startup State	Charter City / SEZ	Network State	Micronation	Illegitimate Pathway
Legal Firewall (Host)	**Complete: independent legal person; international arbitration; host liability terminated at the border**	Thin domestic firewall only; host courts retain jurisdiction; reputational contagion risk remains	None: community has no legal personality; host bears all legal exposure	None: host actively opposes; every liability pursued through host state courts	None: coercive origin creates liability trail back through the chain
Free Rider Problem	**Solved: host paid at market rates for defence, policing, and services from day one; win, lose, or draw**	Unresolved: zone benefits from host infrastructure without contractual payment; success is contingent	Not applicable: no host relationship; community free-rides on host state of each parcel	Not applicable: host is an adversary, not a partner	Not applicable: extractive by design
Citizen Rights	**Opt-in; constitutional bill of rights; international covenants; exit guaranteed; citizen dividend possible**	Subject to host state law and judicial override; rights dissolve if zone abolished	Voluntary affiliation; good intentions; rights unenforceable in any court	Aspirational; no enforcement; residents bear full legal risk of non-recognition	Imposed; coercive; rights illusory or non-existent
Host State Return	**Upfront lump sum or bond; recurring lease payments; equity dividends; services billed at market rates; guaranteed regardless of commercial outcomes**	Contingent: depends on zone's success; may be net negative; no guaranteed return	Zero: no host relationship; no financial mechanism	Zero: host state is an opponent; no return flows	Zero or negative: extraction, not partnership
Ethical Standing	**Consensual; transparent; anti-colonial by design; grounded in public international law; uberrima fides**	Risk of neo-colonial dynamics; investor capture; no requirement for host equity participation	Well-intentioned; no legal grounding; ethical content undefined by any treaty	Fraudulent, theatrical, or performative; frequently deceptive toward would-be residents	Exploitative, coercive, or worse; the historical antithesis of consent
Environmental Commitment	**Treaty-embedded; carbon neutrality provisions; SDG-aligned; good-neighbour obligations enforceable by host; stewardship as commercial imperative**	Variable and subordinate to host state environmental policy; no dedicated treaty framework	Undefined; no legal framework; no enforcement mechanism	None established; operators have no legal obligation to any standard	None; historically extractive; frequently catastrophic

19.3 Analysis: What the Matrix Reveals

The matrix confirms, systematically, the conclusions that the preceding chapters have reached through more detailed analysis. No alternative to the Startup States model achieves a comparable assessment across all twelve dimensions, and the pattern of divergence is revealing.[2]

The Charter City and Special Economic Zone model comes closest to the Startup States model on several dimensions, and this is unsurprising given that both models share the ambition of creating governance environments that attract capital, talent, and enterprise through deliberate institutional design. The critical divergence is on the dimensions of legal basis, governmental authority, durability, and investment grade. The Próspera experience, which provides the most recent and most thoroughly documented case study, illustrates what happens on each of these dimensions when a governance innovation project that has achieved considerable institutional sophistication is grounded in domestic statutory authority rather than in an international treaty. The founding statute was repealed, and in 2024 the Supreme Court declared the regime void from its inception. The investors went to arbitration. The durability that the model promised proved illusory. These are not incidental failures of a particular implementation; they are the structural consequences of the ceiling that Chapter Four identified as inherent in every subnational governance arrangement. The legal firewall and free rider dimensions, newly added to the matrix, expose two further structural weaknesses of the SEZ model that the original ten dimensions did not explicitly capture: the host state's ongoing exposure to the zone's liabilities through thin domestic firewalls, and the absence of any guaranteed payment mechanism that compensates the host for the governance services on which the zone depends.

The Network State model performs reasonably on the dimensions of citizen rights and ethical standing, reflecting the genuine commitment of the Network State community to voluntary affiliation and to non-coercive community formation. But it performs poorly on the dimensions of legal basis, governmental authority, recognition, durability, and investment grade, precisely because these dimensions all require the treaty-based legal foundation that the Network State model proposes to build after the community has formed rather than at the outset. As Chapter Eight argued, the community-first sequencing that the Network State model proposes cannot resolve the chicken-and-egg problem: without recognised legal standing, the community cannot acquire the governmental authority it

needs; but the Network State model proposes to acquire legal standing only after the community has formed and achieved sufficient social capital to attract it.

The micronation and terra nullius claim fails on every substantive dimension. It may score positively on a dimension that the matrix does not include, the dimension of romantic appeal, but on the dimensions that determine whether an arrangement can actually function as a country and genuinely serve the people who live within it, it has nothing to offer. Chapter Five and Chapter Six explored in detail why this is so; the matrix provides the systematic confirmation.

The illegitimate pathway, encompassing the full range of coercive, fraudulent, and unilateral approaches catalogued in Chapter Nine, fails on every dimension by design. It exists in the matrix only to provide the clearest possible baseline against which the alternatives can be evaluated, and to remind the reader that the worst of the available options are not merely suboptimal but actively harmful to those they affect.

19.4 What the Startup States Model Uniquely Provides

Reading across the Startup States column of the matrix, the pattern that emerges is one of genuine and comprehensive adequacy across all twelve dimensions. This is not because the model is perfect; no governance arrangement is. It is because the model has been designed, from its foundational principles through its legal architecture and its institutional design, to satisfy the specific requirements that each dimension represents.

The legal basis dimension reflects the foundational insight of the model: that only a bilateral founding treaty, concluded by a recognised state acting within its constitutional authority and governed by the Vienna Convention on the Law of Treaties, provides the level of legal protection that a new country requires.[3] Every other legal instrument available to governance innovators, whether domestic statute, digital consensus, or unilateral declaration, is inadequate on this dimension for the reasons that Chapters Ten and Eleven examined in detail.

The investment grade dimension reflects the practical consequence of the legal basis: a Startup State that has been constituted by international treaty, that has been recognised by a growing number of UN member states, and that has established effective governance institutions, can access capital markets, secure credit ratings, and conclude commercial agreements with the full legal personality of a recognised country. No

alternative arrangement can offer this combination of legal standing and commercial credibility.

The host state return dimension reflects the structural innovation of the guaranteed payment model examined in Chapter Twenty: the deliberate design of the founding arrangement to ensure the host state receives a contracted, unconditional financial return from the first day of the arrangement, regardless of whether any specific commercial project within the new country succeeds or fails. This is the feature that converts the host state from a potential adversary, with an ongoing incentive to claw back the rights it has granted, into a structural ally with an ongoing incentive to defend and promote the arrangement against every form of political pressure.

The legal firewall dimension reflects one of the most decisive structural advantages of independent statehood over every subnational arrangement: the complete separation of the new country's legal liabilities from those of the host state, grounded in international law rather than in domestic statute, and as durable and complete as the legal separation between any two recognised countries.

The ethical standing dimension reflects the foundational commitment to consent at every level of the founding process: the consent of the host state, the consent of the founding citizens, the consent expressed through international recognition, and the clean acquisition of the territory on which the new country is established. This is the dimension on which the contrast with the illegitimate pathways of Chapter Nine is most stark, and it is the dimension on which the model's claim to be a genuine innovation in statecraft, rather than a sophisticated repetition of what has failed before, most directly rests.

19.5 The Matrix as a Diagnostic Tool

The matrix has a practical use beyond the comparative analysis it provides in this chapter: it functions as a diagnostic tool for evaluating any specific proposed new country arrangement against the standards that the Startup States model has identified as essential.[4]

A founding team can apply the matrix to its own proposed arrangement by asking, for each dimension, whether the specific instruments and design choices it has made provide the level of adequacy that the matrix identifies as the standard. Where the assessment falls short of that standard, the matrix identifies the specific dimension that requires further work: the legal basis needs to be grounded in a stronger instrument, the

territorial title needs to be more clearly established, the governmental authority needs to be more completely transferred, the recognition strategy needs to be more fully developed.

The matrix can also be used by host state governments evaluating proposed founding arrangements, by investors assessing the legal and institutional quality of a governance innovation project, and by international organisations considering whether a new entity meets the standards required for membership or partnership. In each of these applications, the systematic comparison of the proposed arrangement against the twelve dimensions provides a more rigorous basis for assessment than the impressionistic evaluations that have characterised most public discussion of governance innovation to date.

19.6 The Transition to Part Five

Part Four has established, through six chapters of detailed institutional analysis, that the Startup States model provides a comprehensive and coherent answer to the question of how a genuinely new country can be built: a country that is legally sound from its first day, institutionally effective in delivering the services that its residents require, financially sustainable and competitive in the global market for jurisdictions, secure in its neutrality and its relationships with its neighbours, and committed to the sustainable development of its people and its environment.

Part Five turns to the question of value: what specific benefits does this model generate for each of the constituencies it involves? The three chapters of Part Five address, in turn, the benefits for the host state that co-creates the new country, the benefits for the individuals and businesses that choose to affiliate with it, and the distinctive value that the Startup States model creates in its specific contribution to the international order as a whole.

The matrix provided in this chapter is not the end of the argument; it is the foundation on which Part Five's more specific value analysis is built. The structural adequacy of the model on all twelve comparative dimensions is what makes the benefits it delivers to each constituency possible, durable, and genuinely distinct from what any of the alternatives could offer.

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NOTES

1 On the methodology of comparative institutional analysis, see: Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990), Chapter 1; and Peter Hall and David Soskice (eds), *Varieties of Capitalism* (Oxford: Oxford University Press, 2001), Introduction.

2 On systematic comparative evaluation of governance models, see: Arend Lijphart, *Patterns of Democracy*, 2nd edn (New Haven: Yale University Press, 2012); and Francis Fukuyama, *Political Order and Political Decay* (New York: Farrar, Straus and Giroux, 2014).

3 Vienna Convention on the Law of Treaties, 23 May 1969, 1155 UNTS 331. On the foundational legal significance of bilateral treaties as the highest-protection instrument for governance arrangements, see: James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), pp. 673-699.

4 On comparative matrices as diagnostic tools in institutional design, see: Elinor Ostrom, *Governing the Commons* (Cambridge: Cambridge University Press, 1990), Chapter 6; and Daniel Bromley, *Environment and Economy: Property Rights and Public Policy* (Oxford: Blackwell, 1991), Chapter 2.

INTERLUDE IV

A Letter to My Free Cities Friends

✷

Dear Friends,

I am writing to you with genuine affection, admiration, and respect. I have followed the Free Cities movement with deep interest and growing conviction. What you are attempting is not merely innovative governance, but something far more profound: a practical, humane, and voluntary rethinking of how people can live together peacefully, productively, and with dignity. I want you to know that I sincerely hope Free Cities succeed, flourish, and ultimately multiply across the world.

At their best, Free Cities represent a rare convergence of moral clarity and operational realism. They take human diversity seriously. They respect consent. They replace ideological struggle with contractual certainty, and politicised coercion with accountability, exit, and alignment of incentives. In doing so, they offer something that modern politics has largely lost: a calm, adult, workable framework for coexistence among people who may hold very different views about the good life, provided they are willing to abide by the clear rules of the community they have chosen to join.

I also wish to share a vision of how Free Cities and Startup States fit together as complementary, rather than competing, approaches to the challenge of governance innovation.

In many cases, I envision new Startup States being composed largely of Free Cities. When a new country is created as a Startup State, particularly when it begins as a genuine blank institutional slate, it is highly likely that its territorial, economic, and civic development would naturally take the form of one or more Free Cities operating within its constitutional framework. This is not accidental. It is symbiotic.

A Startup State that incorporates Free Cities as a core component of its internal structure gains enormous advantages. It avoids the temptation to recreate a large, top-heavy central bureaucracy. It resists the gravitational pull toward politicisation, rent-seeking, and regulatory sprawl. It anchors itself in modular, accountable, and contract-based governance units that already embody many of the principles such a new country should aspire to uphold.

At the same time, Free Cities operating within a Startup State benefit from a form of protection and stability that purely subnational arrangements cannot provide. They are less vulnerable to unilateral revocation by a host government, precisely because the Startup State's existence and constitutional framework are grounded in an international treaty rather than in domestic legislation that can be amended overnight. The experience of Próspera, examined at length in Appendix B of this book, illustrates what happens when a brilliantly designed governance experiment is grounded in a domestic statutory framework that a subsequent legislature can repeal. A Free City operating within a Startup State is not a peripheral experiment tolerated at the pleasure of the central government; it is an integral component of the new country's constitutional and economic architecture.

This does not mean that every Startup State will necessarily contain Free Cities, nor that Free Cities require Startup States in order to exist or succeed. There are many contexts in which Free Cities can and should be pursued within existing countries, wherever space, political will, and institutional courage permit. The paths are parallel, not sequential. But in cases where a new country is being designed from first principles, the Free Cities model offers a proven, philosophically aligned, and practically well-developed template for the new country's internal governance, which the founding team would be wise to engage with seriously.

Where Free Cities and Startup States differ, they do so cleanly and honestly. Startup States are independent countries. They bear the responsibilities of statehood, including diplomacy, the management of external recognition, and the full range of international legal obligations that come with being a recognised member of the community of nations. Free Cities, by remaining non-sovereign, are liberated from the immense costs, risks, and constraints associated with maintaining that standing. This makes them faster to establish, easier to iterate, and more immediately accessible to founders who are not ready or not positioned to undertake the demanding process of creating a genuinely new country.

The areas of overlap between the two frameworks are extensive. Both emphasise voluntarism over compulsion. Both rely on clear, written rules rather than mutable political promises. Both seek to align authority with responsibility and incentives with outcomes. Both value exit, competition, and pluralism as stabilising forces in governance. And both reject the idea that one uniform system must be imposed on all people, in all places, at all times.

My hope is straightforward: I want Free Cities to thrive on their own merits. I want them to succeed in existing countries wherever the conditions allow. And I very much hope that when new countries are formed, peacefully and consensually, they will look to Free Cities not as a peripheral experiment but as a proven, aligned, and natural building block of their internal architecture.

The movement you have built deserves to be part of the next chapter of statecraft. I hope Startup States can be part of the framework that gives it the durability and the legal grounding it deserves.

With genuine respect and warm regards.

PART FIVE

The Value Proposition



CHAPTER 20

Benefits for Partnering Host States

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The comparative matrix of Chapter Nineteen established, across twelve rigorous dimensions, that the Startup States model delivers structural adequacy where every alternative falls short. Part Five turns from structure to value: the specific, concrete benefits that the model generates for each of the constituencies it involves. This chapter addresses the first and most fundamental of those constituencies: the host state that co-creates the new country.

The host state is not merely a permissive counterparty to the founding arrangement. It is the sine qua non of the entire enterprise. Without the host state's free and informed consent, without the exercise of its constitutional authority to conclude the founding treaty, and without its continuing goodwill across the life of the arrangement, there is no Startup State. Everything that the model delivers to individuals, businesses, and the broader international order flows from the foundational relationship between the new country and the state that gave it life.

This chapter makes the affirmative case that co-creating a Startup State is in the host state's genuine long-term interest, not as a philanthropic gesture but as a strategic investment that generates returns across multiple dimensions: financial, diplomatic, developmental, and reputational. It also addresses, directly and honestly, the objections that a host state government will inevitably face from domestic opponents of the arrangement, and explains why each of those objections, though politically real, does not withstand analytical scrutiny.

20.1 The Central Insight: Leveraging Rather Than Surrendering

The most persistent political obstacle to any proposal for a host state to co-create a new country is the instinctive perception that the arrangement involves a surrender of something the host state already possesses.[1] Territory. Authority. Resources. National pride. This perception is understandable, because the historical models that are most readily available to those evaluating the proposal, the colonial leases discussed in Chapter Twelve, the Bantustan precedents of Chapter Nine, the various forms of imposed or coerced partial authority catalogued throughout Part Two, are indeed models in which one party surrendered at the expense of another.

The Startup States model is structurally different from all of these precedents, and the difference is not cosmetic. The host state that co-creates a Startup State does not surrender territory; it retains the dominium of the land throughout the life of the arrangement. It does not surrender governmental authority; it exercises that authority to create something new and valuable that did not previously exist. It does not surrender resources; it unlocks the latent value of territory that, in the absence of the arrangement, would generate no return at all. And it does not surrender national pride; it demonstrates a form of governmental creativity and international leadership that deserves to be celebrated rather than apologised for.

The most precise characterisation of what the host state does is not that it surrenders anything but that it leverages what it already holds.[2] The zoning analogy captures the mechanism exactly. When a municipality rezones land from agricultural to commercial use, it does not surrender the land. It unlocks the latent value that the land possesses by virtue of its location, its characteristics, and the economic activity that can be supported upon it. The municipality retains ownership; what it has done is exercise its governmental authority to enable a more productive use. The value created by that exercise flows to the landowner, to the developer, and to the municipality in the form of rates, fees, and economic spillovers. No one describes this as a surrender. It is a strategic decision, and it is the right analogy for what a host state does when it co-creates a Startup State.

20.2 The Host Gets Paid: Win, Lose, or Draw

The single most important financial distinction between the Startup States model and every subnational governance alternative is this: the host state is paid from the first day of the arrangement, regardless of

whether any specific project within the new country succeeds or fails.[3] This is not a marginal improvement on the existing alternatives; it is a structural inversion of their fundamental logic.

Consider the alternative. A host state that authorises a special economic zone or a charter city accepts all of the reputational and regulatory costs of hosting the arrangement, provides the legal framework, the security, and the governmental infrastructure within which the zone operates, and receives in return a financial benefit that is contingent on the zone's commercial success. If the zone fails commercially, the host state has borne the costs without receiving the promised benefits. If the zone encounters a governance scandal, the host state's reputation is implicated. If the zone requires the host state to respond to a security incident, an environmental failure, or an investor dispute, those costs fall on the host state's resources regardless of whether the zone ever generated a penny of fiscal return.

The Startup State arrangement inverts this entirely. The financial relationship between the host state and the new country is contractual and unconditional, not contingent on any commercial outcome. The founding treaty specifies, with legal precision, what the host state receives and when it receives it. An upfront lump sum or indemnity payment, agreed at the time of the treaty's conclusion, provides an immediate fiscal benefit before a single resident has arrived. Annual lease or royalty payments provide a recurring income stream that grows with inflation linkage over the life of the arrangement. The host state may hold preferred stock or equity in the infrastructure companies operating within the new country, providing it with dividends that appreciate as the new country grows. And the fees for specific services provided to the new country, including defence co-operation, policing support, intelligence sharing, and consular assistance, are billed and paid at arm's-length commercial rates from the first year of operation.

These payments flow regardless of how well or how badly any particular commercial project within the new country performs.[4] A developer who builds within the Startup State's territory and fails commercially affects the developer's investors and the new country's own revenues; it does not affect the payments owed to the host state under the founding treaty. A Startup State that experiences a period of slower economic growth continues to pay its lease obligations, continues to pay for the services it receives, and continues to provide the host state with the contractually specified returns. The host state has secured a guaranteed

income stream from territory that previously generated nothing. It is the difference between an equity stake in a risky startup and a first-ranking bond over a well-secured asset: the Startup States model puts the host state in the position of the secured creditor rather than the speculative investor.

20.3 Ending the Free Rider Problem: Paying for Defence and Policing

One of the deepest structural weaknesses of subnational governance arrangements is what economists call the free rider problem: the subnational entity benefits from services and infrastructure provided by the host state without paying for those benefits at anything close to their true cost.[5]

A special economic zone or a charter city relies on the host state's military for external defence. It relies on the host state's police for the security of its perimeter and the investigation of crimes within it. It relies on the host state's courts for the enforcement of contracts and the resolution of commercial disputes that exceed the zone's own administrative capacity. It relies on the host state's diplomatic network for the international commercial relationships that its businesses require. And it relies on the host state's broader legal system as the ultimate backstop for everything it cannot resolve through its own mechanisms. It pays for these services, if at all, through the indirect mechanism of tax revenues that a successful zone may eventually generate, which may or may not be positive, and which arrive, if they arrive at all, only after the zone has achieved a level of commercial success that cannot be guaranteed in advance.

The Startup State model eliminates the free rider problem through a simple structural mechanism: the new country is an independent country, and it pays for every service it receives from the host state at explicitly negotiated, contractually specified rates. The security co-operation provisions of the founding treaty, examined in Chapter Seventeen, specify the services the host state provides and the price at which they are provided. Defence co-operation, policing support, intelligence sharing arrangements, and consular assistance are each contracted services for which the new country pays a defined market rate. From the very first day of the arrangement, before any commercial activity within the new country has generated a single dollar of revenue, the host state is being compensated for what it contributes. There is no period during which the

host state is subsidising the arrangement whilst hoping that the commercial success will eventually justify it.

This transforms the relationship between the host state and the new country from a structural dependency, in which the weaker party benefits from the stronger without paying for those benefits, into a genuine commercial partnership in which both parties contribute specific things and are compensated for them.[6] The host state is not a charitable backer of the new country's ambitions; it is a commercial partner that is well compensated for the specific governmental services and territorial arrangements that it provides. The new country is not a free rider on the host state's infrastructure; it is a paying customer of specific, defined services.

20.4 The Legal Firewall: A Structural Advantage No SEZ Can Offer

Every host state government that has considered authorising a special economic zone has heard the assurance that the zone's legal framework will protect the host state from the zone's liabilities. That assurance is worth only as much as the domestic legislation on which it rests.[7] Domestic legal firewalls are created by the same legislative process that can repeal them. They are subject to interpretation by the same courts whose jurisdiction they purport to limit. And they provide no protection against the reputational consequences that follow when a governance failure, a financial scandal, or an environmental disaster within the zone is reported internationally with the host state's name prominently attached.

The legal separation provided by a Startup State's independent legal personality is categorically different from any domestic firewall that a subnational arrangement can construct. A Startup State is a recognised independent country with its own standing in international law. It sues and is sued in its own name. Disputes involving the Startup State are adjudicated in international arbitral forums, not in the host state's domestic courts. Investors whose capital is at risk within the Startup State have claims against the Startup State's assets and against the arbitral mechanisms specified in the founding treaty; those claims do not pierce the veil of the Startup State's international legal personality into the host state's own legal system. The host state's courts have no more jurisdiction over the Startup State's internal governance than they would over any other recognised foreign country.

This matters practically in several ways. If the Startup State's government makes a decision that damages an investor, the investor's claim is

against the Startup State and its treaty-specified arbitral mechanisms, not against the host state. If a business operating within the Startup State fails and leaves creditors unpaid, those creditors pursue their remedies through the Startup State's legal system, not through the host state's courts. If the Startup State experiences a governance crisis that attracts international media attention, the host state is a neighbouring country whose policy was to create an independent polity; it is not a responsible party to the internal governance decisions that created the crisis.

For a host state government evaluating the risk of co-creating a Startup State, this structural separation is one of the most compelling features of the arrangement.[8] The host state can enjoy the guaranteed financial returns of the arrangement without assuming the full range of governance risks that a subnational arrangement would place on its shoulders. If the new country governs itself badly, the consequences fall primarily on the new country and its residents. If it governs itself well, the host state shares in the prosperity through the financial mechanisms already described. The risk and the return are cleanly separated in a way that no domestic legal firewall can achieve, because the separation is grounded in international law rather than in domestic statute.

20.5 Recurring Revenue Without Debt

For a host state government, the most immediately compelling financial argument for co-creating a Startup State is the prospect of a recurring, substantial, and growing revenue stream from territory that currently generates no economic return.[9]

Most host states capable of co-creating a Startup State have some territory that is unused, underused, or economically inert: uninhabited land, maritime zones with no commercial activity, or peripheral regions where geography, lack of infrastructure, or historical circumstances have prevented development. This territory generates no revenue, requires minimal management, and contributes nothing to the host state's fiscal position or its development objectives. The Startup State arrangement converts it into a source of substantial and growing income.

The revenue streams that flow to the host state under a well-structured founding arrangement are multiple and compounding. The initial consideration paid at the time of the treaty's conclusion provides an immediate fiscal benefit. The annual lease payments or royalties that accrue over the life of the arrangement provide a predictable and inflation-linked income stream. The equity participation in the commercial entities that

provide governmental services within the new country provides exposure to the upside of a growing enterprise. And the indirect economic benefits, including employment of host state citizens, procurement from host state businesses, and development of infrastructure that serves the surrounding region, generate multiplier effects across the host state's broader economy.

These revenues are structurally different from the most common alternatives available to host state governments for generating income from their territory.[10] Unlike taxation, they do not require the imposition of burdens on existing economic activity. Unlike borrowing, they do not create obligations that future governments must service. Unlike resource extraction, they do not deplete an asset that cannot be replaced. They are, in the most direct sense, the return on a governmental investment: the deployment of the host state's most fundamental asset, its territorial authority, in a manner that generates lasting value.

20.6 Diplomatic Prestige and International Standing

Beyond the financial dimension, the host state that co-creates a Startup State acquires a form of international standing that cannot be purchased or awarded; it can only be earned by doing something genuinely innovative.[11] The first host state to successfully establish a fully recognised, institutionally effective new country under the Startup States model will be demonstrating, to the entire international community, that its government possesses the legal sophistication, the diplomatic skill, and the institutional confidence to pioneer a new form of statecraft. This demonstration commands respect, and the diplomatic capital it generates is real and lasting.

The hosting of international organisations, noted in Chapter Seventeen, provides one concrete expression of this diplomatic standing. Countries that have positioned themselves as neutral, legally reliable, and institutionally sophisticated hosts for international bodies, Switzerland, Austria, Belgium, Singapore, and Kenya among them, exercise influence in international affairs far beyond what their size or military capacity would suggest. The host state that has co-created a successful Startup State has established its credentials for exactly this kind of institutional hosting role, and should pursue it systematically as part of its broader diplomatic strategy.

The reputational benefit of being associated with a successful governance innovation is itself a form of soft power. A host state whose co-

creation of a new country is seen, both domestically and internationally, as a visionary act of diplomatic leadership is a state that other governments want to partner with, that investors want to engage with, and that talented individuals want to work with. The diplomatic and commercial relationships that flow from this reputational enhancement are diffuse and long-lasting, extending far beyond the direct bilateral relationship between the host state and the new country.

20.7 Regulatory and Legal Innovation Spillover

The new country established on the host state's territory functions, among other things, as a living laboratory for governance innovations that the host state itself may wish to adopt.[12] The regulatory sandboxes, the digital administrative systems, the legal codes designed from first principles, the dispute-resolution frameworks, and the fiscal structures that the Startup State develops and refines through actual operation provide the host state with a continuously updated catalogue of governance innovations whose effectiveness has been validated in a real institutional context rather than merely theorised in a policy document.

The adoption pathway is entirely under the host state's control. No innovation needs to be adopted if it proves ineffective or incompatible with the host state's circumstances. But the availability of a nearby, trusted, and operationally proven governance laboratory significantly reduces the risk and the cost of governance modernisation for the host state. It can observe, evaluate, and selectively import only those innovations that demonstrate genuine effectiveness under real operating conditions, rather than implementing untested reforms across its entire governance system in response to external pressure or internal political impulse.

This regulatory learning relationship is not incidental to the founding arrangement; it should be embedded in it. The founding treaty should include provisions for structured information sharing between the host state and the new country's governance institutions, for joint research and evaluation of governance innovations piloted within the new country, and for the host state's participation in the governance review processes described in Chapter Fifteen. These provisions ensure that the learning relationship is systematic and sustained rather than ad hoc and dependent on the personal relationships of particular officials.

20.8 Employment, Upskilling, and Workforce Development

The founding treaty's provisions for the employment of host state citizens within the new country, examined in Chapter Twelve, generate benefits for the host state's workforce that extend beyond the direct employment relationship.[13]

Host state citizens who work within the new country's institutions are exposed to governance practices, regulatory frameworks, commercial environments, and professional cultures that are typically accessible only to those who travel and work abroad. They develop skills, build professional networks, and acquire perspectives that they then bring back into the host state's own workforce and institutional culture. The new country functions, in this sense, as a domestic internationalisation programme: delivering the professional development benefits of international experience without requiring the host state's citizens to leave their country.

The scholarship, apprenticeship, and vocational training provisions that the founding treaty should mandate create similar development benefits for younger members of the host state's workforce who have not yet entered the labour market. The exposure to frontier industries, advanced governance systems, and high-performing institutional environments during formative professional years is one of the most valuable educational investments available, and the host state's citizens should have preferential access to it by virtue of the founding arrangement.

The procurement provisions that direct a defined share of the new country's goods and services procurement toward host state businesses generate economic multiplier effects throughout the host state's economy.[14] Small and medium enterprises in the host state that become established suppliers to the new country's institutions gain experience, capabilities, and commercial references that strengthen their competitive position in broader markets. The development of a local supply chain for the new country's needs is itself a form of industrial development that the host state government might struggle to achieve through direct policy intervention but can achieve naturally through the founding arrangement's procurement commitments.

20.9 Economic Diversification and the Monoculture Risk

Many of the host states best placed to co-create a Startup State face a structural economic challenge: their fiscal revenues, their export earnings, and their employment base are concentrated in a small number

of sectors, making their economies vulnerable to the commodity price cycles, tourism demand fluctuations, or single-industry disruptions that characterise monoculture economies.[15]

A Startup State positioned as an innovation jurisdiction, a financial services hub, or a digital governance centre within the host state's territory diversifies the economic base of the host region without requiring the host state government to directly manage the development of new industries. The investment, the talent, and the enterprise that the new country attracts add a new column to the host state's economic ledger that is not correlated with the commodity, tourism, or agricultural cycles that drive its existing revenues.

This diversification benefit is particularly valuable for small island developing states and small landlocked developing countries, whose limited territorial and resource bases make economic diversification through conventional development strategies especially difficult. For such states, the opportunity to host a Startup State on a defined portion of their territory may represent the most realistic pathway to genuine economic diversification available to them: one that requires no net fiscal outlay, generates immediate revenue, and creates a new economic engine that can sustain growth independently of the fluctuations that affect their existing economic base.

20.10 Security and the Buffer Effect

The security benefits of the Startup States model for the host state are not always recognised in initial discussions of the arrangement's merits, but they are real and structurally embedded.[16]

Uninhabited or sparsely populated territory is not neutral from a security perspective. It can serve as a base for smuggling, trafficking, or other criminal operations that the host state lacks the resources to monitor effectively. It can be claimed or occupied by hostile actors, creating territorial disputes that the host state must then manage at considerable diplomatic and potentially military cost. And it generates no revenue that could fund the security infrastructure needed to address these risks.

A well-governed, population-bearing Startup State on that territory converts a security liability into a security asset. The new country's own governance institutions, border management systems, and law enforcement capacity provide the presence and the administrative coverage that the host state cannot supply from its own resources. The founding treaty's non-militarisation provisions ensure that the new country does not itself

become a source of security risk. And the economic activity generated by the new country makes the surrounding region more prosperous and more stable, reducing the social conditions that generate criminal and other destabilising activity.

20.11 Designing a Diplomatic Ally

Perhaps the most profound benefit that the host state receives from co-creating a Startup State is one that cannot be quantified in a revenue projection or an economic model: the creation of a permanent diplomatic ally whose entire existence is rooted in the founding relationship.

The new country owes its legal existence, its territory, its institutional foundation, and its international recognition to the host state's decision to co-create it. This is not a relationship that can be dissolved by a change of government, a shift in foreign policy priorities, or the pressures of great-power competition. It is built into the constitutional character of the new country and reinforced by the treaty obligations that bind both parties for the duration of the founding arrangement.[17] The diplomatic loyalty that flows from this founding relationship is not the contingent loyalty of a country that happens to share the host state's current interests; it is the structural loyalty of a child that knows it owes its existence to its parent.

The parent-child analogy that runs through this book is not merely a rhetorical device; it captures something legally and institutionally real about the relationship between the host state and the new country. A healthy parent-child relationship, as Chapter Four discussed, involves genuine independence on the part of the child, not subordination; the new country must have its own foreign policy, its own institutional identity, and its own capacity for disagreement with the host state when their interests diverge. But genuine independence does not preclude genuine loyalty; the two are not in tension. The new country that has been given life by its host state will, if the founding arrangement is well designed and the relationship well managed, become precisely the kind of ally that every government in the international system seeks but few ever find: one whose commitment is not merely strategic but foundational.

The host state that understands this is not merely making a financial transaction or a diplomatic calculation when it co-creates a Startup State. It is making a generational investment in a family of nations, extending its legacy into the future through the creation of a new polity that will carry its founding story forward into the international order for as long

as both parties maintain the commitments they made to each other at the beginning.

20.12 Addressing the Political Objections

Every host state government that seriously considers a Startup State proposal will face political objections from domestic opponents. These objections are real, they must be taken seriously, and a founding team that has not prepared comprehensive and credible responses to each of them has not completed its pre-formation work. The principal objections, and their most direct responses, are as follows.

The first and most common objection is that the arrangement involves a sale of national territory.[18] The response is the dominium analysis that Chapter Twelve and this chapter have both set out: the host state retains title to the land throughout the life of the arrangement. The founding treaty creates a long-term lease, not a cession. The territory does not leave the host state's map. The host state's flag continues to fly over its own borders. What has been transferred is the right to exercise governmental functions within the defined territory for the duration of the lease; what has been retained is everything that matters for national ownership in the proprietary sense. Describing the arrangement as a sale of territory is the equivalent of describing a century-long ground lease on a city block as the sale of the block: it is technically inaccurate, and no competent property lawyer would accept the characterisation.

The second objection is that the arrangement creates a risk of neocolonialism: that the new country will function as a foreign enclave that exploits the host state's territory and population for the benefit of its founders and investors rather than the host state. This objection is addressed structurally by the shared upside provisions of the founding treaty, which ensure that the host state has a genuine equity stake in the new country's commercial success; by the employment and procurement preferences that direct economic benefits toward the host state's workforce and businesses; and by the explicit anti-colonial framing of the model's founding principles. A host state that does not receive structural equity in the new country's commercial enterprise, and that does not have enforceable rights to employment and procurement preferences for its citizens and businesses, has not concluded a Startup State arrangement; it has concluded something else, and the distinction matters.

The third objection is that the arrangement could be used to circumvent the host state's constitutional order, enabling the new country to be-

come a base for activities that the host state's laws prohibit. This objection is addressed by the founding treaty's provisions for security co-operation, which ensure that the new country's governance is subject to the independent scrutiny described in Chapter Seventeen; by the citizen vetting requirements that prevent the new country from becoming a haven for criminal or extremist actors; and by the constitutional provisions in the new country's own governance framework that prohibit the very activities that the host state is concerned about.

The fourth objection is that future governments may wish to reclaim the territory and that the arrangement ties the hands of the host state's successors. This objection reflects a genuine concern, and the founding team should not dismiss it. The response is twofold: the arrangement is intended to be permanent, and the permanence is in the host state's own long-term interest, because the revenue, the diplomatic relationships, and the employment benefits that the arrangement generates all increase over time; and the founding treaty's estoppel provisions, combined with the third-state reliance that accrues as the arrangement becomes embedded in the international order, create both legal and political barriers to reversal that protect the arrangement against the kind of short-term political calculation that has undone less well-designed arrangements.

20.13 The Parenthood Proposition

This chapter closes with the proposition that animates the entire case for the host state's participation in the Startup States model: the proposition that founding a new country is an act not of diminishment but of amplification.

Countries are not fixed, finite quantities. Their diplomatic reach, their institutional influence, their economic relationships, and their long-term legacy in the international order can all be extended by the deliberate exercise of governmental authority in creative and constructive ways. The host state that co-creates a Startup State is not diminishing what it already is; it is becoming something more: the parent of a new nation, the origin point of a new institutional tradition, the architect of a diplomatic relationship that will endure long after the specific individuals who negotiated the founding arrangement have passed from the scene.

The historical analogies that the Startup States Society has developed for this dimension of the model, the parent and the adult child, the corporation and its spin-off, the municipality and its rezoned district, each capture an aspect of what is involved.[19] In each analogy, the party

that creates something new does not become less itself in the process; it becomes more, because the new thing it has created adds to its legacy, its influence, and its stake in the future. The parent whose child builds a successful life has not divided their family but multiplied it. The corporation whose subsidiary becomes an industry leader has not diluted its portfolio but enriched it. The municipality whose rezoning decision generates a thriving commercial district has not reduced its tax base but expanded it.

The next chapter addresses the second constituency served by the Startup States model: the individuals and businesses who choose to affiliate with the new country, and what specific, concrete benefits that affiliation provides them.

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NOTES

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16 On the security benefits of governed territory for host states, see: Robert Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge: Cambridge University Press, 1990), Chapter 6.

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CHAPTER 21

Benefits for Individuals and Businesses

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Chapter Twenty made the case that co-creating a new country is in the host state's genuine long-term interest, across financial, diplomatic, developmental, and reputational dimensions. This chapter turns to the second constituency served by the Startup States model: the individuals and businesses who choose to affiliate with the new country. Their motivations differ from those of the host state, their concerns are more immediate, and their assessment of the arrangement is more personal. But the structural advantages the model offers them are no less substantial.

For too long, companies have been forced to operate within archaic legal landscapes, relics of empires, revolutions, or bureaucracies that no longer exist in spirit, yet still rule in statute. These are jurisdictions defined not by vision but by accident: legal codes written in another century, for another world, serving purposes long since irrelevant. The result is a persistent mismatch between the speed of innovation and the drag of governance, where entrepreneurs find themselves running faster just to stay compliant with rules that were never designed for them.

Startup States address this mismatch directly. They are constituted deliberately, not through conquest or inertia, but through design. They are conceived to meet the needs of entrepreneurs, investors, and builders from their first day of operation: offering legal clarity, regulatory predictability, and fiscal integrity by default rather than by exception. Instead of businesses contorting themselves to fit outdated laws, these new countries are structured so that the laws and institutions fit the businesses, technologies, and industries of tomorrow.

For the individual, the change is equally profound. For centuries, citizenship has been dictated by accident rather than intention. Where a person happened to emerge from the womb defined the flag they carried, the taxes they paid, the obligations they shouldered, and the ceiling above their potential.[1] Startup States turn this logic on its head. They are built on the principle of consent: explicit opt-in and opt-out, a governance framework grounded in voluntary association. The citizen is not a passive subject bound by invisible chains of geography and history. They are treated as a partner in progress, a stakeholder in the very architecture of their nation.

21.1 Choosing Your Nation: The Promise of Voluntary Affiliation

The promise of Startup States extends beyond governments and investors. It reaches profoundly to individuals, offering nothing less than a transformation in how people relate to the nations they call home.[2] For most of history, citizenship has been a lottery of birth: people are locked into systems that may not reflect their values, aspirations, or way of life. Startup States turn this arrangement on its head.

This model is not about exit in the narrow sense of abandonment. It is about realignment and optimisation: empowering individuals to live in countries of their own choosing, and in many cases, of their own making. Imagine feeling a closer, deeper connection to your country: not just voting once every few years, but knowing that you could participate in its design, governance, and evolution if you wished. Imagine, too, the freedom to choose a lighter touch: to live in a jurisdiction where government is minimal, transparent, and respectful of your personal autonomy. Both paths are valid, and both are at the heart of this model.

Startup States are built on the principle of consent: explicit opt-in and opt-out, a governance framework grounded in voluntary association. For individuals, this means remarkable fluidity and agency: the freedom to align oneself with a polity that resonates with your values, your ambitions, and your lifestyle, rather than being bound indefinitely to an accident of geography.

Equally important, Startup States provide something that traditional subnational experiments cannot: legal certitude and continuity.[3] Special zones and autonomous regions often exist at the mercy of domestic politics; their status can be amended, revoked, or dissolved. By contrast, a Startup State is a fully recognised independent country, with the permanence and predictability that recognition under international law

provides. This means that the rights, property, and long-term plans of its residents are safeguarded by the full weight of recognised governmental legitimacy, not dependent on the shifting winds of a host country's internal politics.

In an increasingly interconnected yet often rigid world, Startup States open new pathways for individuals: the ability to find or help create a nation that genuinely fits. They offer not just a passport, but a sense of security, belonging, and agency: a chance to be part of the next chapter in human governance.

21.2 A Platform for Business: Jurisdiction as Competitive Advantage

For businesses, Startup States change the competitive landscape entirely. They are not enclaves within another jurisdiction, nor experimental zones subject to the whims of a central government. They are full-fledged countries, treaty-backed, internationally recognised, and intentionally designed to align with the pace of global enterprise.[4]

In today's world, companies face mounting regulatory uncertainty, shifting tax regimes, and political volatility that can upend strategic plans overnight. Special Economic Zones have been heralded as solutions, but in reality they are fragile halfway houses: subnational enclaves whose autonomy can be revoked by central governments, leaving investors exposed to sudden reversals. History demonstrates the fragility of this arrangement. Many SEZs have collapsed or stagnated, not because their economics failed, but because politics intruded. A new administration, a policy reversal, or a sudden shift in domestic priorities can unwind decades of investor confidence overnight.

Startup States, by contrast, are founded on a different legal plane. Their legitimacy derives not from domestic statute but from international treaty, which grants them full legal personality on the global stage. Unlike SEZs, whose frameworks can be rewritten overnight with a stroke of the legislative pen, Startup States are built to last. Their independence means that once rules are set, they cannot be revoked by domestic politics or bureaucratic inertia. That permanence translates into confidence for corporate strategy: confidence to build headquarters, launch research and development hubs, structure treasury operations, and scale new industries with the knowledge that the jurisdiction itself will endure.

Startup States also act as magnets for capital and talent. They attract global investors, frontier technologies, and high-skill professionals, not as exceptions carved out from a larger state, but as part of a nation

purpose-built for innovation.[5] This makes them not only safer harbours for existing businesses but also launchpads for the companies of the future. The result is a strategic advantage unlike any other: a partner that can adapt to industry needs, amplify global competitiveness, and provide legal and fiscal environments designed for growth from day one.

21.3 Law as an Operating System: The Designed Legal Code

In most jurisdictions today, law feels like an obstacle course: a maze of archaic statutes, contradictory rulings, and shifting interpretations. For entrepreneurs and investors, this creates uncertainty, friction, and wasted capital. In a Startup State, law is none of these things. It is treated as what it should always have been: an operating system.[6]

Built from first principles on a blank institutional slate, these legal frameworks are clean, deliberate, and future-facing. They are designed to eliminate the costly inefficiencies of legal ambiguity, regulatory drag, and interpretive chaos. For companies and builders, that means less time waiting on approvals or parsing conflicting rules, and more time scaling, innovating, and executing.

21.3.1 Key Advantages for Businesses

Codified clarity: Legal codes are drafted in plain, commercial English, with the option to anchor in globally trusted traditions such as the common law or Swiss civil codes.[7] Instead of an accumulation of outdated statutes, the frameworks are streamlined for the twenty-first century. The effect is radical transparency and simplicity, reducing compliance costs and accelerating time-to-market.

Immutable protections: Core rights, including private property, shareholder protections, intellectual property, and investment agreements, are not left to judicial discretion. They are embedded in organic law and reinforced by bilateral treaties.[8] For long-term investors, this creates rock-solid predictability: contracts are enforceable, ownership is secure, and innovation is protected against arbitrary interference.

Contractual predictability: Business thrives on certainty, and Startup States provide it through modern arbitration forums, smart contract execution, and open legal code repositories.[9] Agreements are binding, transparent, and auditable, whether written in legal text or executable code. This creates a culture of trust through clarity, where companies can rely on frameworks that scale as smoothly as their infrastructure.

21.3.2 From Legal Archaeology to Legal Infrastructure

In many places, entrepreneurs must practise what might be called legal archaeology: digging through outdated statutes and awaiting unpredictable court rulings or ministerial clarifications. Startup States end this wasteful dynamic. Instead of cobwebs, they offer clean, modular, and scalable frameworks designed to operate like infrastructure: reliable, predictable, and optimised for commerce. For businesses, this means that law is no longer a brake on ambition. It is a platform for acceleration, as essential and dependable as electricity or broadband.

21.4 Regulatory Predictability

In most legacy jurisdictions, regulation grows like ivy: sprawling, tangled, and often shaped more by accident, politics, or public emotion than by coherent design. For businesses, this means unpredictability.[10] A law drafted decades ago might suddenly be applied to a technology that did not even exist when it was written. Policy shifts can arrive overnight, reshaping entire industries with no warning. Startup States turn this dynamic upside down. Here, regulation is architecture: carefully designed, modular, and transparent. It is not reactive improvisation, but deliberate construction, always accountable to the people and firms who rely on it.

21.4.1 What This Unlocks

Regulatory sandboxes for frontier industries: Fintech, biotechnology, artificial intelligence, and digital assets all face uncertainty in legacy systems. In a Startup State, these industries are given safe, treaty-backed sandboxes where innovators can build without fear of premature prohibition or sudden crackdowns.[11] History shows why this matters: projects like E-Gold, a precursor to Bitcoin, were strangled not by technological failure but by regulatory hostility. A Startup State ensures the next breakthrough does not die in infancy; it has space to grow.

API-style policymaking: Imagine regulation built with the same clarity as a software application programming interface. Entrepreneurs receive advance notice of changes, consistent timelines, and transparent consultation processes. Policy shifts are not surprises; they are communicated, debated, and refined in dialogue with the very innovators they affect. This creates a collaborative environment where businesses can plan ahead with confidence.

Standards-aligned frameworks: Innovation cannot thrive in isolation. Startup States ensure that their frameworks are aligned with global standards from the Financial Action Task Force in financial integrity, to ISO in technical protocols, to UNCITRAL in commercial law.[12] This means that businesses operating in Startup States gain both regulatory flexibility at home and interoperability abroad: the best of both worlds.

21.4.2 Policy as Product

Governance here is not improvised. It is intentional. In Startup States, policy is not merely politics: it is product design. Clear, adaptive, and feedback-driven. For businesses, this delivers what legacy jurisdictions rarely can: confidence that the rules are understandable today, stable tomorrow, and adaptable for the future.

21.5 Fiscal Policy as Contract

For most companies, the greatest fear is not paying taxes, it is not knowing what comes next. Surprise audits, retroactive tax claims, shifting compliance demands: these create uncertainty that strangles planning and undermines confidence.[13] In Startup States, fiscal rules are not political weapons or bureaucratic mazes. They are clear contractual terms, set at the outset, enforceable under international law. Fiscal policy here functions less like a trapdoor and more like a term sheet: transparent, reliable, and aligned with business growth.

21.5.1 Business Benefits

Constitutionally capped rates: Startup States can embed low, zero, or pre-agreed tax rates directly into their constitutional or organic laws, enforceable for ten, twenty, even fifty years. These commitments are not empty promises: they can be backed by international arbitration clauses, giving businesses legal recourse if rules are breached.[14] This transforms taxation from a moving target into a stable foundation for multi-decade planning.

Transparent fee-for-service models: Rather than opaque levies or complex codes, Startup States prefer straightforward fee-for-service structures. Companies pay for the actual services they consume, whether licensing, compliance support, or dispute resolution, much like a software subscription. This model ensures costs are tied to value, not politics, creating trust-based fiscal relationships rather than adversarial ones.

No creeping compliance burdens: Legacy jurisdictions frequently pile on reporting requirements year after year, slowly suffocating businesses in paperwork. Startup States commit to lean, predictable compliance frameworks, defined in advance and resistant to bureaucratic creep. This means firms can focus resources on building products, not fighting forms.

Digital asset-ready regimes: In many countries, innovators in decentralised finance or blockchain run into hostility or uncertainty. Startup States instead design digital-asset-friendly regimes that explicitly recognise Decentralised Autonomous Organisations, tokenisation models, and borderless capital flows.[15] These frameworks treat digital finance not as a threat to be suppressed, but as a frontier to be cultivated, allowing financial innovation to flourish within predictable rules.

21.5.2 Beyond Financial Centres

It is important to note that not every Startup State will seek to become a global financial services hub. That market is already crowded with successful incumbents: Luxembourg, Singapore, the Cayman Islands, Mauritius, Liechtenstein, and others. Instead, some Startup States may choose to focus on niche sectors, healthcare, longevity research, green energy, space industries, or digital governance, while maintaining tax neutrality as a baseline.

Tax neutrality here is not ideology. It is necessity. Startup States must be competitive from the outset. By keeping taxes low, simple, or funded primarily through non-tax revenues as Chapter Sixteen discussed, they attract the first wave of residents, investors, and enterprises essential to long-term viability. In some cases, they may fund themselves primarily through leases, equity stakes, or service revenues, using taxation only as a secondary, stabilising tool.

21.5.3 Fiscal Clarity as Competitive Edge

Startup States replace the uncertainty of shifting tax regimes with fiscal integrity by design. Terms are clear. Costs are predictable. Innovation is welcomed, not penalised. Whether designed as financial nodes or as specialised hubs for other industries, Startup States ensure that fiscal policy is transparent, contractual, and scalable: never arbitrary, never retroactive, never a trapdoor. For businesses, this is nothing less than a competitive edge at the level of jurisdiction itself.

21.6 Instant Company Formation

In most jurisdictions, incorporating a company still feels like an act of masochism. Stacks of paper, endless signatures, opaque delays, and Kafkaesque loops between ministries. Weeks, sometimes months, are wasted before a business even takes its first breath. In a world where time is capital, this is not just inefficient; it is unacceptable.[16] Startup States are built to be the opposite: fast, digital-first, and frictionless. Here, incorporation is not a bureaucratic ordeal; it is a seamless transaction, designed with the same precision and simplicity as world-class fintech products.

21.6.1 What to Expect

Same-day incorporations: Incorporating a company should be as simple as ordering an espresso. In Startup States, founders can launch within hours, complete with KYC compliance, banking integration, and digital certificates of incorporation. Everything is digitised, secure, and instantaneous, so a new company can open its doors before the coffee cools.

Unified licensing portals: Instead of navigating fourteen agencies with fourteen different systems, Startup States offer one intuitive, unified portal: a single dashboard where businesses can apply, track, and manage all licences, approvals, and renewals. The result is clarity, speed, and the confidence that nothing gets lost in bureaucratic translation.

Executive mobility at speed: Scaling requires talent on demand. Startup States provide fast lanes for executive visas, digital residencies, and tiered access for founders, employees, and investors.[17] No more months of waiting or mountains of paperwork; talent moves at the same velocity as capital.

21.6.2 Acceleration as Design

Startup States are built on a simple truth: time is capital, and capital hates to wait. Every aspect of their onboarding architecture, from corporate registries to visa issuance, is designed to accelerate. Where legacy jurisdictions stall growth with paperwork and delays, Startup States create velocity: moving businesses from concept to launch in days, not months. This is not bureaucracy; this is product design applied to governance. For entrepreneurs, that speed is priceless. For investors, it is proof that Startup States are not just jurisdictions; they are platforms built for scale at the speed of innovation.

21.7 Cloud-Native Jurisdictions

Why tether a business to the landlocked logic of the twentieth century, where incorporation still assumes a fixed geography and endless paperwork? The world's leading companies are already remote-first, global-native, and digitally distributed, but most jurisdictions have not caught up.[18] Startup States are built differently. They may be cloud-native nations, designed to scale alongside the borderless ambitions of modern enterprise. Instead of forcing companies to adapt to the weight of outdated systems, they offer a jurisdictional framework that moves at the speed of the internet.

21.7.1 What They Offer

Legal presence without physical presence: In Startup States, businesses can secure full legal personality and enforceable contracts without needing bricks-and-mortar offices.[19] A firm headquartered in New York or Nairobi can anchor its contracts, intellectual property, and governance under Startup State law seamlessly and remotely. The company gains the protection of a modern jurisdiction while remaining free to operate worldwide.

Digital-first citizenship and administration: E-residency platforms, smart identity documents, and online notarisation systems are built into the core infrastructure. Founders and employees can open accounts, sign contracts, notarise agreements, and manage compliance from anywhere in the world. This creates the institutional framework that global-native firms need: a jurisdiction that travels with you, instead of one that ties you down.

Recognition for frontier finance: Where legacy systems treat blockchain-native models with suspicion, Startup States lean in. They offer legal recognition for Decentralised Autonomous Organisations, tokenised assets, and blockchain-based governance structures under wrappers that banks, investors, and courts understand.[20] This alignment bridges the gap between innovation and legitimacy, allowing cutting-edge financial technologies to integrate with the global economy rather than remain at its margins.

21.7.2 Jurisdictional Modernity

This is not cyberspace cosplay or a metaverse fantasy. It is jurisdictional modernity: a digital-first legal order designed to integrate with the real world without being confined by it. For global-native companies, this

means operating with the speed, reach, and flexibility of the cloud, but backed by the predictability and enforceability of real-world law. Startup States are not experiments in virtual governance. They are the operating systems of a new global economy.

21.8 Beyond Special Economic Zones

What truly separates Startup States from Special Economic Zones? The answer is simple yet decisive: treaty-based legitimacy.[21]

There is no denying the historic success of SEZs. They have played a pivotal role in global development, attracting investment, creating jobs, and lifting tens if not hundreds of millions of people out of poverty. Their impact on China, the Gulf, and parts of Africa is undeniable. Yet SEZs operate under an inherent limitation: they are subordinate entities. They remain creatures of domestic law, subject to the will, whim, or political winds of their parent states.

Proponents of SEZs often argue that subordination offers protection: that by being nested within a larger country, an SEZ enjoys shelter from external threats, instability, or the isolation faced by unrecognised micropolities. This may be true in a narrow sense, but protection comes at a cost. Security is purchased at the expense of ultimate autonomy. SEZs are not masters of their own fate. Their charters, privileges, and very existence can be unilaterally revoked at any time by the central government.

History shows the fragility of this arrangement. Many SEZs have collapsed or stagnated, not because their economics failed, but because politics intruded. A new administration, a policy reversal, or a sudden shift in domestic priorities can unwind decades of investor confidence overnight. For businesses, this creates the very uncertainty they sought to escape.

21.8.1 Why This Matters

Anchored in international law: The rules and frameworks of a Startup State are not subject to unilateral alteration. They are protected under the hierarchy of norms, giving investors confidence that commitments cannot be swept away by domestic decree.[22]

Enforceable in global arbitral forums: Disputes are not confined to local courts. They are adjudicated in recognised venues such as the Permanent Court of Arbitration, the International Centre for Settlement of Investment Disputes, or under UNCITRAL rules.[23] Businesses know that

their contracts are enforceable under neutral, internationally recognised mechanisms, not hostage to local politics.

Legal portability across systems: Corporate structures and contracts created under Startup State law are recognised across the world's banking, insurance, and capital markets. This portability ensures that businesses can transact internationally with confidence, integrating seamlessly into global trade and finance.

21.8.2 From Subnational Zones to Nations

The world already has thousands of SEZs. They have done their work, and more will surely follow. But the logical next step is clear: why not increase the number of countries, too? A Startup State offers what no SEZ can: permanence, because countries endure where zones expire; certainty, because treaties bind where statutes can be repealed; and recognition, because only nations hold a seat at the table of nations. With their distinctive status, Startup States represent the natural evolution beyond zones: full jurisdictions, evergreen in permanence, better for business, and better for individuals who seek clarity, continuity, and global recognition.

21.9 Co-Designing Governance

Why fight a bureaucracy when you can co-build the state itself? In Startup States, businesses are not passive actors forced to navigate red tape. They are stakeholders, shareholders, and co-designers of the very frameworks they operate within.[24] Instead of lobbying for reforms in systems built a century ago, firms gain a direct role in shaping the environment where they grow. Governance here is not a constraint; it is a competitive advantage.

21.9.1 What This Unlocks

Skin-in-the-game governance: Companies do not just comply with rules; they help write them. Through governance tokens, land rights, or board seats in hybrid public-private structures, business leaders gain direct influence in shaping the policies they live under. This creates alignment by design: firms succeed when the jurisdiction succeeds, and vice versa.

Capital-aligned urban planning: In most countries, zoning and infrastructure follow political expediency or bureaucratic inertia. Startup States invert this logic.[25] Capital drives planning. Roads, ports, telecoms, and urban design grow in tandem with investment flows, creating com-

munities that scale like companies. Infrastructure is not a sunk cost; it is a multiplier, built to amplify both capital and community.

Dynamic rule refinement: Instead of waiting years for legislators to modernise laws, Startup States enable continuous iteration. Founders, firms, and residents can participate directly in legal refinement through advisory assemblies, token voting, or structured consultative processes. The result is a living regulatory framework: adaptive, responsive, and genuinely aligned with the interests of those who operate within it.

21.9.2 From Lobbying to Co-Founding

This is not lobbying. This is design participation. Traditional lobbying burns energy in adversarial processes, fighting for marginal change in slow systems. Startup States replace this with partnership models, where the state is not an opponent but a co-founder in growth. For governments, this alignment delivers what countless investment summits and reform agendas have promised but rarely delivered: a direct bridge between business energy and national prosperity. For firms, it means operating in an environment where the incentives of capital, community, and governance are finally aligned.

21.10 Jurisdictional Resilience: Outperforming Volatility

In today's volatile global environment, regulatory stability is no longer a luxury; it is a strategic necessity. Businesses are forced to navigate sudden tax reforms, shifting compliance regimes, and political or ideological swings that can upend entire markets overnight.[26] What companies need is not just insulation from instability, but an environment that allows them to outperform it. Startup States offer precisely that: a jurisdictional hedge against volatility, a legally recognised framework designed to provide continuity, clarity, and resilience in the face of global uncertainty.

21.10.1 Use Cases

Second-domicile options for intellectual property, treasury, or asset protection: Firms can anchor intellectual property, corporate treasuries, and strategic assets within Startup State jurisdictions. This creates a secure second domicile, shielded by treaty law and enforceable protections under international arbitration.[27] If instability strikes elsewhere, continuity is preserved.

Strategic continuity hubs: Startup States provide reliable bases for research and development centres, token launches, and cloud infrastruc-

ture. By anchoring mission-critical operations in a stable legal environment, businesses ensure that innovation pipelines remain uninterrupted, no matter what shocks disrupt other markets.

Firewalls against unpredictable shifts: From sudden capital controls to restrictions on expression or abrupt compliance crackdowns, businesses in legacy jurisdictions face mounting uncertainty. Startup States embed legal firewalls that protect against these shocks. Contracts, investments, and operations are governed by predictable, treaty-backed rules, not the volatile impulses of political cycles.

21.10.2 From Freedom to Resilience

The true strength of Startup States lies not only in the freedom they extend, but in the resilience they institutionalise. By design, they act as durable safe harbours: jurisdictions where companies can plan decades ahead, confident that their legal and operational foundations will not be arbitrarily undermined. For businesses, this is not defensive hedging. It is strategic outperformance: leveraging Startup States not merely to survive instability, but to outcompete in environments where others falter.

21.11 The New Gold Standard for Builders

Startup States are not governance experiments. They are economic operating systems: jurisdictions engineered for the builders of the future, where ambition aligns with structure, innovation aligns with law, and scale aligns with security. This is not about fleeing broken systems. It is about deliberately migrating to better ones. It is a conscious choice to work within frameworks that are faster, smarter, and built to last.

Where old jurisdictions extract, Startup States empower. Where legacy regimes stall, Startup States accelerate. Where traditional states demand submission, Startup States offer partnership.[28] They are built for those who refuse to wait for permission: those who create, innovate, and shape markets before others even see them coming. They are the jurisdictions of choice for people who build things that matter.

For builders, investors, and nations ready to seize the future, Startup States represent a once-in-a-century opportunity: to design prosperity at the jurisdictional level, to hardwire growth into governance, and to make history not as a passenger but as a co-architect. The upgrade is not marginal: it is the upgrade from taxation without clarity to fiscal certainty with integrity; from legal cobwebs to legal code; from bureaucratic drag to

onboarding velocity; from political volatility to regulatory predictability; and from lobbying against the state to co-founding with it.

The next chapter examines the third and final constituency of Part Five: the distinctive contribution that the Startup States model makes to the international order as a whole, and the case for regarding the deliberate creation of new countries through consensual treaty as a net positive for global stability, governance quality, and human flourishing.

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NOTES

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CHAPTER 22

Benefits for the International Order

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Chapters Twenty and Twenty-One have addressed the benefits the Startup States model generates for host states and for individuals and businesses, respectively. Both constituencies are served directly: the host state by contractual financial returns and diplomatic amplification; the individual and the firm by legal clarity, regulatory predictability, and genuine fiscal certainty. This final chapter of Part Five addresses a constituency that is served indirectly but no less substantially: the international order as a whole.

This may seem a counterintuitive argument. The creation of new countries is often instinctively viewed as a challenge to the existing international order: a potential source of fragmentation, of competing jurisdictions, of recognition disputes, and of pressures that the current system of states is poorly equipped to manage. This instinct is understandable. It is also, in the specific context of the Startup States model, mistaken.

The Startup States model is not a challenge to the international order. It is a contribution to it: a new method of producing states that is more lawful, more consensual, more transparent, and more directly aligned with the purposes that the international order is designed to serve than any of the methods by which most existing states came into being.[1] This chapter makes that case systematically, addressing the principal objections before examining the specific positive contributions that the model makes across seven distinct dimensions of international life.

22.1 The Stabilisation Argument: New Countries Need Not Destabilise

The most persistent objection to the creation of new countries is the fear of a cascade: that if one new country is created through a given method,

others will follow through the same method, and the result will be fragmentation, instability, and the erosion of the territorial order that the international system has spent decades constructing.[2] This objection has genuine force when applied to unilateral declarations of independence, secessionist movements, or the methods catalogued in Chapter Nine of this book. It does not have force when applied to the Startup States model, for a reason that is foundational: the model is not unilateral.

A Startup State is constituted by bilateral founding treaty between two recognised countries acting within their respective constitutional authority. It is founded on pacta inter partes, not on a unilateral declaration of independence. The International Court of Justice's 2010 advisory opinion on Kosovo's declaration of independence found that the declaration did not violate general international law, and declined to decide whether Kosovo had become a state; whether an entity is accepted as a state remains, in practice, a matter for the recognition decisions of other states. The Startup States model does not ask the international community to accept a fait accompli; it asks individual countries, one by one, to evaluate a proposal that is transparently lawful, genuinely consensual, and demonstrably mutually beneficial, and to decide whether to extend recognition accordingly.

The floodgates concern also misunderstands the structural constraints on the model.[3] Not every country has territory that is suitable, legally available, and politically willing to be the basis for a Startup State arrangement. The founding treaty must pass through the constitutional and parliamentary processes of the host state. It must be ratified. It must survive judicial review in dualist legal systems. It must secure the political support of the host state's government and, typically, of its legislature. These are substantial procedural barriers that a unilateral declaration of independence does not face. The Startup States model is not a shortcut around the international order; it is a route that runs through it at every stage.

History is instructive here. The proliferation of states that followed decolonisation, which nearly tripled the number of UN member states between 1945 and 1975, did not destroy the international order. It transformed it, making it more representative and more universal. The addition of new states through consensual, treaty-based processes of the kind the Startup States model proposes would not undermine the existing order. It would extend and reinforce it: adding new participants who are committed, by the terms of their founding, to the same principles

of peaceful coexistence, respect for international law, and constructive multilateral engagement that the existing order depends upon.

22.2 The Progressive Development of International Law

Article 13(1)(a) of the United Nations Charter charges the General Assembly with initiating studies and making recommendations for the purpose of encouraging the progressive development of international law and its codification. The Startup States model is, at the level of international legal theory, a contribution to that progressive development.[4]

International law recognises three established categories of state formation: independence from colonial or occupying power, by far the dominant mode of the twentieth century; secession, which the international community has been deeply reluctant to endorse except in the most extreme circumstances of gross human rights violations; and merger or dissolution of existing states. None of these categories cleanly describes what the Startup States model proposes: the consensual creation of a new country on territory currently held by an existing country, through a bilateral international treaty, without any claim of historical grievance, ethnic self-determination, or coercive expropriation. The Startup States model is, in legal terms, a genuine novelty: a fourth pathway to statehood that has not previously been codified or systematically theorised in the primary instruments of international law.

The progressive development of international law has always involved the emergence of new pathways through the crystallisation of state practice into customary norms, and through the creation of treaty-based frameworks that subsequent states can adopt.[5] If the first Startup State is successfully created, recognised, and integrated into the international community, it will establish a precedent. If a second follows, and a third, the practice begins to accumulate. If those states are admitted to international organisations, if their legal instruments are recognised in arbitral proceedings, if their founding treaties are cited in later negotiations as models to adapt, then the Startup States model will have contributed to the codification of a new category of statehood in international customary law. This is precisely how the lex lata of tomorrow is built from the lex ferenda of today.

The institutional architecture of this progressive development is already visible in the literature and in the work of organisations such as the Startup States Society. The Society's published work proposes model treaty language, outlines the criteria for founding treaty validity under

the Vienna Convention on the Law of Treaties, and establishes the conceptual framework that will be necessary for international lawyers and institutions to evaluate future Startup State proposals. This is the early-stage doctrinal work that precedes the development of any new branch of international law: the articulation of principles, the identification of precedents, and the drafting of model instruments that future negotiators can adapt and refine.

22.3 Governance Innovation as a Global Public Good

The world faces a governance deficit. Across most of the planet, the institutions of government were designed for a different era, for different economic structures, for different technological capabilities, and for different human expectations.[6] They were not designed for global digital capital markets, for artificial intelligence in public administration, for the governance of biotechnology research, or for the management of climate change as a first-order existential risk. The gap between what the world needs from its governing institutions and what those institutions are currently capable of delivering is large, and it is not obviously narrowing.

Startup States are, among other things, an institutional response to this governance deficit. They are countries designed from first principles for the governance challenges of the twenty-first century, rather than inheriting the institutional legacies of previous centuries. They can implement governance innovations, in digital administration, in public finance, in dispute resolution, in regulatory design, that established countries cannot implement without dismantling and rebuilding systems that their populations depend on for essential services. They are, in the terminology of Chapter Eighteen of this book, governance laboratories: places where ideas that cannot be tested at scale in existing countries can be implemented, observed, and evaluated.

The knowledge generated by that experimentation is a global public good.[7] When a Startup State successfully implements a new approach to regulatory compliance through digital certification, or demonstrates that a post-taxation fiscal model can fund effective public services without coercive levies, or shows that a citizen dividend funded from land revenues can provide universal economic security without creating dependency or disincentives, it is generating knowledge that the rest of the international community can observe, evaluate, and selectively adopt. This is not a transfer of technology in the conventional sense; it is a transfer of insti-

tutional knowledge, of proven approaches to governance challenges that every country in the world is, in different ways, struggling to manage.

The historical precedents for this kind of governance innovation diffusion are extensive. The legal innovations of the Dutch Republic in commercial law and the freedom of the seas spread throughout the European trading system in the seventeenth century. The constitutional innovations of the American republic influenced every subsequent written constitution in the Western tradition. The social insurance innovations of Bismarckian Germany were adopted by every industrialised country in the twentieth century. The digital governance innovations of Estonia have been studied and partially adopted by dozens of countries around the world. In each case, a small jurisdiction's institutional experiment generated knowledge whose value extended far beyond the jurisdiction itself. Startup States are designed to replicate this pattern at a moment when governance innovation is particularly urgently needed.

22.4 Multilateral Engagement: The Case for Full Participation

A Startup State that has achieved full recognition and institutional establishment has every reason to engage actively and constructively with the multilateral institutions of the international order.[8] This engagement is not merely in the Startup State's interest; it is in the interest of the international order, which benefits from the participation of countries that are institutionally innovative, fiscally sound, and genuinely committed to the norms that those institutions embody.

22.4.1 The United Nations and Its Specialised Agencies

As Chapter Seventeen of this book discussed, the question of United Nations membership is a strategic choice for each Startup State rather than an automatic first objective.[9] The Swiss precedent, whereby a fully independent and prosperous country remained outside the UN for over fifty years whilst actively engaging with its programmes and hosting its institutions in Geneva, demonstrates that the relationship between a recognised country and the UN system is more flexible than is often appreciated. A Startup State that believes the obligations of UN membership under Chapter VII are incompatible with its constitutional neutrality commitment may, like Switzerland for most of the twentieth century, choose to remain outside the organisation whilst participating actively in its subsidiary bodies, its technical agencies, and its norm-setting processes.

When and if a Startup State does seek UN membership, the admission process requires a Security Council recommendation and a two-thirds majority vote in the General Assembly, in accordance with Article 4 of the UN Charter. The management of the recognition-building strategy during the period preceding that application, including the cultivation of relationships with the five permanent members of the Security Council and with the states whose votes will be needed in the General Assembly, is among the most demanding diplomatic challenges a new country will face. The recognition-sequencing principles discussed in Chapters Fourteen and Seventeen of this book are the essential framework for that management.

Engagement with the specialised agencies of the United Nations system does not require UN membership and can begin earlier in the recognition-building process. The World Health Organisation, the International Labour Organisation, the World Intellectual Property Organisation, the International Telecommunication Union, the Food and Agriculture Organisation, and the dozens of other specialised agencies each have their own membership criteria and their own procedures for admitting new members. A Startup State that has achieved recognition by a sufficient number of UN member states to satisfy the admission criteria of any of these agencies has a powerful incentive to seek that membership: it provides an institutional presence in the international system, access to technical expertise and standard-setting processes, and a platform for demonstrating the new country's commitment to the norms that the agency represents.

22.4.2 Trade and Commercial Integration

For a Startup State whose economic strategy is built around the provision of high-value governance services, the attraction of investment, and the development of a knowledge-intensive economy, access to the multilateral trading system is a significant strategic interest.[10] The World Trade Organisation's most-favoured-nation principle, which requires WTO members to extend to all other members the most favourable trade terms they extend to any country, provides the foundation for a Startup State's integration into the global trading system. WTO accession requires the agreement of existing members, and the process typically takes several years, but it is a realistic objective for a Startup State that has achieved broad recognition and can demonstrate the capacity to implement its WTO obligations.

Regional trade arrangements provide an additional and complementary route to commercial integration. A Startup State located in a region with an active free trade area or customs union, whether the African Continental Free Trade Area, the Association of Southeast Asian Nations Free Trade Area, or one of the various regional agreements in Latin America, has the opportunity to negotiate observer status or associate membership as a first step toward full participation. These regional relationships are often more politically accessible than global multilateral arrangements and can provide the practical trade benefits that the new country needs during its early development phase, before it has achieved the international standing required for global multilateral participation.

22.4.3 Cultural and Linguistic Blocs: Commonwealth, Francophonie, and Beyond

Beyond formal intergovernmental organisations, Startup States can strategically engage with cultural and linguistic blocs that provide diplomatic reach, economic advantage, and soft power amplification without the procedural complexity of formal treaty organisation membership.[11]

The Commonwealth of Nations, comprising 56 independent member states sharing historical ties to the British Empire, offers a particularly valuable framework for a Startup State established on territory with Commonwealth connections. Commonwealth membership is not limited to former British territories; it is open to any country that shares the values expressed in the Commonwealth Charter. For a Startup State that adopts English common law as its legal tradition, that embeds democratic governance and the rule of law in its constitutional framework, and that commits to the Commonwealth's values of sustainable development and human rights, membership is a realistic objective. The practical benefits are substantial: the Commonwealth advantage in bilateral trade, rooted in shared legal systems, language, and commercial practices, has been estimated to reduce bilateral trade costs by up to 20 per cent. The Commonwealth's mechanisms for capacity building, peer learning, and technical assistance provide resources that would otherwise be inaccessible to a small new country.

La Francophonie, the International Organisation of La Francophonie with some ninety member states and governments, offers an analogous set of advantages for a Startup State whose founding community has connections to the French-speaking world.[12] La Francophonie's mandate ex-

tends beyond linguistic promotion to encompass democratic governance, peace and security, economic development, and digital transformation: a comprehensive agenda that overlaps substantially with the concerns of a new country in its formative years. A Startup State that engages with La Francophonie gains access to a diplomatic network that includes several of the world's most significant geopolitical actors, and to programmes of technical assistance and governance support that can accelerate institutional development.

The Community of Portuguese Language Countries, the Organisation of Ibero-American States, and the various Arabic-speaking multilateral organisations each provide equivalent frameworks for Startup States with relevant linguistic and cultural connections. The strategic logic in each case is the same: cultural and linguistic blocs provide diplomatic reach and institutional support that is disproportionate to their formal legal status, and engagement with them is complementary to, rather than a substitute for, engagement with formal intergovernmental organisations.

22.5 Navigating Great Power Politics

No discussion of the Startup States model's relationship with the international order is complete without an honest assessment of the role of great power politics. The declaratory theory of statehood, under which recognition is not constitutive but merely declaratory of a pre-existing legal fact, provides an analytically clean account of when a country comes into being.[13] The practical reality is considerably messier. The permanent members of the UN Security Council exercise a veto over the admission of new countries to the United Nations, and their bilateral recognition decisions shape the diplomatic landscape within which new countries must operate. A Startup State that secures the recognition of all five permanent members from the outset is in an extraordinarily stronger position than one that has secured the recognition of only some of them.

The management of great power relationships during the recognition-building phase is therefore among the most consequential strategic decisions a founding team will make. The geopolitical fault lines discussed in Chapter Seventeen, including the Beijing-Taipei question, the status of Palestinian statehood, and the non-recognition of annexations condemned by the General Assembly, are the primary terrain on which those decisions will be made. A founding team that has carefully calibrated its public positions on each of these fault lines, avoiding unnecessary identification with any single great power's preferences, and that has

engaged with each of the permanent members bilaterally before seeking formal recognition, is in the strongest possible position to secure the broad-based recognition that UN membership will eventually require.

The most instructive precedent for great power management in the context of new country recognition is Kosovo, which secured recognition from the United States, most EU member states, and over 100 other countries, but not from Russia, China, or a number of other UN members.[14] Kosovo's experience demonstrates that significant international engagement and institutional participation are possible without universal recognition, but also that the absence of Security Council permanent-member consensus creates persistent vulnerabilities, including the inability to achieve UN membership. A Startup State founding team that has studied the Kosovo experience will approach the great power management dimension of its recognition strategy with the detailed attention it deserves.

The role of great powers is not only constraining; it can also be enabling. A Startup State that has secured the strong support of one or more permanent Security Council members, and that has structured its founding arrangement to be genuinely beneficial to those members' strategic interests in the relevant region, is in a position to leverage that support diplomatically in ways that accelerate recognition from other countries. Great power sponsorship of new country creation is not a novel phenomenon: the post-colonial era saw the United States and the Soviet Union each sponsoring the independence of countries aligned with their respective strategic interests. The Startup States model, with its emphasis on consensual formation and mutual benefit, is designed to attract support across the geopolitical spectrum rather than being aligned with any single great power's preferences. But a founding team that achieves this ideally positioned neutrality does not achieve it by accident; it achieves it through deliberate diplomatic strategy of the kind this book has outlined.

22.6 Addressing the Two-Tier International Order Objection

A specific objection to the Startup States model that deserves direct address is the concern that successful Startup States would create or reinforce a two-tier international order: one in which wealthy, technologically sophisticated individuals and corporations can access high-quality governance from purpose-built new countries whilst the populations of existing countries remain subject to the governance deficits of their legacy institutions.[15]

This objection has genuine moral force, and the founding teams of Startup States should take it seriously rather than dismissing it. The concern is not fanciful: a world in which the mobile wealthy can access purpose-built governance whilst the immobile poor are left behind would be a morally troubling world, and the Startup States model would bear some responsibility for contributing to it if that is what it produced in practice.

The response to this objection has two dimensions. The first is structural: the benefits that Startup States deliver to their host states, as Chapters Twelve and Twenty of this book have examined in detail, flow disproportionately to populations that are not typically mobile or wealthy. Host state employment preference clauses, procurement commitments, training and scholarship programmes, and the direct financial returns on the founding arrangement all represent transfers of economic benefit from the Startup State to the broader host state population. A Startup State that fulfils its founding treaty obligations generates economic spillovers for populations that are far from wealthy and far from mobile.

The second dimension is aspirational but not unrealistic: the governance innovations that Startup States develop, test, and validate are available for adoption by any country that wishes to adopt them.[16] If a Startup State demonstrates that a digital administrative system can process business registrations in minutes rather than months, that demonstration is equally available to the government of a populous developing country as it is to the government of a wealthy industrialised country. The barriers to adoption are not legal but political and technical, and the track record of institutional knowledge diffusion suggests that successful governance innovations do spread across the international system over time.

The two-tier objection is most persuasive if it is understood as a demand that the Startup States model be designed, from the outset, to maximise the breadth of its benefits rather than concentrating them among the already-privileged. The founding treaty provisions for host state employment, procurement, and training that this book has recommended throughout are precisely this kind of design choice. The commitment to environmental stewardship that is embedded in the founding instruments protects the ecological commons on which all populations depend, not only those within the new country's territory. And the recognition sequencing strategy that prioritises engagement with developing country governments as early recognising states gives those governments a stake in the model's success and a voice in its development.

22.7 Environmental Stewardship as an International Contribution

Climate change is the most consequential collective action problem the international community has ever faced, and it is one on which the existing system of states has demonstrably struggled to produce adequate collective responses.[17] The Paris Agreement of 2015 represents the most ambitious multilateral climate commitment yet achieved, but its implementation depends on the nationally determined contributions of nearly two hundred parties, many of which face profound political and economic constraints on their ability to honour those contributions.

A Startup State that is designed from its founding to be carbon-neutral or carbon-negative, that embeds this commitment in its founding treaty as a legally enforceable obligation rather than a political aspiration, and that develops and demonstrates the technologies and institutional arrangements necessary to fulfil that commitment, is making a concrete contribution to the global climate effort. It is not merely making a pledge; it is building a proof of concept.

The international climate regime would benefit from more proof of concepts of this kind. The dominant challenge in climate diplomacy is not the absence of good intentions but the absence of demonstrated evidence that high-quality governance and deep decarbonisation are compatible with economic prosperity and attractive living standards.[18] A Startup State that achieves all three, that is carbon-neutral, economically successful, and genuinely attractive as a place to live and work, provides that evidence in a way that abstract commitments and modelling exercises cannot. Its example is available to every government in the international system that is seeking to make the case to its own population that environmental ambition and economic vitality are not in conflict.

The same logic applies to biodiversity protection, sustainable land management, clean water and sanitation, and the other environmental challenges that the international community is struggling to address through the Sustainable Development Goals. A Startup State that embeds SDG commitments in its founding instruments and publishes transparent annual progress reports provides the international development community with a unique data point: the performance of a new country that has had the opportunity to design its institutions around sustainability from the beginning, rather than retrofitting sustainability commitments onto institutions that were designed for different purposes in a different era.

22.8 Brain Drain and the Reciprocal Benefit Model

One concern that the international community, and particularly the governments of developing countries, would reasonably raise about the Startup States model is the brain drain risk: the possibility that Startup States, by offering more attractive governance environments, would attract skilled professionals away from the countries that need them most.[19]

The brain drain concern is real in many international contexts, and the development economics literature has devoted substantial attention to understanding its causes and consequences. But the Startup States model addresses it through a structural mechanism that most brain drain discussions lack: the founding treaty. The provisions in the founding treaty for host state employment preference, scholarship and training programmes, and procurement commitments create direct and enforceable obligations on the new country to invest in the human capital of the host state's population, not merely to attract talent away from it.

Beyond the host state relationship, the broader international brain drain concern is addressed by the nature of the talent that Startup States are designed to attract. The individuals most likely to seek affiliation with a Startup State, whether as residents, as remote citizens, or as business principals, are those whose skills and ambitions are most constrained by the governance environments of existing jurisdictions. In many cases, these are individuals who would otherwise seek to relocate to major global cities in wealthy countries, taking their skills and their economic contributions with them to jurisdictions that already have abundant human capital. A Startup State that provides an attractive alternative to that migration pattern is not draining talent from developing countries; it is providing a new option for internationally mobile individuals that, through the host state employment and training commitments, generates capacity-building benefits for developing country populations.

22.9 Cultural Diversity and the Cosmopolitan Tradition

The existing international order, for all its imperfections, embodies a set of values that are worth taking seriously: the equality of states, the peaceful resolution of disputes, the protection of fundamental rights, and the progressive development of the law.[20] The Startup States model, properly implemented, embodies all of these values. Its founding instruments are treaties negotiated between equal parties acting in good faith. Its dispute resolution framework is grounded in international arbitration rather than

in the exercise of power. Its constitutional commitments reflect the full range of internationally recognised human rights. And its contribution to the progressive development of international law, discussed in Section 22.2 of this chapter, is precisely the kind of positive contribution that the international community should welcome.

The cosmopolitan tradition in international political philosophy, represented in its modern form by thinkers from Kant's Perpetual Peace to the contemporary work of Held, Pogge, and Caney, has long argued that the moral status of states derives from the protection they provide to individuals rather than from any inherent value of the state as such. On this view, a world with more states that genuinely serve their populations well is a morally better world than a world with fewer such states, regardless of whether those states were created through the processes that produced most existing countries. The Startup States model is, on this understanding, a cosmopolitan project: an attempt to create new institutions that genuinely serve the people who choose to affiliate with them, built on the foundation of consent and the rule of law rather than on the accidents of history and geography.

The cultural diversity that a proliferation of well-governed small states would produce is itself a contribution to the international order. The international system has always benefited from the coexistence of different institutional models: from the competition of ideas about how to organise collective life that occurs when different governance arrangements exist in proximity to each other and can be compared. The Startup States model, by adding new varieties of institutional arrangement to the international system, contributes to that diversity and to the learning that competition among governance models generates.

22.10 Lex Lata, Lex Ferenda, and the Future of Statehood

The creation of a Startup State exists at the intersection of lex lata and lex ferenda: the positive law as it currently stands, and the aspirational law toward which the international community might move.[21] This is an honest and important characterisation of the model's position within the international legal order. The Startup States model is not currently codified in the primary instruments of international law. It has not been endorsed by any UN General Assembly resolution, nor does it appear in the Vienna Convention on the Law of Treaties, the Montevideo Convention, or any other foundational instrument. What it has is a solid legal basis in the existing instruments and doctrines of international law, as Chapters Ten

and Eleven of this book have demonstrated, and a compelling argument for its progressive development into a recognised and codified category of statehood.

The maxim ubi jus, ibi remedium, where there is a right, there is a remedy, captures the pragmatic dimension of this legal position. The legal right to create a new country through consensual treaty exists under current international law, but the practical remedy, the recognition, admission, and institutional integration that transform legal existence into functional statehood, depends on the cultivation of political support within the international community. The Startup States model does not ask the international community to endorse a legal revolution; it asks it to recognise the implications of legal principles that are already part of the existing order. That is a more modest and more realistic ask, and it is the ask that the lex lata supports.

The lex ferenda dimension is equally important. The Startup States Society's work, this book included, is itself a contribution to the progressive development of international law: an articulation of the principles, the precedents, and the model instruments through which the Startup States framework can eventually be codified.[22] The history of international law is replete with examples of frameworks that began as doctrinal proposals and ended as binding norms: the law of the sea, the law of diplomatic immunity, the law of investment treaty arbitration, and the law of international human rights each went through a period in which they were lex ferenda before becoming lex lata. The Startup States framework is at an early stage of that journey, but it is on the journey.

What the international order needs, in the twenty-first century, is not stability at the cost of stagnation but stability through adaptation. The existing system of states, built over centuries of war, colonisation, and negotiated settlement, is not well-suited to the governance challenges of the current era. It was not designed to manage global digital capital markets, to govern artificial intelligence, to address the collective action problems posed by climate change, or to represent the interests of the billions of people who live under governments that are undemocratic, unaccountable, or simply inept. The Startup States model offers a small but genuine contribution to the adaptation that the international order requires: a new method of creating countries that are designed, from their first day, to govern well.

The case for the Startup States model is ultimately simple: the world needs more countries that are good at governing, and the existing meth-

ods of creating countries have not consistently produced them. The Startup States model proposes a better method. It is legally sound. It is diplomatically realistic. It is economically viable. And it is, for the individuals who live within the new countries it produces, for the host states that co-create them, and for the international order that benefits from their governance innovations, a genuine improvement on the alternatives. Chapter Twenty-Three examines what this model means for the individual citizen; Chapter Twenty-Four then turns from the affirmative case to the objections: the steelmanned critique of the model, and the responses that its design has incorporated from the outset.

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NOTES

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4 United Nations Charter, 26 June 1945, 1 UNTS XVI, Article 13(1)(a). On the progressive development of international law as a General Assembly mandate, see: Malcolm Shaw, *International Law*, 9th edn (Cambridge: Cambridge University Press, 2021), Chapter 2.

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CHAPTER 23

Citizenship and Identity

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Imagine being a founding member: a pioneer who joins a new country at its inception, leaves a mark on its history, and secures a legacy as a key participant in the birth of a new political community, all while sharing in the prosperity that community creates. For most of human history, this was a privilege reserved for the rare moments when history made founding generations rather than individuals choosing to make history. Startup States change that calculus entirely.

For centuries, citizenship has been dictated by accident rather than intention.[1] Where a person happened to emerge from the womb defined the flag they carried, the taxes they paid, the obligations they shouldered, and the ceiling above their potential. Individuals did not choose their polity; the polity claimed them before they could speak. Governance, conceived in this way, was less a social contract than a legacy operating system: inflexible, resistant to meaningful reform, and indifferent to the preferences of those it governed.

Startup States begin from a different premise. They invert the inherited logic of citizenship, replacing coerced allegiance with voluntary affiliation, compelled compliance with participation by choice, and accidental belonging with intentional membership in a community whose values and purposes have been deliberately designed. The Startup State is not your inherited fate; it is your selected platform for flourishing. The citizen is not a passive subject bound by invisible chains of geography and history. They are treated, from the first day of the arrangement, as a partner in the enterprise of governance: a stakeholder in the very architecture of the nation they have chosen to join.

This chapter examines what citizenship in a Startup State means in practice: the legal dimensions of opt-in affiliation, the rights and responsibilities that citizenship entails, the governance relationship between citizen and state, the lifestyle freedoms that intentional community design enables, and the strategic value of Startup State citizenship as a complement to, rather than a replacement for, existing national affiliations.

23.1 Voluntary Affiliation: The Opt-In Nation

The political philosophy of consent has a long history, tracing from Locke's Two Treatises of Government through Rousseau's Social Contract to the constitutionalist traditions of the nineteenth and twentieth centuries.[2] What has consistently distinguished this tradition as a normative aspiration from the actual practice of states is the unavailability of genuine alternatives: if there is nowhere else to go, or if the cost of exit is prohibitive, the consent that legitimates governance is at best attenuated and at worst fictional. Startup States provide the institutional mechanism through which the aspiration of genuine consent can be realised in practice: a country that one joins because its vision, its values, and its institutional character resonate, rather than because geography placed one within its borders at birth.

This fundamental realignment of citizenship transforms the relationship between the individual and the community. Where inherited citizenship creates allegiance by default, voluntary affiliation creates a deeper and more authentic connection precisely because belonging is an act of authorship. A citizen who has chosen their country has invested something beyond the involuntary fact of birth: they have invested their judgment, their confidence in the founding community's values, and their commitment to the shared enterprise of building something new and better. That investment generates a qualitatively different kind of civic engagement.

23.1.1 The Architecture of Opt-In Citizenship

The opt-in citizenship model of a Startup State has several defining features that distinguish it structurally from both the inherited citizenship of legacy states and the citizenship-by-investment programmes that exist in a growing number of existing jurisdictions.[3]

The first is rigorous initial vetting. Opt-in does not mean open-door. A Startup State in its founding phase has a compelling interest in ensuring that those who join its community are genuinely aligned with its values,

are free from the legal and reputational liabilities that would compromise the new country's recognition strategy, and bring the capabilities and commitments that the founding community requires. Background checks, financial due diligence, professional verification, and security clearance against international watchlists are not obstacles to the opt-in philosophy; they are its operational expression. The community that results from rigorous vetting is a high-signal citizenry: people who want to be there, who have passed serious scrutiny, and who have demonstrated genuine commitment rather than transient interest.

The second feature is transparency of criteria. Where traditional naturalisation processes in established countries are frequently opaque, subject to administrative discretion, and variable in application, a Startup State can specify its admission criteria with legal precision in its founding instruments and apply them consistently. The criteria reflect the founding community's genuine values: contribution to the community's purposes, demonstrated alignment with its governance principles, economic participation in its development, and commitment to its long-term flourishing. These criteria are not perfect; no criteria for assessing human character and long-term commitment are. But they are transparent, consistently applied, and subject to independent review in a way that traditional naturalisation processes rarely are.

The third feature, and in some respects the most philosophically distinctive, is the guarantee of exit rights.[4] A citizen of a Startup State retains, at all times, the right to leave the community freely, without penalty, and without stigma. This is not merely a formal right; it is a structural feature of the model. A government whose citizens can exit freely cannot afford to govern badly for long. The exit right is the most powerful accountability mechanism available, and the Startup State model builds it into the citizenship architecture by design rather than treating it as an embarrassing alternative that the state would prefer its citizens not to exercise.

The fourth feature is a menu of affiliation rather than a binary choice between full citizenship and no relationship at all. A Startup State can offer full citizenship, long-term residency, digital participation, investment affiliation, and lighter-touch community membership as distinct categories of affiliation with different rights, responsibilities, and levels of participation. This flexibility builds layered networks of loyalty and engagement, allowing the community to develop over time as individuals whose initial affiliation was lighter deepen their commitment, and as the

new country's reputation and institutional track record attract individuals who were initially cautious.

23.1.2 Citizenship Compared: Startup States and Legacy Alternatives

The contrast between citizenship in a Startup State and citizenship in the most selective legacy jurisdictions is instructive.[5] Monaco, Liechtenstein, Switzerland, Singapore, and the United Arab Emirates are among the most coveted citizenship destinations in the world, but each combines extraordinary benefits with either generational timelines, eye-watering financial hurdles, or both. Monaco requires ten years of ordinary residence after the age of eighteen before eligibility for naturalisation, and even then the decision rests entirely with the Prince.[6] Liechtenstein's naturalisation process requires a referendum in the specific commune where the applicant resides. Swiss naturalisation requires federal, cantonal, and communal approval, a language requirement, and an integration assessment, with the total timeline frequently exceeding a decade. Singapore's permanent residency and citizenship processes are highly discretionary, with no published criteria and no guaranteed outcome.

A Startup State engineered differently: the path to genuine belonging is streamlined, transparent, and efficient without sacrificing the rigour that genuine community membership requires. The acceleration of the process does not reflect lower standards; it reflects the deliberate design of an admission process that achieves its purposes through clarity and consistency rather than through opacity and delay. A founding community of several thousand carefully vetted individuals, assembled through a transparent and consistently applied process, has stronger institutional legitimacy than a naturalised cohort assembled through fifteen years of administrative discretion.

23.2 Rights, Responsibilities, and the Citizen Dividend

Citizenship in a Startup State is not a hollow status; it is a living contract.[7] It comes with a clear articulation of rights and responsibilities, designed not merely to enumerate formal entitlements but to foster a thriving, self-directed community whose members genuinely understand and genuinely accept the terms on which they have joined it. The rights dimension encompasses fundamental liberties, secure property rights, contractual certainty, and meaningful participation in governance. The responsibilities dimension encompasses adherence to the laws that the

community has freely adopted, contribution to its collective wellbeing, and support for its long-term economic sustainability.

What distinguishes the Startup States model from both traditional citizenship and from purely contractual community arrangements is the explicit alignment of individual and collective prosperity through the citizen dividend. Where traditional states rely on the indirect mechanism of public services funded by taxation to give citizens a material stake in the state's success, a Startup State can create a direct and visible financial relationship between the new country's economic performance and each citizen's annual income. The citizen who holds a genuine ownership stake in the community's prosperity is not merely a beneficiary of public services; they are an economic participant in the enterprise of the state itself.

23.2.1 The Citizen Dividend in Practice

Drawing inspiration from the Alaska Permanent Fund, which has returned oil revenues to Alaskan residents as annual dividends since 1982, and from the broader literature on citizen dividends and sovereign wealth funds, Startup States can implement a dividend mechanism funded from the returns on the new country's collective assets and economic activities.[8]

The asset base from which such dividends might flow is broader than a single natural resource. Strategic investments in infrastructure whose value grows as the country develops, profits from state-backed commercial enterprises, revenues from the licensing of intellectual property developed within the country's research institutions, and the land value appreciation that follows from successful community building and economic development can all contribute to a citizen wealth fund whose returns are distributed to all residents on a periodic basis. These returns are genuine economic surpluses generated by the development of the territory, not redistributed wealth extracted from economic activity through taxation.

The forms this dividend might take are equally diverse. Tokenised ownership structures give citizens an equity stake in the infrastructure they help build, from digital platforms to physical utilities, through holdings that represent not merely usage rights but a genuine share in the community's growth. Periodic cash or tokenised credit distributions from a citizen wealth fund return profits directly to members, reinforcing the

sense that the community's economic success is structurally and concretely shared rather than merely aspirationally distributed.

Some founding teams may go further, designing a voluntary universal basic income mechanism: a periodic payment funded not from compulsory taxation or from government borrowing, but from real surpluses generated by the new country's productive activities.[9] A citizen dividend of this kind, as Chapter Eighteen of this book discussed, is voluntary and debt-free in a sense that no tax-funded welfare programme can claim, because it is funded from genuine economic surpluses rather than from compulsory levies on existing economic activity. The alignment between individual and collective interest that this creates, where each citizen has a direct financial stake in the success of the very community they have chosen to be part of, is one of the strongest possible foundations for stable and self-reinforcing civic engagement.

23.2.2 The Inversion of the Civic Compact

There is a deeper philosophical dimension to the citizen dividend that deserves explicit acknowledgement. The traditional conception of civic obligation, expressed most memorably by John F. Kennedy's inaugural injunction to ask not what your country can do for you, ask what you can do for your country, rests on a presumption that the state's claims on the individual are prior to and more fundamental than the individual's claims on the state. This presumption has a legitimate basis in the tradition of civic republicanism, which regards active participation in public life as both an obligation and a constitutive element of human flourishing.

Startup States do not reject this tradition; they extend and rebalance it. They do ask what the country can do for its citizens, not out of paternalism or populism, but out of the recognition that a political community whose legitimacy rests on voluntary affiliation and genuine consent must demonstrate its value to those who have chosen to join it, not merely assume that value as a given. When citizen and community rise together, when the new country's prosperity is the citizen's prosperity and the citizen's contribution is the community's growth, the civic compact becomes genuinely reciprocal rather than merely nominally so.

23.2.3 Global Identity and the Statelessness Commitment

Modern individual identity is globalised and fluid in ways that the inherited citizenship systems of the Westphalian state were never designed to accommodate.[10] Dual and multiple citizenship has become common

in many jurisdictions, but the rules governing it remain inconsistent, unpredictable, and in some cases actively hostile to the reality of internationally mobile lives. The Nottebohm case before the International Court of Justice established the principle of genuine connection as a condition for the international recognition of nationality, but the application of that principle to the complex realities of contemporary identity has never been fully worked out in state practice.

Startup States engage with these questions honestly and transparently. Their founding instruments specify clearly the relationship between Startup State citizenship and existing nationalities: whether dual citizenship is permitted, what the implications are for tax and regulatory obligations under existing national law, and how the two affiliations interact in the specific contexts that matter most to internationally mobile individuals. This transparency is not merely a practical convenience; it is an expression of the model's fundamental commitment to clarity in the terms of the civic relationship.

Startup States also commit to addressing statelessness, consistent with the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. A new country designed on opt-in principles has no structural reason to deprive anyone of nationality or to contribute to statelessness; its founding instruments should reflect that commitment explicitly. The goal is not to create new categories of the nationally excluded, but to expand the range of national communities available to those who seek genuine belonging.

23.3 Governance, Legal Clarity, and Civic Agency

The Startup States model redefines the relationship between the individual and governance, placing the citizen rather than the bureaucracy at the centre of institutional design.[11] Governance in a Startup State is not something that happens to the citizen; it is something that happens with them. The institutional architecture is built with the responsiveness of a well-designed product, the transparency of an open system, and the flexibility of voluntary association.

23.3.1 Governance as Responsive Partnership

In most existing jurisdictions, governance arrives top-down: legislation, regulation, and administrative decision all reach the citizen as external impositions whose terms were determined by processes that the citizen had little practical ability to influence. The formal mechanisms of demo-

cratic participation, elections, petitions, public consultations, provide channels for citizen input, but they are slow, diffuse, and rarely capable of producing rapid institutional responsiveness to the actual preferences of those governed.

Startup States can implement governance mechanisms that are more directly responsive: policy feedback through digital platforms that aggregate and weight citizen preferences in real time; participatory lawmaking through rotating assemblies, smart referenda, and opt-in deliberation processes that allow citizens to co-author the laws they live under; and issue-based affiliation that permits citizens to engage deeply on matters that affect them directly without being compelled to participate in every dimension of public life. These are not utopian aspirations; they are practical institutional designs that a new country building its governance architecture from first principles can implement from the outset.

The digital governance infrastructure available to new countries in the current era makes these designs more feasible than they would have been a generation ago.[12] Estonia's digital public administration, which allows citizens to interact with the full range of government services through a secure digital identity system, provides a model of what is possible when governance is built around digital infrastructure from the beginning rather than retrofitting it onto analogue institutions. A Startup State that learns from the Estonian example and goes further, extending digital participation to genuine governance co-authorship rather than merely administrative self-service, is taking the next step in what will be the defining institutional innovation of the twenty-first century.

23.3.2 Legal Clarity as Civic Infrastructure

Traditional legal systems are frequently characterised by the very opposite of clarity: accumulated centuries of statutory amendment, judicial precedent, and administrative interpretation have produced bodies of law that are opaque, inconsistent, and navigable only by specialists.[13] For the ordinary citizen and the ordinary business, this opacity functions as a form of exclusion: access to the legal system requires intermediaries whose services are expensive, and the unpredictability of outcomes creates a persistent background of uncertainty that inhibits planning and investment.

A Startup State writing its legal code from first principles has the opportunity to build legal clarity into the foundation rather than layering it onto inherited complexity. Plain-language statutes, accessible in multiple lan-

guages and updated through transparent processes, give citizens genuine access to the rules that govern their lives without requiring professional intermediation. Smart contract integration, which allows agreements to be executed automatically and dispute resolution to be conducted through predetermined processes, reduces the transaction costs of legal compliance and enforcement for every participant in the community.

The result is not law without nuance or law without the wisdom accumulated in established legal traditions. A Startup State can and should draw on the best of those traditions, whether in the common law heritage of Anglo-American commercial practice or in the codified clarity of Swiss and German civil law, while stripping away the accumulated complexity that serves institutional rather than citizen interests. Law as civic infrastructure rather than law as barrier: clear, accessible, consistently enforced, and oriented toward the purposes it is meant to serve.

23.3.3 Flexible Citizenship: Physical and Digital Presence

Not every citizen of a Startup State will reside full-time within its physical territory, and the citizenship architecture should accommodate the reality of modern internationally mobile life without either requiring physical presence as a condition of meaningful affiliation or treating purely remote affiliation as equivalent to full civic participation.[14]

Digital residency programmes, of which Estonia's e-Residency is the most developed existing model, demonstrate that meaningful administrative and legal participation in a jurisdiction can be maintained by individuals who are physically located elsewhere. A Startup State that builds digital residency into its citizenship architecture can extend its civic community far beyond its physical territory, creating genuine bonds of participation and belonging with diaspora members, remote workers, and internationally mobile individuals whose connection to the community is real even if their physical presence is intermittent.

The Nottebohm principle, which the International Court of Justice articulated in 1955, requires that nationality reflect a genuine connection between the individual and the state for it to be opposable internationally. A Startup State that designs its digital citizenship to include genuine participation in governance, genuine economic contribution, and genuine alignment with the community's values is creating the conditions for Nottebohm-compliant affiliation even among citizens who are not continuously physically present. The authentic link that the principle requires is one of participation and belonging, not merely of physical location.

23.3.4 Personal Autonomy and Digital Freedom

In the current global environment, data has become a primary instrument of both commercial exploitation and state surveillance.[15] The business models of major digital platforms are built on the monetisation of personal data. The security architectures of many states include bulk surveillance capabilities whose scope far exceeds what democratic accountability would sanction if citizens understood it fully. A Startup State that is designing its institutional architecture from first principles has the opportunity to build privacy protection into the foundation rather than treating it as a constraint to be managed.

Self-owned identity systems, in which citizens hold their own credentials and records without those credentials being subject to seizure, sale, or alteration by any state or commercial entity without their consent, represent the technical implementation of a political principle: that the individual's relationship to their own identity and their own data is primary, and that the state's access to that identity and that data must be specifically justified and specifically consented to rather than presumed.

This principle has a legal expression in the GDPR framework that the European Union has developed, which treats personal data as a right-bearing asset of the individual rather than as a resource to be exploited by those who happen to hold it. A Startup State that embeds data sovereignty in its constitutional architecture is taking this principle further: not merely regulating the use of personal data by external actors, but building the technical and institutional infrastructure that makes individual control of personal data a structural reality rather than a formal entitlement.

Transparency should flow upward, not downward. Governments of Startup States should be radically open, with auditable finances, visible decision-making processes, and accessible public accounts. Private citizens, by contrast, should enjoy the highest possible degree of privacy, with government access to personal information governed by specific legal justification rather than general administrative convenience. This inversion of the typical transparency dynamic is both a principled commitment and a practical competitive advantage: it is one of the features that distinguishes a Startup State from both legacy jurisdictions and from less scrupulous alternatives.

23.4 Lifestyle, Culture, and Intentional Community

One of the most distinctive aspects of the Startup States model, and one that resonates strongly with individuals who are frustrated with the governance environments of existing jurisdictions, is the possibility of intentional community design: the deliberate crafting of a physical and social environment around shared values and shared purposes rather than around the accidents of historical settlement and demographic inheritance.[16]

The history of intentional communities is long and includes many celebrated successes alongside many celebrated failures. What has typically distinguished the successful examples from the unsuccessful ones is the robustness of their institutional framework: intentional communities that have survived and flourished over generations have done so by building governance structures capable of managing internal disagreements, succession challenges, and external pressures without fracturing. The Startup States model applies this lesson directly: the intentional community it creates is not merely a community of shared values but a community with a constitutional framework, a rule of law, and a set of institutional mechanisms designed to sustain it through the inevitable crises that every human community eventually faces.

23.4.1 Tailored Societies and the Architecture of Flourishing

The diversity of Startup State configurations that the model accommodates, from libertarian minimal-governance communities to environmentally committed carbon-negative settlements to innovation-focused technology jurisdictions, reflects the fundamental insight that there is no single correct answer to the question of how human beings should organise their collective life. Different communities will embody different conceptions of the good, and the international order is enriched by that diversity rather than threatened by it.

What all well-designed Startup States will share, whatever their specific character, is a commitment to environments crafted for dignity, balance, and human health. Walkable communities with clean air, access to natural environments, high-quality public spaces, and built environments that support rather than degrade the quality of life of those who inhabit them are not aspirational luxuries; they are founding design principles that the new country has the unique advantage of being able to embed from the outset rather than retrofitting onto inherited urban forms.

The research literature on urban design, quality of life, and community wellbeing is consistent on several points that are directly relevant to Startup State site selection and planning: walkable neighbourhoods, access to green space, noise reduction, clean air and water, and high-quality social infrastructure contribute substantially to residents' physical and psychological health and to their sense of civic connection.[17] A Startup State that designs its physical environment around these findings from the beginning is not merely providing amenities; it is building the conditions under which a genuine and resilient community can develop.

23.4.2 Practical Tools for Global Living

Beyond the quality of the physical and social environment, Startup States can offer their citizens practical tools for navigating the global economy and the global mobility landscape that existing jurisdictions, whose citizenship systems were designed for a less mobile era, cannot match.[18]

Functional passports and digital identity documents that are accepted in the international travel and financial systems, and that provide genuine access to the banking, mobility, and commercial networks that an internationally mobile life requires, are the foundational civic tool of a Startup State citizenship. The diplomatic work of securing visa-free access agreements with as many countries as possible is among the most immediately practical contributions that the new country's foreign ministry can make to the quality of life of its citizens.

Fair, fast, and accessible dispute resolution, whether through the new country's own judicial system or through its connections to international arbitral forums, removes the uncertainty and the power asymmetry that characterises dispute resolution in jurisdictions with slow, expensive, or unreliable court systems. Entrepreneurs, families, and investors who are confident that their contracts will be honoured and their disputes resolved fairly are more willing to commit capital, more willing to build long-term relationships, and more willing to participate fully in the community's economic life.

Digital consular services that provide real-time support to citizens wherever they are in the world, and that do not require physical presence at a specific consular post for the delivery of essential governmental services, extend the practical reach of the Startup State's citizenship beyond its physical territory. For citizens who travel frequently, who work remotely, or who maintain genuine connections to multiple places in the

world, this digital consular infrastructure is a practical expression of the citizenship's genuine value.

23.5 Complementarity and Strategic Choice

Startup States are additive, not subtractive. They are built on the principle of complementarity: the recognition that affiliation with a new country enriches rather than diminishes an individual's other national and cultural connections.[19] The model does not require renunciation of existing citizenship, erasure of prior identity, or severance of ties with the communities and cultures from which an individual has come. It offers something additional: a new layer of belonging, a new set of institutional protections, and a new community of shared purpose.

The value of this complementarity is most evident in its role as optionality. A Startup State citizenship held alongside an existing national citizenship provides genuine strategic resilience: if the primary country faces political, economic, or social deterioration, the Startup State affiliation represents an established alternative rather than a hurried refuge. The difference between resilience and crisis management is precisely the difference between having made provision in advance and scrambling to find alternatives when circumstances force a decision.

For entrepreneurs, investors, and professional practitioners, Startup State citizenship provides a legal domicile of regulatory clarity and predictability in a jurisdiction specifically designed to accommodate their activities. For families, it provides a second home not only for capital but for genuine civic belonging: a community whose values align with their own and whose institutions are designed to serve them. For creative and intellectual professionals, it provides a community whose governance is explicitly designed to be minimally intrusive and maximally supportive of the kind of autonomous work that creativity and intellectual production require.

The concept of a second citizenship oriented around values rather than merely around utility, around genuine alignment with a community's founding principles rather than merely around the travel document's visa-free access, is genuinely new.[20] Existing citizenship-by-investment programmes sell passports; the Startup States model offers genuine membership in a deliberate community. The difference is not merely rhetorical; it is structural. A citizen who joined because they believed in the community's founding principles is a different kind of civic participant from one who joined because the passport provided visa-free access to

150 countries. Both are legitimate choices, but only one creates the kind of civic engagement that makes a community resilient and self-sustaining over generations.

23.6 Citizenship by Choice: A Closing Reflection

Startup States are not toys for the wealthy, nor gated communities for the globally mobile elite. They are, at their best, platforms for dignity: institutional environments in which the terms of civic life are made explicit, the rights of the individual are genuinely protected, and the prosperity of the community is structurally shared with those who have chosen to be part of it.

The individuals for whom the Startup States model holds the greatest promise are those who feel the mismatch most acutely: between the governance environment they are subject to and the kind of governance environment that would genuinely serve their lives and aspirations. They may feel that mismatch as entrepreneurs trying to build in regulatory environments designed for industrial-era businesses. They may feel it as families whose values are not reflected in the cultural and social norms of their inherited communities. They may feel it as professionals whose mobile, globally distributed work lives are poorly accommodated by citizenship systems designed for fixed physical presence. Or they may feel it simply as thoughtful citizens who have concluded that existing governments are not taking seriously the challenge of governing well for the people they serve.

For all of these individuals, the Startup States model offers not escape but choice.[21] The choice to be part of a community because it reflects your values. The choice to participate in governance because you have a genuine stake in its outcomes. The choice to build something new rather than waiting for existing systems to reform themselves. And the choice to leave, freely and without stigma, if the community evolves in directions that no longer align with your purposes.

In Startup States, governance does not smother civic life; it amplifies it. Consent is not assumed; it is encoded. Laws exist because the community that lives under them has genuinely accepted them, not because they were imposed by a historical process that no living person designed or endorsed. The citizen and the state are not adversaries in a permanent negotiation over the terms of tolerable coexistence. They are partners in the enterprise of building something worth being part of.

This is not politics as usual. It is performance, precision, and partnership. It is not revolution; it is reinvention. And it is the fullest expression of what the Startup States model is ultimately for: the creation of communities in which belonging is earned rather than inherited, prosperity is shared rather than extracted, and identity is aligned rather than imposed.

Live among the aligned. Build with clarity. Thrive by design.

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NOTES

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INTERLUDE V

A Letter to My Network State Friends

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On the Strategic Necessity of a Treaty-First Path

Dear Friends,

Let me begin by saying what I hope is already clear: I regard the Network State intellectual tradition, and the community of thinkers, builders, and founders who have gathered around it, with genuine admiration and respect. The ambition to create new forms of political community grounded in voluntary association, shared values, and technological infrastructure is one that this book shares at the deepest level. We are, in the most important sense, working toward the same destination. Where we differ is on the question of sequence.

The core reason for insisting on a treaty-first approach to state formation is straightforward. Absent formal recognition by existing states, it is extraordinarily difficult for an unrecognised entity to interact with the established international system on anything approaching equal legal and institutional footing. Limited or informal engagement may occur in particular contexts. But recognition remains the most reliable and comprehensive gateway to full participation in the contemporary international order. The international system has gatekeepers, and for those who wish to operate within it, rather than simply outside it, those gatekeepers' rules must be engaged with rather than bypassed.

This observation is not intended to disparage the Network State vision. It is offered in the spirit of the most productive kind of fraternal disagreement: the kind that takes the other position seriously enough to engage with its strongest version, rather than its weakest. The network state model, as Balaji Srinivasan has articulated it, proposes that community comes first and territory second: that a sufficiently large, sufficiently

coherent, and sufficiently resourced network of people sharing values and norms can eventually achieve the recognition and the territorial base that constitute full statehood. This is a plausible account of one possible pathway. It is not, however, the most reliable pathway, and the reasons are structural rather than contingent.

Recognition is not simply a function of the quality or the scale of the community seeking it. It is a political process conducted by governments whose decision-making is shaped by strategic interests, treaty obligations, domestic political pressures, and the accumulated precedents of international recognition practice. A community that has assembled extraordinary social capital, impressive technological infrastructure, and a large and committed membership may still find that formal recognition is withheld by governments that do not see the recognition of that particular community as consistent with their own interests. Kosovo's long struggle for recognition, despite international support from major powers and clear satisfaction of the Montevideo criteria, illustrates how demanding the recognition process is even under favourable conditions.

The treaty-first approach addresses this problem structurally. By beginning with the consent of a recognised host state, acting through its own constitutional processes, the Startup State model produces a founding arrangement whose legal legitimacy is grounded in the very source of recognition that the international system requires. The community-first approach must eventually acquire this grounding from outside; the treaty-first approach builds it into the foundation from the beginning.

An analogy that may be useful: there is nothing that prevents an individual from self-identifying as having any particular personal, professional, or national identity. Others may accept or reject that claim according to whatever criteria they find persuasive. What one cannot ethically or practically do is compel unwilling recognition. The same principle governs international politics. Frustration with the existing state system is understandable and often justified. The desire to build alternative structures is both legitimate and important. But the expectation that the existing system will accommodate those structures simply because they have achieved a certain scale or demonstrated a certain quality is an expectation that the historical record does not support.

This is not a counsel of despair. It is a counsel of realism in service of ambition. The treaty-first path is longer and more demanding than the community-first path in some respects. But it produces an endpoint that the community-first path cannot reach by its own internal logic:

a genuinely recognised independent country, with a treaty-based legal foundation, full international legal personality, and the diplomatic standing to pursue the agenda that the founding community cares about.

Network state theory can and should play a valuable role within the Startup States framework. The insight that a community of shared purpose and shared values can develop the social capital and institutional coherence necessary to function as a genuine polity before it has a physical territory is directly relevant to the founding phase of a Startup State. The founding community of a new country must be assembled before the country exists; the community-building and the institution-building must run in parallel. The network state model offers some of the best available thinking about how that community-building process works. What the Startup States model adds is the legal architecture that transforms the community into a country.

Let nation-states be nation-states, and let network states be network states. There is neither necessity nor wisdom in forcing one form to become the other. What there is, however, is an opportunity for genuine complementarity: for the community-building insights of the network state tradition to inform the founding phase of Startup States, and for the legal and diplomatic architecture of the Startup States model to provide network state communities with a pathway to the institutional standing they cannot achieve through community formation alone.

Until a demonstrably superior alternative to the nation-state system emerges as the dominant framework for large-scale human coordination, the practical question for those who wish to create genuinely new governance environments is not whether to engage with the existing system but how to engage with it most effectively. The treaty-first approach is the most reliable answer to that question that the current state of international law and diplomatic practice supports. That is why it remains, for now, not merely preferable but indispensable.

With sincere respect for the vision you are pursuing, and genuine hope that these frameworks will find each other useful.

PART SIX

Objections and the Path Forward



CHAPTER 24

Addressing Objections and Challenges

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The preceding three chapters of Part Five have made the affirmative case: Startup States deliver substantial and durable benefits to host states, to individuals and businesses, and to the international order. Those benefits are real, but they do not exist in a vacuum. Any model that proposes something as consequential as the deliberate creation of new countries will attract rigorous scrutiny, and it should. The Startup States model has not been designed in ignorance of its critics. It has been designed in dialogue with them: every significant structural feature of the founding treaty framework, the governance architecture, the financial model, and the recognition strategy has been shaped, at least in part, by an honest reckoning with the most powerful objections that can be levelled against the enterprise.

This chapter does not seek to minimise those objections. It seeks, in the tradition of the adversarial steelman, to make them as strong as possible before demonstrating that the model's design has genuinely incorporated responses to each of them. A criticism that the model cannot answer is a criticism that should change the model. A criticism that the model has already addressed is one that the reader can set aside, confident that the founding team of any legitimate Startup State will have done the same.

The objections fall into three broad categories: ethical objections, which question the moral permissibility of the enterprise; practical objections, which question whether the model can actually work; and systemic objections, which question whether, even if it works for individual participants, it is good for the broader world.[1] Each category deserves, and receives, serious treatment.

24.1 The Adversarial Case: The Strongest Objections

Intellectual honesty requires beginning with the strongest possible version of the objections, not the weakest. The charges that could be levelled against the Startup States model are numerous and, in some formulations, severe. They deserve to be stated plainly before being answered.

Environmental degradation.[2] A critic could argue that Startup States, driven by profit motives and a desire for rapid development, would become havens for weak environmental regulation: jurisdictions where extractive industries, heavy polluters, and carbon-intensive operations could locate precisely because the new country lacks the institutional history, the political pressure from existing communities, and the regulatory tradition that constrain environmental damage in established jurisdictions. On remote or pristine territory, such damage could be particularly severe and difficult to reverse.

Neo-colonialism and imperialism.[3] The model could be characterised as a sophisticated form of neo-colonialism in which wealthy foreign entities, under the contractual guise of partnership, effectively acquire lasting control over the territory and resources of developing nations. The founding consortium, typically composed of internationally mobile capital and expertise, would establish itself on the territory of a less-powerful host state and extract returns that flow primarily outward. Whatever protections the founding treaty may nominally provide, the critique runs, the practical power asymmetry between a wealthy founding consortium and a small or economically vulnerable host state would produce outcomes indistinguishable from earlier colonial arrangements, differing only in their formal trappings.

Exclusion and the creation of elite enclaves.[4] A Startup State whose entry criteria are based on economic contribution, investment, or subscription payments would, by design, exclude those who cannot afford to meet them. Over time, the accumulation of well-governed, low-tax, high-amenity new countries accessible only to the internationally mobile wealthy would exacerbate global inequality, creating a two-tier world in which the privileged can escape the social obligations of the states that educated them and maintain the institutions they rely upon, whilst the less mobile majority is left behind in deteriorating legacy jurisdictions.

The race to the bottom in labour and social standards.[5] Startup States could be designed as low-regulation environments that attract businesses by offering weaker worker protections, lower minimum wages, and fewer environmental and social obligations than competitor jurisdictions. The

competition among new countries to attract mobile capital could produce a downward spiral in standards, as each new entrant undercuts the others on regulatory burden, creating a global marketplace in which labour rights and environmental protection are progressively eroded.

Criminal and extremist exploitation.[6] Regulatory sandboxes and streamlined legal systems could attract not only legitimate innovation but also organised crime, money laundering, sanctions evasion, and extremist organisations seeking a legally-recognised territorial base for operations that are prohibited everywhere else. A new country with minimal institutional history, limited administrative capacity, and a strong incentive to attract any capital it can find in its early years might be ill-positioned to resist such infiltration.

Wealth drain from existing states.[7] By attracting high-net-worth individuals and their tax obligations away from existing jurisdictions, Startup States could deplete the fiscal base of the states that provided those individuals with the education, infrastructure, and institutional framework that generated their wealth. This would amount to a subsidy of the new country by the old one: a transfer from the many who cannot exit to the few who can.

The commodification of statehood.[8] The notion of "operating for profit" or treating citizenship as a service to be purchased fundamentally challenges the normative foundation of the state as a political community defined by shared identity, democratic participation, and collective obligation. Reducing nationhood to a market transaction trivialises an institution whose significance in human affairs is not reducible to the services it delivers, and which has never, in any serious political theory, been conceived as merely a contractual arrangement between a service provider and its customers.

The adversarial case against Startup States may be fierce. These are not trivial criticisms. They demand a robust and transparent response.

24.2 The Environmental Objection and Its Response

The environmental objection, properly stated, has two versions. The weaker version is that some founding teams might, if left unconstrained, choose to allow environmental degradation in the interest of rapid development. The stronger version is that the competitive dynamics among new countries would produce a systematic tendency toward environmental deregulation, as each new entrant offered weaker environmental pro-

tections than the last in order to attract the capital and development activity that its rivals were also competing for.[9]

The response to the weaker version is straightforward: the founding treaty framework, as this book has specified it throughout, includes binding environmental obligations that are not merely aspirational declarations but legally enforceable treaty commitments. A new country whose founding treaty commits it to carbon neutrality, prohibits activities causing significant environmental harm to the host state or neighbouring communities, requires independent environmental impact assessment for major infrastructure projects, and mandates compliance with the Paris Agreement and the Convention on Biological Diversity has accepted legal obligations that are no less real than the obligations it has accepted on territorial title or governmental authority. A founding team that fails to meet those obligations is in breach of treaty, and the consequences are the same as for any other treaty breach.

The response to the stronger version is structural. The competitive dynamics that would produce a race to the bottom in environmental standards require that the competing parties be responding to the same market incentives. But a Startup State whose competitive advantage rests on institutional quality, on the attractiveness of its built and natural environment, on its status as a trusted and internationally respected jurisdiction, has a powerful financial incentive to maintain high environmental standards rather than to undercut them. The argument of Chapter Eighteen of this book, that environmental stewardship is a commercial imperative rather than a cost, is directly responsive to the race-to-the-bottom concern. A Startup State that destroys its natural environment destroys the asset base on which its competitiveness depends.

The host state's interests reinforce this dynamic. As the owner of the territory being developed, the host state has a direct and powerful interest in ensuring that the development leaves the land in at least as good a condition as it was found.[10] The founding treaty provisions for environmental protection are not, in this light, merely obligations imposed on the new country from outside; they are provisions that the host state has every incentive to insist upon and every legal right to enforce. The good-neighbour argument, the lease model, and the environmental treaty commitments together form a structure in which environmental stewardship is both legally required and commercially rational.

24.3 The Neo-Colonial Objection and Its Response

The neo-colonial objection has considerable historical resonance. The twentieth century provides ample evidence that formally voluntary arrangements between economically unequal parties can produce outcomes that are, in substance, exploitative: the concession agreements of the colonial era, the structural adjustment programmes of the International Monetary Fund, and the investment treaties of the 1990s have all been criticised, with varying degrees of justification, as instances in which formal legal equality masked substantive power asymmetry.[11]

The response to this objection begins with a factual distinction that the critics of the neo-colonial charge themselves insist upon. Colonialism was achieved, in the overwhelming majority of cases, by coercion: by military force, by the threat of military force, or by economic pressure so overwhelming that the host community had no genuine choice. The Startup States model is constitutionally incapable of that form of formation. The founding treaty must be concluded by a recognised host state acting through its own constitutional processes: ratified by its legislature, reviewed by its courts, and consented to by a government that is answerable to its own population. A host state government that does not believe the arrangement serves its people's interests can decline it. A host state government that accepts an arrangement and subsequently finds that it does not serve its interests has the protections of international law and the treaty's own enforcement mechanisms to rely upon.

The structural response to the power asymmetry concern is the shared-upside model: the suite of founding treaty provisions that give the host state a genuine, growing, and enforceable financial interest in the new country's prosperity. A founding arrangement that includes equity participation in the new country's commercial enterprises, revenue-sharing mechanisms whose payments grow with the new country's economy, employment preference clauses for host state citizens, mandatory procurement from host state businesses, and scholarship and training programmes for host state students is not an arrangement that extracts value from the host state. It is one that distributes the value created by the new country's development across both parties. A founding team that does not offer these structural protections is not proposing a Startup State arrangement; it is proposing something else, and host state governments and their legal advisers should be able to identify the difference.

History offers cautionary tales of exclusionary and exploitative arrangements that collapsed under the weight of their own illegitimacy:

Rhodesia's racially segregated governance, the Bantustans of apartheid South Africa, and the Congo Free State each illustrate what happens when power asymmetry is not constrained by genuine shared benefit and enforceable obligations.[12] The Startup States model has been designed, from its foundational principles, to learn from these failures and to build the structural protections that they lacked.

24.4 The Elite Enclave Objection and Its Response

The elite enclave objection is perhaps the most politically potent of the ethical charges. It connects to deep and justified concerns about the concentration of wealth and opportunity in the modern world, about the erosion of the social contract in established states, and about the willingness of the globally mobile to exit the societies that formed them rather than working to improve them.[13]

The objection has two distinct dimensions that deserve separate treatment. The first is the access question: whether Startup States are in practice accessible only to the wealthy. The second is the solidarity question: whether, even if some Startup States are initially accessible primarily to the wealthy, the dynamics of the model tend to concentrate benefit rather than distribute it.

On the access question, the model is explicitly designed to permit a range of entry pathways beyond direct financial contribution. Skills-based immigration for professionals, entrepreneurial visas for innovators, merit-based programmes for individuals contributing to the country's cultural or social fabric, and community-development pathways that recognise contributions in kind rather than only in capital: each of these is available to founding teams that choose to implement them. Some Startup States may indeed be primarily oriented toward high-net-worth residents; others will be designed around communities of shared values and shared purpose that are not defined by wealth. The diversity of models that the Startup States framework accommodates is one of its structural strengths, and that diversity will produce communities with very different demographic and economic profiles.

On the solidarity question, the response is structural. A Startup State that fulfils its founding treaty obligations, delivering employment for host state citizens, procurement from host state businesses, scholarships and training for host state students, and dividend income to all residents through a citizen dividend or equivalent mechanism, is not concentrating benefit among the already-privileged. It is generating economic opportu-

nity for populations that are not internationally mobile and not wealthy. Moreover, tiered affiliation models allow Startup States to offer diverse pathways to residency and citizenship, including affordable housing provisions and social mobility programmes that prevent the formation of rigid class structures.

The objection also rests on a comparison that is worth making explicit. Wealthy individuals who choose not to affiliate with Startup States have, and will continue to have, abundant alternative arrangements for minimising their tax obligations and accessing high-quality governance environments.[14] Monaco, Singapore, the Cayman Islands, and dozens of similar jurisdictions already serve this function, and have done so for decades. The Startup States model does not create the market for high-quality governance; it creates a more transparent, more legally grounded, and more broadly beneficial version of what already exists in the form of opaque offshore arrangements and tax treaty structures that generate far fewer benefits for host populations than the Startup States model is designed to produce.

24.5 The Race-to-the-Bottom Objection and Labour Rights

The race-to-the-bottom concern in labour standards deserves direct engagement, because it reflects a genuine risk in any competitive jurisdictional landscape.[15]

The response is institutional rather than aspirational. The Startup States model's founding treaty framework requires the new country to comply with international labour standards as established by the International Labour Organisation, including its core conventions on freedom of association, the elimination of forced labour, the abolition of child labour, and the elimination of discrimination. These are not optional provisions that a founding team can choose to omit; they are baseline obligations that are consistent with the new country's membership in the international community and with the norms to which the host state is itself committed.

Beyond this baseline, the competitive dynamic that the race-to-the-bottom model assumes, in which every new entrant undercuts the last on regulatory burden, is not the competitive dynamic that the Startup States model actually generates. A new country that seeks to attract residents, businesses, and international organisations of genuine quality cannot achieve that goal by offering the most exploitative labour environment available. The residents who choose to live in the new country will not choose to live in a country where their own rights as workers are weakly

protected. The international organisations that might otherwise choose to base themselves in a neutral, well-governed new country will not do so if that country's labour practices generate reputational risk. And the host state, with its own regulatory tradition and its own international obligations on labour standards, will not conclude a founding treaty with a new country that proposes to become a haven for labour exploitation in its own backyard.

The ILO model demonstrates that minimum labour standards and prosperous economic development are not in conflict: the most economically successful jurisdictions in the world are not, in general, those with the weakest labour protections.[16] A Startup State that competes on institutional quality rather than on the weakness of its regulatory framework will attract better businesses, better residents, and better long-term outcomes than one that attempts to win through a race to the bottom that no reputable participant in the international economy wants to join.

24.6 Criminal Exploitation and the Regulatory Safeguards

The concern that regulatory sandboxes might attract criminal or extremist exploitation is one that the international anti-money-laundering and counter-terrorism-financing community takes seriously, and rightly so.[17] The history of offshore financial centres includes numerous instances of jurisdictions that were established or captured by actors with illicit purposes, and the reputational and legal consequences for both the jurisdiction and its host state have in each case been severe.

The response is again structural. A Startup State that is constituted by an internationally recognised treaty, that is seeking recognition from UN member states, that aspires to membership in international organisations, and that is hosted by a state with its own international reputation at stake, has every possible incentive to implement the full range of Financial Action Task Force standards on anti-money-laundering and counter-terrorism financing from the first day of its operation. A new country found to be a haven for criminal activity would face collective non-recognition, sanctions, and the loss of the host state's support: outcomes that are existentially threatening for a country in its recognition-building phase.

The citizen vetting requirements that the founding arrangement must include are also a practical barrier to criminal and extremist infiltration. A rigorous due diligence process for founding citizens and residents, conducted by the founding consortium in collaboration with the host

state's security apparatus and with reference to international watchlists, provides a degree of protection against infiltration that most established countries, which cannot control who was born on their territory, do not have. The founding team of a Startup State that is designing its citizenship framework from first principles has the unique opportunity to build anti-infiltration protections into the founding architecture rather than retrofitting them after the fact.

It is also worth noting that the criminal and extremist organisations that pose the most serious international threats already have abundant access to territorial bases, financial systems, and legal cover in existing jurisdictions.[18] Such organisations are extremely unlikely to pass the rigorous vetting processes of a well-designed Startup State, and even if they attempted to do so, they would thereby render themselves more visible to the intelligence services of the host state and the broader international community. The risk is real and must be taken seriously in institutional design; it is not, however, a risk that is unique to or even disproportionate in the Startup States context.

24.7 The Wealth Drain and Fiscal Commons Objection

The fiscal commons objection, that Startup States enable wealthy individuals to exit the tax systems of the countries that formed them and thereby deplete the public resources on which less mobile populations depend, connects to the broader literature on tax competition and its effects on public finance in high-tax jurisdictions.[19]

This objection has more force against some alternative models than against the Startup States framework. Wealthy individuals who wish to minimise their tax obligations can currently do so through a wide range of existing arrangements, many of which involve no reciprocal contribution whatsoever to any host community. The citizenship-by-investment programmes of several existing countries sell passports that confer tax advantages without requiring any genuine residence, community engagement, or contribution to the host state's population. The Startup States model, by contrast, requires genuine residence and community participation as conditions of meaningful affiliation, and mandates through its founding treaty framework that the economic benefits of the new country's development flow substantially to the host state's population through employment, procurement, training, and revenue-sharing.

The comparison that is most instructive is not between a Startup State and the status quo in an established high-tax country, but between a

Startup State and the alternative jurisdictional arrangements that internationally mobile individuals currently use. Against that comparison, the Startup States model represents a more transparent, more legally grounded, and more broadly beneficial arrangement than the offshore structures it is more likely to compete with than to replace.

The objection also rests on an assumption about the counterfactual that deserves scrutiny: the assumption that the individuals and capital that locate in Startup States would, in the absence of those options, have remained in the high-tax jurisdictions from which the fiscal depletion is alleged to flow.[20] The evidence on tax competition and capital flight suggests that the counterfactual is considerably more complex: mobile capital and mobile talent already respond to jurisdictional differentials in ways that established high-tax countries have not been able to prevent through unilateral action. The Startup States model does not create this dynamic; it provides a more transparent and institutionally legitimate expression of it.

24.8 The Commodification of Statehood

The objection that the Startup States model commodifies statehood, reducing a political community defined by shared identity and democratic participation to a market transaction between a service provider and its customers, is the most philosophically serious of the ethical objections and deserves the most careful response.[21]

The objection draws on a tradition in political philosophy that treats the state as constitutively different from a voluntary association: as an institution whose authority derives not from the consent of any particular member but from the democratic mandate of the political community as a whole, and whose obligations to its members are not reducible to contractual terms because they include duties of solidarity and mutual aid that no contract could fully specify. On this view, treating citizenship as a service to be purchased is not merely commercially unusual; it is categorically incoherent with what citizenship actually is.

The response has several dimensions. The first is that the philosophical tradition that treats the state as constitutively different from a voluntary association has always coexisted with a rival tradition, represented by Locke, by the social contract theorists, and in its most radical form by Spooner and the voluntaryists, that treats political authority as legitimated precisely and only by the consent of the governed. The Startup States model is deeply aligned with the consensual tradition: it takes

seriously the claim that a political community's authority over those it governs requires ongoing consent, not merely a historical founding moment, and it builds exit rights and renewal mechanisms into its constitutional framework as structural expressions of that claim.

The second dimension is empirical. The distinction between citizenship as a political community membership and citizenship as a market transaction is not as clean in practice as it is in theory.[22] Citizenship-by-investment programmes operate in dozens of existing countries. The revenue they generate funds public services. The individuals who acquire citizenship through them are legally indistinguishable from citizens acquired through birth or naturalisation. The Startup States model's subscription-based or fee-based residency arrangements are not categorically different from these existing practices; they are more transparent about what is being offered and more honest about the relationship between financial contribution and the services it funds.

The third dimension is one of design intent. The Startup States model does not seek to reduce citizenship to a pure market transaction. It seeks to make the relationship between a country and its affiliates more honest, more transparent, and more genuinely consensual than the historically inherited relationships that the objection implicitly treats as the normative baseline. A citizen who chooses to affiliate with a new country on the basis of explicit and publicly stated terms is, on any plausible account of political legitimacy, in a morally cleaner relationship with their government than a citizen who is subject to a government that they did not choose and cannot meaningfully exit.

24.9 Designing for Inclusivity and Responsibility

The legitimate criticisms examined in the preceding sections converge on a single design imperative: a Startup State that aspires to genuine legitimacy must be designed, from its founding instruments forward, to be inclusive, transparent, and accountable.[23]

Inclusivity means more than the absence of explicit exclusion. It means the active design of pathways that enable a diverse range of individuals, not only the internationally mobile wealthy, to become part of the founding community. Tiered affiliation models, skills-based pathways, community contribution credits, and the citizen dividend mechanism that distributes economic returns to all residents collectively represent a suite of design choices that determine whether the new country becomes a genuine community or merely an exclusive club. Founding teams that

make the right choices on these dimensions will produce new countries that are more diverse, more resilient, and more legitimate than those that do not.

Transparency means more than publishing annual reports. It means governing through open processes, making fiscal data publicly accessible, subjecting governance decisions to independent scrutiny, and maintaining the kind of institutional culture in which accountability is structural rather than merely aspirational. A Startup State that treats financial transparency as a founding commitment, embedding open-book governance in its constitutional framework, is making a practical commitment to the kind of institutional quality that its competitive positioning claims.

Accountability means building external oversight mechanisms into the founding architecture: independent judicial institutions, international arbitral forums with accessible procedures, and the kind of treaty-based external scrutiny that gives residents, investors, and the host state real recourse if the new country's governance falls short of its commitments.[24] A Startup State that is genuinely accountable to its residents, its host state, and the international community through enforceable mechanisms rather than merely through its founders' good intentions is a different kind of institution from one that relies on the founders' virtue. The model's legal architecture is designed to make it the former.

24.10 Internal Stability: Cohesion, Legitimacy, and Succession

Beyond the ethical objections, a set of practical objections questions whether the Startup States model can actually produce stable, durable political communities rather than short-lived experimental projects that collapse under the weight of their own internal contradictions.[25]

The internal stability objection has several dimensions. The first is cohesion: whether a community assembled on the basis of shared values and financial contribution, rather than shared history and geography, can generate the social solidarity necessary to sustain a political community through the crises and disappointments that every polity inevitably encounters. The history of intentional communities, from the utopian settlements of the nineteenth century to the more recent experiments in intentional living, includes many failures of cohesion, where communities that began with high levels of shared motivation fractured along fault lines of personal conflict, ideological disagreement, or disillusionment with leadership.

The response to the cohesion concern is that the Startup States model does not propose to create an intentional community of the kind that has historically been prone to this failure mode. It proposes to create a country: an institution with a constitutional framework, a professional government, a rule of law, and mechanisms for the peaceful resolution of political disagreements. The fact that its founding citizens choose to affiliate with it rather than being born into it does not make it an intentional community in the relevant sense; it makes it a polity with a more transparent basis of authority than most existing countries possess. The constitutional mechanisms for citizen participation, for transparent governance, for independent judicial review, and for the election or selection of government are the practical expressions of the social compact that holds the community together: not the personal bonds of its founders, but the institutional architecture of a functioning state.

The succession question is a related but distinct concern: what happens when the founding generation exits, through death, relocation, or loss of commitment, and the new country must be governed by people who did not participate in its creation and who may not share the founding vision with the same intensity?[26] This is a question that every polity faces, and the Startup States model has no unique vulnerability to it. What the model does have is a constitutional framework that was designed, from the outset, to embed the founding values in institutional structures that are not dependent on the founding generation's continued personal commitment. Constitutional provisions that are difficult to amend, that require supermajority support for any change to the foundational fiscal or legal commitments, and that give residents and investors legal recourse if those commitments are violated, provide a form of intergenerational constitutional binding that the founding generation can put in place precisely because they are designing the institution from first principles.

24.11 External Pressures: Geopolitical Resilience

The most existential category of practical objection concerns not internal dynamics but external ones: the pressure that larger, more powerful actors in the international system can bring to bear on a small new country that lacks the military capacity, the alliance structures, and the accumulated diplomatic capital of established states.[27]

The geopolitical resilience question takes several forms. A great power that views the new country's existence as contrary to its interests might seek to prevent its recognition, to impose economic sanctions, to coerce

the host state into withdrawing from the founding arrangement, or to exploit the new country's limited military capacity to press claims on its territory or governance. These are real risks, and they are not fully manageable through legal architecture alone.

The primary response is the model's insistence on permanent neutrality and on the avoidance of any alignment with any existing military alliance or great power bloc. A Startup State that is genuinely neutral, that has no military alliances, that hosts no foreign military bases, and that is scrupulously consistent in its refusal to take positions on the geopolitical fault lines that divide great powers from each other, gives those powers no grounds for treating its existence as a threat to their interests. The precedent of Switzerland, which maintained its neutrality through two world wars and the Cold War, under heavy pressure at times but without being drawn into conflict, demonstrates that neutrality is a workable strategy rather than a naive aspiration.

The founding treaty itself provides a legal layer of geopolitical protection.[28] A great power that wishes to pressure the host state to withdraw from the founding arrangement must contend with the host state's treaty obligations under international law, with the estoppel doctrine that makes that withdrawal legally costly once other states have relied on the arrangement, and with the financial interests of the host state's government and its investors in the arrangement's continuation. These are not invincible protections, but they raise the cost of external pressure substantially above what it would be in the absence of a treaty-based framework.

The recognition-sequencing strategy also provides geopolitical resilience in a different sense: a new country that has secured recognition from a broad and geographically diverse coalition of states is more resistant to pressure from any single great power than one whose recognition is concentrated in a narrow group of like-minded countries. The diplomatic investment in building a diverse recognition coalition is therefore not only a prerequisite for UN membership; it is a form of geopolitical insurance.

24.12 Long-Term Sustainability and the Scalability Question

The long-term sustainability of the Startup States model raises questions that go beyond the founding phase: whether a small new country can generate sufficient revenue to sustain its governance institutions and public services over the decades and generations that follow its founding, and

whether the model can scale beyond the small, specialised new countries that are its most obvious near-term applications.[29]

On sustainability, the financial architecture of Chapter Sixteen provides the primary response. A Startup State whose revenues come primarily from land leases, development returns, service fees, and the citizen wealth fund is not dependent on the political willingness of a particular government to continue taxing its population: it is funded from genuine economic surpluses generated by the development of the territory. The capital reserve provisions, the diversified revenue model, and the international insurance instruments that Chapter Sixteen recommended are practical expressions of the sustainability commitment, not merely aspirational ones.

On scalability, the model is explicitly not designed to produce a single universal template. Different Startup States will take different forms, serve different communities, and operate in different geopolitical and ecological contexts. The value of the model lies not in the production of identical jurisdictions but in the provision of a legal and institutional framework within which a wide variety of new country configurations can be legitimately constituted, recognised, and sustained. The diversity of configurations that the model accommodates is itself an expression of the pluralism that the Startup States Society regards as one of the model's most important contributions to the international order.

The question of whether the Startup States model can be applied to larger populations and more complex economies is ultimately an empirical question that will be answered by the experience of the first generation of new countries.[30] If the first Startup States demonstrate that the model produces stable, well-governed, and economically successful communities, they will generate the institutional knowledge and the political confidence to attempt more ambitious applications. If they encounter difficulties, those difficulties will generate the learning that enables the next generation of founding teams to design better institutions. This is the pattern through which every significant governance innovation in human history has developed, and there is no reason to expect the Startup States model to follow a different trajectory.

24.13 Constitutional Authorisation in the Host State

A practical objection that deserves specific treatment concerns the constitutional requirements of the host state: the legal hurdles that the founding treaty must clear within the host state's own domestic legal system

before it can take effect.[31] Many constitutional systems include provisions that prohibit or constrain the alienation of territory, the delegation of governmental authority to external entities, or the conclusion of treaty arrangements that modify the constitutional allocation of powers. These provisions are not mere procedural technicalities; they are substantive constitutional commitments that reflect the host state's own legal order and that cannot be set aside by executive action alone.

The founding treaty framework must therefore be designed from the outset to comply with the host state's constitutional requirements. This may require a constitutional amendment in the host state, an interpretive ruling by the host state's highest court, an enabling statute passed by the host state's legislature, or some combination of these. The constitutional authorisation dimension of the founding process is, in many ways, the most demanding legal challenge the founding team faces: not because the constitutional issues are inherently intractable, but because they are jurisdiction-specific and require expert legal counsel in the host state's own constitutional tradition.

The Vienna Convention on the Law of Treaties, in its Article 46, provides that a state may not invoke its internal law as justification for the invalidity of a treaty to which it has consented, with the narrow exception of violations of its internal law regarding competence to conclude treaties that were manifest. This means that a founding treaty concluded through the proper constitutional processes of the host state will be binding under international law even if subsequent governments argue that the arrangement was a bad idea. The constitutional authorisation process is therefore both a legal requirement and a strategic investment: the more thoroughly it has been conducted, the more durable the founding arrangement will be against subsequent attempts to revoke it.

24.14 The Stimson Doctrine and Its Limits

The Stimson Doctrine, named after US Secretary of State Henry Stimson who articulated it in January 1932 in response to Japan's creation of Manchukuo in northeast China, holds that the international community will not recognise territorial arrangements achieved through military force or other violations of international law.[32] United Nations General Assembly Resolution 2625 of 1970, which declared the principle that no territorial acquisition resulting from the threat or use of force shall be recognised as legal, extended this principle into the framework of the

UN Charter. These norms constitute one of the most firmly established principles of the contemporary international order.

The relevance of the Stimson Doctrine to the Startup States model is straightforward: the doctrine does not apply to it. The Stimson Doctrine prohibits recognition of territorial arrangements achieved by force or coercion. The Startup States model is constituted by a bilateral founding treaty concluded voluntarily, through constitutional processes, by a recognised host state acting freely. There is no force. There is no coercion. There is no violation of territorial integrity without consent, because the consent is the foundation of the entire arrangement.

A founding team that is scrupulous in ensuring that its founding process meets the legal standards of the Vienna Convention, free from fraud, error, and coercion as defined in Articles 48 through 52 of that instrument, is not creating an arrangement to which the Stimson Doctrine applies.[33] Recognition must be earned through legality, transparency, and good faith. The model demands all three from the outset, and the founding treaty's drafting and ratification processes are the practical mechanisms through which those standards are met and documented.

24.15 The Strategic Synthesis: Resilience by Design

The objections surveyed in this chapter are not equally powerful, but none is trivial, and none has been dismissed without engagement. The Startup States model's response to each of them is not merely an argument; it is a design specification. Every significant structural feature of the founding treaty framework, the governance architecture, the financial model, and the recognition strategy reflects a considered response to at least one of the criticisms that this chapter has examined.

The model is designed to be resilient against the failure modes that have undermined previous governance experiments: the environmental degradation of extractive enclaves, the power asymmetry of neo-colonial arrangements, the fragility of subnational governance that depends on the host state's continuing goodwill, the internal fractures of intentional communities that lack genuine constitutional governance, and the external vulnerability of small entities that have not secured the treaty-based protections that make their existence costly to undermine.[34]

Resilience is not passivity. It is not the absence of vulnerability but the active management of it: the embedding of safeguards into institutional architecture before the pressures that will test them have arrived. A Startup State that has built environmental obligations into its founding

treaty, that has designed its financial model around genuine value creation rather than extraction, that has implemented rigorous vetting processes from the outset, that has cultivated a broad and diverse coalition of recognising states, and that has negotiated the full constitutional authorisation required by its host state's legal system, is as well-positioned as the current state of international law and institutional design knowledge allows. The objections are taken seriously. The design responds to them. The enterprise is worth attempting.

The final chapter of this book turns from objection to aspiration: the path forward for the Startup States model, the practical steps by which the first new countries will be created, and the invitation to those with the vision, the capability, and the courage to join the founding generation of an institution whose time has come.

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NOTES

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CHAPTER 25

The Path Forward: Charting Your Own Destiny

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Chapter Twenty-Four made the case that the principal objections to the Startup States model, ethical, practical, and systemic, have been anticipated in the model's design and addressed structurally rather than merely rebutted rhetorically. The enterprise is worth attempting. The legal foundation is sound. The international order can accommodate it, and will be improved by it. That is the accumulated argument of the preceding twenty-four chapters.

This final chapter turns from argument to action. It addresses the who, the what, the where, the why, the when, and the how of actually building a new country under the Startup States framework, not in the abstract but in the practical sequence of steps that a founding team must work through to bring a new country from the clarity of a founding vision to the reality of an internationally recognised, institutionally effective, and genuinely thriving polity.

The path forward is not short and it is not easy. No founding team that has read this book carefully will be surprised by that. The legal, diplomatic, financial, and institutional work required to create a genuine new country is substantial.[1] But it is not more substantial than the work involved in founding a major university, building a hospital system, or establishing a new city from raw land. Each of those enterprises has been accomplished by individuals and organisations that began with a vision, committed to a rigorous process, and executed with patience, precision, and persistence across years and decades. The founding of a new country demands the same qualities. It also offers a return that no university,

hospital, or city can match: the chance to be among the architects of a nation.

25.1 International Law as a Living Instrument

Before addressing the practical path forward, it is worth restating a foundational point that the argument of this book has demonstrated but that deserves explicit emphasis as a closing affirmation: the Startup States model works with international law, not against it.[2]

The Peace of Westphalia of 1648 is conventionally, if somewhat imprecisely, identified as the founding moment of the modern state system: the point at which the principle of territorial integrity and state independence was first encoded in the fabric of European political order. The subsequent centuries of interstate practice, codified in the great multilateral instruments of the modern era, from the Congress of Vienna of 1815 through the Covenant of the League of Nations to the United Nations Charter of 1945, have built upon and extended that Westphalian foundation. The current international order is not a monolith, but it has a structure: a hierarchy of norms, a set of procedural mechanisms, and a network of institutions that together constitute the most developed framework for managing relations among human communities that has ever existed.

The Startup States model operates entirely within that structure.[3] It does not propose to replace the Westphalian system of territorial states; it proposes to add to it. It does not seek to circumvent the UN Charter's prohibition on the threat or use of force; it builds its entire founding mechanism on the principle of consensual, voluntary agreement that the Charter embodies. It does not challenge the Montevideo criteria for statehood; it designs new countries precisely to satisfy those criteria, from the first day of the arrangement forward. And it does not claim that the international community must recognise a Startup State merely because one has been declared; it accepts that recognition must be earned through lawful conduct, institutional effectiveness, and the patient cultivation of bilateral and multilateral relationships.

International law is not a closed book. It is a living instrument, authored by the consent of states and amended by the accumulation of their practice. The creation of new states on territory lawfully acquired through bilateral treaty is not only permissible under the corpus of international law as it currently stands; it is harmonious with the deepest principles of that law: the principles of pacta sunt servanda, of good faith in treaty relations, of the peaceful settlement of disputes, and of the pro-

gressive development of the law to meet the needs of each successive era. The Startup States model does not require a revolution in international law to become reality. It requires the faithful application of principles that already exist.

What is new is not the law. What is new is the deliberate, systematic application of that law to the challenge of creating new governance environments from first principles, rather than waiting for the accidents of history, the misfortunes of conflict, or the processes of decolonisation to produce new countries in the haphazard and often traumatic ways that most existing countries came into being. Startup States are not anomalies in the international order. They are, potentially, the next chapter in its progressive development: polities constituted through intention rather than inertia, and designed to govern well from the beginning rather than struggling to reform themselves after the fact.

25.2 The Who: Founding Teams, Consortia, and the Right People

The founding team of a Startup State is the single most consequential variable in the enterprise's success.[4] No legal architecture, however carefully designed, will produce a well-governed new country if the people building and operating it lack the capabilities, the integrity, and the long-term commitment that the enterprise requires. Conversely, a founding team with exceptional capabilities and genuine commitment can navigate legal and diplomatic obstacles that a less capable team could not, and can build institutional trust that compensates for the inevitable imperfections of any founding arrangement.

The capabilities required are unusually diverse. The founding team needs deep expertise in public international law: in the law of treaties, the law of statehood and recognition, and the international instruments that govern each dimension of the new country's founding process. It needs financial structuring capability: the ability to design and execute the founding consortium's capital structure, negotiate the financial provisions of the founding treaty, and manage the new country's fiscal architecture through its early years. It needs governance design expertise: the ability to translate constitutional principles into operational institutions, to design dispute resolution systems, to build administrative processes, and to recruit the professional talent that will make those institutions function. And it needs diplomatic skill: the ability to identify and cultivate the bilateral relationships that will generate early recognition, to manage the geopolitical fault lines discussed in Chapter Seventeen, and to build

the coalition of recognising states that UN membership will eventually require.

No individual possesses all of these capabilities, which is why the founding consortium model is essential. The consortium must bring together the full range of expertise, and it must be structured so that no single member can dominate the process in ways that compromise the founding principles. The governance of the founding consortium is itself a rehearsal for the governance of the new country: a founding team that cannot govern itself with transparency, accountability, and genuine respect for the interests of all members is unlikely to produce a country that can.

The integrity dimension is equally important, and it is less easily specified but no less critical.[5] The Startup States model requires founding teams that are genuinely committed to the consensual principles on which the model is based: to the free and informed consent of the host state, to the genuine sharing of economic benefits with the host state's population, to the environmental obligations embedded in the founding treaty, and to the inclusion of a diverse range of residents rather than the creation of an exclusive enclave. Founding teams that pursue these commitments because they are convenient, rather than because they are genuinely held, will find that the model's structural mechanisms do not compensate for a fundamental absence of good faith.

25.3 The What: The Startup State in Its Essential Character

A Startup State is a new country: a recognised independent polity constituted by bilateral international treaty, with a defined territory, a permanent and voluntarily affiliated population, an effective government exercising independent authority, and the capacity to enter into relations with other states.[6] It is not a special economic zone, because its authority is not delegated from the host state and cannot be revoked by domestic legislation. It is not a charter city, because its governing instruments are grounded in international law rather than in the host state's constitutional order. It is not a network state, because its legal existence does not depend on achieving recognition after the community has formed; the recognition-building process runs in parallel with the community's development from the moment of the founding treaty's conclusion. And it is not a micronation, because its founders have no interest in theatrical assertion and every interest in genuine, functional, internationally recognised statehood.

It is a new country: purpose-built, consensually formed, and designed to govern well from its first day. Its character is defined by the founding principles that this book has articulated throughout: the principle of consent at every level of the founding process; the principle of genuine mutual benefit with the host state; the principle of environmental stewardship as both a legal obligation and a commercial imperative; the principle of transparency in governance and fiscal management; and the principle that the new country's competitive advantage lies in the quality of its institutions rather than in the weakness of its regulations.

The Startup State is an addition to the world, not a subtraction from it. It takes nothing from the host state that the host state has not freely given in exchange for contracted returns. It takes nothing from neighbouring states or from the international community, because its existence creates rather than redistributes value. And it takes nothing from its own residents that they have not voluntarily agreed to provide, in exchange for the governance, the security, and the institutional framework that are the new country's principal product.

25.4 The Where: Territory, Site Selection, and the Physical Foundation

Dry land is the most viable and legally sound foundation for a new country under the current international legal framework.[7] This is not because the future holds no possibility for other territorial configurations, from floating platforms to reclaimed land to the gradual evolution of legal frameworks to accommodate genuinely novel territorial forms. It is because the founding treaty requires a territory that can be precisely defined by geodetic coordinates, that can be physically accessed and administered, and that is subject to the unambiguous legal title of the host state whose consent enables the arrangement.

The site selection analysis for a potential Startup State territory is among the most consequential decisions the founding team will make, and it involves considerations across at least five distinct dimensions. The first is legal: the territory must be subject to unambiguous title in the host state, must not be the subject of ongoing boundary disputes with third states, and must be available for long-term lease or equivalent arrangement without requiring constitutional amendment that the host state's political system cannot realistically deliver. The second is geographical: the territory must be of sufficient size and quality to sustain the community and the economic activities the founding team has planned, must have adequate access to water, energy, and transport links, and must not be so

remote or environmentally hostile that the costs of development absorb resources needed for governance and community building.

The third dimension is climatic: as Chapter Seventeen emphasised, the territory's vulnerability to flooding, sea-level rise, drought, and extreme weather events must be assessed over the fifty-to-hundred-year timeframe relevant to the founding treaty's duration, not merely over the near-term planning horizon that most development projects use. A territory that is viable today but seriously threatened by climate change in fifty years is not a suitable foundation for a country designed to last for generations.

The fourth dimension is geopolitical: the territory must not sit on a geopolitical fault line that would make its existence a provocation to any major power whose support or acquiescence the new country will need. A territory adjacent to a great power's strategic assets, in a contested maritime zone, or in a region subject to active territorial dispute is not a suitable foundation for a country that aspires to permanent neutrality and broad-based recognition.

The fifth dimension is relational: the territory must be in a host state whose government is politically capable of concluding the founding arrangement, whose constitutional system permits it, whose population would not regard it as a betrayal of national interest, and whose long-term strategic interests are genuinely served by the arrangement.[8] The host state relationship is not merely a legal formality; it is the most important bilateral relationship the new country will have, and the site selection decision is inseparable from the host state selection decision. The best territory in the wrong host state is worse than a less optimal territory in the right one.

25.5 The Why: Purpose, Vision, and the Founding Community

Every successful founding of a new human institution has been driven by a clear and compelling answer to the question of why: why this institution, why now, and why these people. The Startup States model does not prescribe the answer to that question for any specific founding team. It provides the legal and institutional framework within which many different answers to that question can be pursued. But it insists that the question be answered, because a founding team without a clear and compelling vision of the community it is building will not be able to make the thousands of specific decisions that the founding process requires in a way that is coherent and consistent.

Some founding communities will be defined primarily by shared values: libertarian communities seeking to build a country with minimal government and maximum individual autonomy; environmentalist communities seeking to demonstrate that a carbon-negative society is commercially viable; communities of faith seeking to establish a polity whose governance is grounded in their theological commitments; or communities of practice seeking to build the world's leading environment for a specific frontier technology or industry.[9]

Other founding communities will be defined primarily by geography: diaspora communities seeking to establish a country that gives their internationally dispersed members a recognised political home; communities in regions where existing governance has failed so comprehensively that starting fresh is more realistic than reform; or entrepreneurial communities that happen to converge on a particular opportunity because the conditions are right in a particular time and place.

Still others will be defined primarily by innovation: communities of governance reformers who regard the Startup States framework as the best available vehicle for demonstrating, at scale, that government can be designed to serve its residents effectively, accountably, and without the legacy constraints that prevent established governments from implementing what they know works.

The diversity of answers to the why question is, as this book has argued throughout, a strength of the model rather than a weakness. The international system benefits from governance diversity, and the Startup States framework is designed to accommodate it. What matters is that each founding team has an answer that is honest, specific, and genuinely shared by the community it proposes to build, not merely by the founding consortium's leadership.

25.6 The When: Timing, Sequence, and the Founding Moment

The question of when the Startup States model will produce its first genuinely recognised and functional new country is one that cannot be answered precisely from within the founding phase of any specific project.[10] The founding process involves too many variables, too many bilateral negotiations, too many regulatory and constitutional hurdles in the host state, and too many recognition-building steps in the broader international community for any timeline to be confidently predicted in advance.

What can be said about timing is structural rather than predictive. The confluence of conditions that makes the Startup States model more

viable in the current era than in previous decades is not accidental. The proliferation of mobile capital and internationally mobile talent has created a genuine market for jurisdictional alternatives that did not exist at this scale a generation ago. The development of digital governance infrastructure has made it possible for a new country to operate at a high level of institutional quality from its first day, without the decades of institution-building that earlier new countries required. The growth of international arbitration as an enforcement mechanism has made the founding treaty's obligations more credible and more reliably enforceable than they would have been before the modern investor-state arbitration system developed. And the intellectual work of the Free Cities movement, the network state theorists, and the governance innovation community has produced a body of knowledge about what works and what does not in deliberate governance design that earlier founding teams did not have access to.

The moment is riper than it has ever been. This does not mean that the moment is easy, or that the first founding team to announce a Startup State project will succeed. It means that the conditions that make success possible are more fully in place than at any previous point in history. The founding teams that do the legal, diplomatic, financial, and institutional preparation that this book has described, that approach the enterprise with the patience and the rigour it requires, and that build genuine communities of committed people around a genuine founding vision, are working in an environment that is, for the first time, structurally favourable to their success.

25.7 The How: A Practical Sequence

The founding of a new country under the Startup States framework involves a sequence of interrelated processes that must be managed simultaneously rather than sequentially, but that can nonetheless be described in approximate order of logical priority.[11]

The first process is vision articulation: the development of a sufficiently clear and detailed founding vision to guide every subsequent decision. This includes the definition of the founding community's values and purpose, the identification of the economic model and the competitive positioning that will sustain the new country financially, and the specification of the governance principles that will define its institutional character. The vision articulation process must be honest about what the founding team does not know as well as what it does, and it must be the

product of genuine deliberation within the founding consortium rather than the unilateral statement of a single founder.

The second process is legal preparation: the assembly of the legal expertise required to design the founding treaty, to navigate the host state's constitutional requirements, and to manage the international law dimensions of the recognition-building strategy. This is not a process that can be delegated to generalist lawyers; it requires specialists in public international law, in the law of treaties, in the constitutional law of the specific host state under consideration, and in the international investment law that will govern the rights of the founding consortium's investors.

The third process is host state engagement: the identification and cultivation of the bilateral relationship with a specific host state government that will be willing and constitutionally capable of concluding a founding treaty. This is the most politically sensitive and the most operationally demanding of all the founding processes, and it is the one that most often fails in practice. The founding team must identify a government that sees genuine strategic benefit in the arrangement, that has the political capacity to deliver it through its constitutional processes, and that has the integrity and the institutional resilience to maintain the arrangement through changes of government and shifts in domestic political conditions.

The fourth process is treaty drafting and negotiation: the development of the founding treaty through a process of negotiation that gives both parties genuinely equal standing and produces an instrument that both parties are committed to honouring.[12] The founding treaty is the most important document the new country will ever produce. Every subsequent governance decision, every bilateral relationship, every recognition negotiation, and every investor commitment will rest on the foundation that the founding treaty provides. The investment of time, expertise, and good faith that the treaty drafting process requires is the most important investment the founding team will make.

The fifth process is recognition-building: the systematic cultivation of bilateral recognition from an expanding coalition of UN member states, beginning with those whose strategic interests are most directly aligned with the new country's existence and building outward from that initial coalition. This process must be conducted in parallel with the treaty drafting and ratification process, not after it, because the diplomatic groundwork for recognition takes time to lay and because the host state's

own government will be more willing to proceed with ratification if it can see that the new country will achieve meaningful recognition once the treaty is concluded.

The sixth process is community building: the actual assembly of the founding community of residents, investors, and institutional participants who will make the new country a living reality rather than a legal construct. This process must be conducted with rigorous due diligence, both to ensure that the founding community reflects the diversity and the quality that the founding vision requires, and to exclude the categories of participants whose presence would compromise the new country's recognition strategy or its institutional integrity. The founding community is simultaneously the new country's most important asset and its most important responsibility.

The seventh process is institutional establishment: the building of the governance institutions, the administrative systems, the judicial bodies, the financial infrastructure, and the public services that will make the new country functional from its first day of operation. This process can begin in the provisional governance phase described in Chapter Fourteen and must be sufficiently advanced before the founding treaty enters into force that the new country can demonstrate effective governance from the outset. The international community's assessment of the new country in its early years will be shaped primarily by whether it actually works as a country, not merely by whether it has the legal instruments of one.

25.8 The Startup States Society and the Broader Movement

No founding team will undertake this process alone, and no founding team should. The Startup States Society, the Geneva-based institute whose foundational work underlies this book, exists precisely to support the development of the Startup States framework: to advance the doctrinal and policy work that clarifies the legal foundation of the model, to develop model treaty language and governance templates that founding teams can adapt to their specific circumstances, to build the network of legal, diplomatic, financial, and governance expertise that founding teams need, and to foster the community of practitioners that will collectively produce the first generation of new countries.[13]

The broader movement within which the Startup States model sits, encompassing the Free Cities community, the network state theorists, the seasteading movement, the governance innovation scholars, and the growing community of entrepreneurs and investors who have concluded

that jurisdictional competition is among the most important drivers of human progress, is also a resource that no founding team should neglect. The intellectual cross-pollination between these communities, each approaching the challenge of governance innovation from a different angle and with different institutional constraints, is one of the most productive features of the current governance innovation landscape. The Startup States model is not in competition with Free Cities or with network states; it is, as the interludes of this book have argued, complementary to both.

The Free Cities movement has demonstrated, through the experience of projects like Próspera and the ongoing work of the Free Private Cities intellectual tradition, what is possible and what is not possible within the subnational governance space. Those lessons are invaluable for Startup States founding teams precisely because they illuminate the ceiling of subnational governance and thereby clarify why the treaty-based pathway to genuine new-country status is worth pursuing despite its greater complexity and its longer timeline.

The network state theorists have articulated a vision of community-first governance that is genuinely valuable as a model for thinking about how founding communities are assembled and how their shared values are translated into institutional commitments.[14] The insight that a network of people who share a common purpose can develop the social capital and the institutional clarity that enables them to function as a coherent community before they have a physical territory is directly relevant to the founding phase of a Startup State, even though the Startup States model insists that the treaty-based legal foundation must run in parallel with rather than after that community-building process.

25.9 What Will Your New Country Look Like?

This book has devoted twenty-four chapters to the legal foundations, the institutional architecture, the financial models, the security arrangements, and the diplomatic strategy of the Startup States model. It has addressed the objections. It has made the affirmative case. What it cannot do, and what no book can do, is answer the most important question of all: what will your new country look like?

What values will it embody? What community will it gather? What economic model will it pursue? What kind of governance will it demonstrate is possible when a country is designed from first principles by people who care about getting it right? What will it contribute to the international

order that did not exist before it was created? What will the generations who inherit it say about the choices that the founding generation made?

These questions cannot be answered in the abstract. They will be answered, in practice, by the specific people who undertake the specific founding processes in specific host states with specific communities.[15] The diversity of answers to these questions, across the first generation of Startup States, will be one of the most important contributions the model makes to human knowledge about governance and community. Some of those answers will be wrong, and those failures will be instructive. Some will be right, and those successes will be transformative: not only for the communities that live within the new countries that embody them, but for every existing government and every would-be governance reformer who observes what becomes possible when a country is designed rather than inherited.

The founders of the United States of America, convened in Philadelphia in the summer of 1787, understood that they were engaged in an experiment in self-governance whose success could not be guaranteed but whose importance was beyond question. The founders of the Swiss Confederation, assembled in different times and places over the centuries of the federation's gradual elaboration, understood that they were building something durable and valuable without any guarantee that it would last. The founders of Singapore, faced in 1965 with the unwanted independence that separation from Malaysia had thrust upon them, understood that they would have to build quickly and build well, because they had no alternative. Each of these founding generations produced institutions that have endured, and each of them did so by combining a clear founding vision with rigorous institutional design and the long-term commitment that building something genuinely new requires.

The founding teams of the first generation of Startup States face a different challenge from any of those historical precedents, because they are building from choice rather than necessity, from opportunity rather than crisis, and with the benefit of the accumulated knowledge of every governance experiment that has preceded them. That is an extraordinary privilege. The question it poses is not whether building a new country is possible under the current international legal framework. This book has demonstrated that it is. The question is whether those with the vision, the capability, and the courage to do it will step forward.

25.10 A Closing Affirmation

The res publica gentium, the commonwealth of nations, is not static. It evolves through acts of will, duly constituted and lawfully promulgated.[16] The current international order, built over centuries of practice and codified in the great instruments of modern international law, is a remarkable human achievement: the most developed framework for managing relations among human communities that has ever existed. The Startup States model does not seek to dismantle that framework. It seeks to enrich it by adding, through the orderly processes that the framework itself provides, new members who are designed to be good ones.

The legal substratum is well-founded. The doctrinal case is made. The institutional framework is designed. The precedents, from Montenegro's peaceful independence to South Sudan's negotiated transition, from Switzerland's patient multilateralism to Liechtenstein's quietly durable microstate prosperity, are instructive and encouraging. The geopolitical demand for well-governed, stable, and ethically formed new jurisdictions is real and growing. And the community of practitioners, scholars, investors, and governance innovators who are working to make this vision a reality is larger, more capable, and more committed than at any previous point in history.

What remains is the founding will: the determination of specific individuals and specific teams to commit their capabilities and their years to the demanding, important, and ultimately historic work of building new countries. The question is not whether it can be done. It is whether you will be among those bold enough to do it.

The Startup States Society invites you to join the growing movement: to follow its work, to contribute your unique insights and energy, to research and develop models of governance and deal structures with partnering host states that are peaceful, legal, and mutually enriching, and to be part of the vanguard shaping the next chapter of human organisation. What was once unthinkable, the lawful, consensual, and prosperous creation of new countries, is now possible. The future is firmly in your hands. The possibilities are boundless. And the world is waiting.

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NOTES

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2 On the Westphalian foundations of the modern state system, see: Leo Gross, "The Peace of Westphalia, 1648-1948," *American Journal of International Law*, 42(1), 1948, pp. 20-41; and Stéphane Beaulac, *The Power of Language in the Making of International Law: The Word Sovereignty in Bodin and Vattel and the Myth of Westphalia* (Leiden: Nijhoff, 2004).

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4 On founding team composition and its relationship to institutional quality, see: Henry Hansmann, *The Ownership of Enterprise* (Cambridge, MA: Harvard University Press, 1996), Chapter 1; and Robert Axelrod, *The Evolution of Cooperation* (New York: Basic Books, 1984), Chapter 8.

5 On integrity and good faith as foundational requirements for treaty-based arrangements, see: Vienna Convention on the Law of Treaties, Article 26; and Prosper Weil, "Towards Relative Normativity in International Law?" *American Journal of International Law*, 77(3), 1983, pp. 413-442.

6 Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19, Article 1. On the essential character of statehood, see: Crawford, *The Creation of States in International Law*, pp. 37-95.

7 On dry land as the primary territorial foundation for new countries under current international law, see: Crawford, *The Creation of States in International Law*, pp. 46-48; and Malcolm Shaw, *International Law*, 9th edn (Cambridge: Cambridge University Press, 2021), Chapter 5.

8 On host state selection criteria and their relationship to the founding treaty's durability, see: Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999), Chapter 3; and Tanisha Fazal, *State Death: The Politics and Geography of Conquest, Occupation, and Annexation* (Princeton: Princeton University Press, 2007).

9 On the diversity of founding community types and their relationship to governance design, see: Elinor Ostrom, *Governing the Commons* (Cambridge: Cambridge University Press, 1990), Chapter 2; and Graham Smith, *Democratic Innovations: Designing Institutions for Citizen Participation* (Cambridge: Cambridge University Press, 2009).

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11 On the founding sequence for new governance arrangements, see: World Bank, *World Development Report 2017: Governance and the Law* (Washington, DC: World Bank, 2017), Chapter 7; and Lant Pritchett, Michael Woolcock, and Matt Andrews, "Looking Like a State: Techniques of Persistent Failure in State Capability for Implementation," *Journal of Development Studies*, 49(1), 2013.

12 On the importance of treaty drafting quality and the bilateral negotiation process, see: Anthony Aust, *Modern Treaty Law and Practice*, 3rd edn (Cambridge: Cambridge University Press, 2013), Chapter 2; and Ian Sinclair, *The Vienna Convention on the Law of Treaties*, 2nd edn (Manchester: Manchester University Press, 1984), Chapter 1.

13 Startup States Society, Geneva: startupstates.swiss. On the role of institutional frameworks in supporting governance innovation movements, see: John Kingdon, *Agendas, Alternatives, and Public Policies*, 2nd edn (New York: Longman, 2003), Chapter 8.

14 On the network state model and its relationship to the Startup States framework, see: Balaji Srinivasan, *The Network State* (self-published, 2022), Chapters 1 and 7; and the analysis of community-first versus treaty-first sequencing in Chapter 8 of this volume.

15 On the role of founding generations in institutional development, see: North, Wallis, and Weingast, *Violence and Social Orders* (Cambridge: Cambridge University Press, 2009), Chapter 3; and Douglass North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990), Chapter 9.

16 On the progressive development of the international order through acts of state will, see: Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge: Cambridge University Press, 2005), Chapter 1; and the Final Act of the Congress of Vienna, 9 June 1815, 64 CTS 453.

APPENDIX A

Hong Kong: From Revocable Autonomy to Designed Statehood

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Hong Kong's transformation from a modest colonial entrepôt to one of the world's leading global cities is a testament to what minimalist governance, institutional clarity, and market openness can achieve. For much of the twentieth century, Hong Kong served as a laboratory of liberalised commerce, streamlined regulation, and cosmopolitan pragmatism. The result was not merely economic growth but systemic credibility: a jurisdiction that consistently ranked among the freest economies, most competitive business environments, and highest rule-of-law performers in the world. Its trajectory also offers some of the clearest available lessons for the Startup States model, because it illustrates both what is possible and what is insufficient when autonomy is legally contingent rather than treaty-guaranteed.

A.1 Features of Institutional Success

Hong Kong's enduring success rested on a coherent package of institutional features that directly inform the aspirations of the Startup States model.[1]

Its tax structure was flat, predictable, and internationally competitive, with corporate profits tax capped at 16.5 per cent, no value-added tax, and no capital gains tax. Its monetary architecture was built around a currency board with the Hong Kong dollar pegged to the United States dollar, ensuring convertibility and stability across political cycles. Its independent judiciary, operating under British common law, provided contract enforceability and investor protection of a quality rare in Asia. Its

customs and immigration autonomy allowed it to regulate cross-border flows according to its own policy objectives, facilitating trade and talent mobility with exceptional efficiency. And its public expenditure consistently remained below twenty per cent of GDP, reflecting a lean, efficient approach to public administration.

These policy features were not the product of ideology alone. They emerged from necessity: a small territory with scarce natural resources and an outward-facing economy had no viable alternative to competing on institutional quality rather than on size or raw material endowment. The lesson for Startup States is direct: when geography and resources are limited, governance is the product.

A.2 The Golden Era: 1980s to 2010s

Between the 1980s and the 2010s, Hong Kong consistently outperformed regional and global benchmarks.[2] It became the world's third-largest financial centre, a leading initial public offering destination, and a preeminent venue for international commercial arbitration. Its port, airport, and legal services infrastructure served as the connective tissue between mainland China and the international economy. It combined East and West, not only geographically but in institutional character, in ways that no other city in the region could replicate.

This performance was possible because of its special status, not despite it. Autonomy was not ornamental. It was operational: the source of the institutional distinctiveness that made Hong Kong valuable to every party, from the businesses headquartered there to the mainland government that benefited from its role as a financial gateway, and to the international community that relied on it as a neutral, legally reliable venue.

A.3 Autonomy with an Expiration Date

For all its success, Hong Kong's model was always bounded by an immutable legal fact: its autonomy was temporary.[3] The One Country, Two Systems framework, codified in the 1984 Sino-British Joint Declaration and embedded in Hong Kong's Basic Law, granted a high degree of self-rule for fifty years following the 1997 handover, until 2047. After that date, the extent and character of the territory's autonomy would rest entirely on the discretion of the central government in Beijing.

This expiry is not a matter of speculation or political interpretation. It is codified in legal architecture and reinforced by recent practice. Since

2020, Beijing has exercised overriding authority through the National Security Law, bypassing Hong Kong's own legislature. Whether such interventions are regarded as necessary or excessive, the underlying structural reality is the same: an autonomy that exists by constitutional grace rather than by treaty right is an autonomy that cannot be relied upon beyond the political horizon of those who grant it.

Despite its independent tax system, separate immigration policy, and distinctive monetary regime, Hong Kong was never a state. Its constitution was not supreme in the sense that matters most. Its autonomy was not irrevocable. And its future was not, in any durable legal sense, self-determined.

A.4 High Performance, Structural Vulnerability

For global enterprises and institutional investors, the practical implications of Hong Kong's structural vulnerability have become increasingly visible in the years since 2019.[4] Law firms and media organisations have faced closures or relocated. Financial institutions have reviewed contingency plans for regional headquarters. Capital flows and talent mobility have quietly but unmistakably adjusted course. These are not overreactions. They are rational portfolio decisions in the face of a fundamental legal reality: no matter how successful or efficiently managed a subnational entity becomes, if its autonomy is structurally contingent, it is permanently at risk of revision.

This is the insight that the Startup States model takes most directly from the Hong Kong experience. The qualities that made Hong Kong extraordinary, its institutional clarity, its fiscal predictability, its legal reliability, are fully replicable. What is not replicable within a subnational arrangement is the permanence that turns institutional quality from a competitive advantage into a durable foundation for multi-generational planning and investment.

A.5 The Lesson: From Revocable Autonomy to Designed Statehood

Where Hong Kong's autonomy ends, the Startup States model begins.[5] A treaty-based, independently governed new country retains full authority over its legal framework, monetary arrangements, immigration policy, and dispute resolution mechanisms, not by delegation but by right, grounded in an international treaty that neither a domestic legislature nor a change of government in the host state can unilaterally revoke.

Unlike Hong Kong, whose special status was the historical consequence of unequal treaties concluded under duress, the Treaty of Nanking of 1842 first among them, Startup States arise through voluntary and respectful negotiation between equals. Their creation is not premised on the humiliation of any party. It rests on mutually beneficial collaboration, rooted in dignity, legality, and genuine reciprocity.

Had Hong Kong been constituted through a treaty-based arrangement of the kind the Startup States model describes, rather than as a colonial outpost eventually subject to a negotiated handover, its story might look substantially different. Its institutional excellence would have been embedded in a legal framework that neither party could unilaterally revise. Its population would have had the protection not merely of Basic Law provisions but of international treaty obligations. And its future would have rested on negotiated terms rather than on the continuing goodwill of a government whose priorities might change.

Advocates of positive non-intervention, open markets, and legal clarity are right to regard Hong Kong as one of the great governance achievements of the twentieth century. If it was a masterpiece painted on a borrowed canvas, Startup States offer the founding team something different: a blank canvas of their own, built on treaty-guaranteed permanence. They do not erase Hong Kong's legacy. They extend it, under stronger scaffolding and on more durable institutional foundations.

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1 On Hong Kong's institutional architecture and its drivers, see: Alvin Rabushka, *Hong Kong: A Study in Economic Freedom* (Chicago: University of Chicago Press, 1979); and The Heritage Foundation, *Index of Economic Freedom* (Washington, DC: annual editions 1995-2020).

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APPENDIX B

Próspera: A Breakthrough with Bounds

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Nestled along the northern coastline of Roatán, the largest of Honduras's Bay Islands, lies Próspera: a jurisdictional experiment whose boldness has captured the attention of governance reformers, entrepreneurs, and investors across the world. Positioned in the Caribbean Sea approximately sixty-five kilometres from the Honduran mainland, this compact enclave aspired not merely to improve governance, but to reimagine it from first principles. Its trajectory, from constitutional breakthrough to international arbitration dispute, is one of the most instructive case studies available for anyone who is serious about building better jurisdictions.

B.1 The Architecture of the ZEDE

Próspera is a creature of Honduran constitutional law.[1] Its creation was authorised by constitutional amendments to Articles 294, 303, and 329 of the Honduran constitution (Decree 236-2012), given effect by the Organic Law of the ZEDEs (Decree 120-2013), permitting the establishment of Zonas de Empleo y Desarrollo Económico (ZEDEs). These amendments gave ZEDEs sweeping legislative, judicial, administrative, and fiscal autonomy. Próspera, as a ZEDE, accordingly exercises substantial independent authority over civil law, commercial regulation, tax policy, infrastructure planning, and dispute resolution.

The governance model employed within the zone incorporates features rarely seen in public administration: a digitised administrative code, regulations designed to be minimal, transparent, and auditable, and a legal framework permitting parties to select their governing law

from among various traditions, including Delaware corporate law, Anglo-American common law, and civil law codes. Taxation is decoupled from national norms, with minimal corporate and personal income tax rates and an emphasis on user fees over broad-based levies. In terms of regulatory design, Próspera is without close peer.

The involvement of Próspera Inc., a Delaware-registered private corporation serving as the zone's primary promoter, administrator, and investor, adds a layer of structural complexity. The governance model is part constitutional innovation, part venture capital experiment: private entities play a central role in the provision of public goods, including permits, land use regulation, and civil dispute resolution. This hybrid character has made Próspera simultaneously admired as a frontier of regulatory innovation and controversial as an instance of private governance exercising public functions.

B.2 The Legal History: From REDs to ZEDEs

The intellectual roots of Próspera trace to the theory of Charter Cities advanced by economist Paul Romer in 2009.[2] Romer's core insight was that many developing countries were caught in cycles of institutional dysfunction not from lack of resources but from the absence of credible, rules-based governance. His proposed remedy was radical: allow countries to designate portions of their territory for new cities governed under an alternative legal system, ideally administered with the involvement of a credible third-party guarantor.

Honduras appeared willing to embrace this vision. In 2011 it amended its constitution to permit Regiones Especiales de Desarrollo (REDs), and in 2011 Romer was appointed to an oversight committee. The experiment collapsed the following year: Romer publicly distanced himself from the project, citing the government's failure to maintain transparency and its exclusion of formal international oversight. The Honduran Supreme Court declared the RED framework unconstitutional in 2012, holding that it violated national sovereignty, judicial independence, and the separation of powers.

Rather than abandoning the concept, the administration of President Juan Orlando Hernández reintroduced it through constitutional amendment. In 2013, Congress passed the ZEDE enabling legislation, rebranded to avoid the specific legal objections that had invalidated the REDs and embedded more firmly within the domestic constitutional framework. Próspera emerged as the most advanced and visible implementation of

this new model. It also inherited the political and legal complexities of its origins, including the subsequently tainted reputation of the Hernández administration, which ended with the former president's extradition to the United States in 2022 on drug-trafficking and weapons charges, on which he was convicted in 2024.

B.3 Achievements and Their Limits

Próspera's operational achievements are genuine and should be acknowledged without qualification.[3] Its regulatory code is intellectually rigorous and digitally native. Its administrative structures are deliberately minimalistic. Its arbitration regime is among the most investor-friendly in the region. Its incorporation process is streamlined. And its approach to governance, treating law as a configurable platform rather than an inherited encumbrance, represents a genuine contribution to the intellectual tradition of governance innovation.

But Próspera remains structurally constrained in ways that its operational excellence cannot overcome. Its authority is derivative rather than original: it rests on a constitutional delegation that a subsequent legislature can repeal, as the 2022 abolition of the ZEDE legal framework, and the Supreme Court's ruling of 2024 declaring it void from its inception, demonstrated. Its international standing, despite creative invocations of bilateral investment treaty protections, remains that of a zone rather than a state. And its relationship with the Honduran government, always the arrangement's most important bilateral dynamic, has become adversarial rather than symbiotic.

The ICSID arbitration initiated by Próspera-affiliated investors against the Republic of Honduras following the ZEDE framework's repeal, with a claim of US$10.775 billion, is, in one sense, a vindication of the model's institutional design: the system worked as intended, producing a legal remedy when the host government broke its commitments. In another sense, it illustrates the model's deepest structural limitation: the remedy is available only after the damage has been done, and the diplomatic and reputational cost of one party suing the other falls on both.

B.4 The Reputational Dimension

Próspera's reputational trajectory deserves candid examination.[4] In segments of Honduran public opinion and political discourse, it became a shorthand for neo-colonial encroachment: a foreign-managed

entity operating on national territory under conditions negotiated by a now-discredited administration. The characterisation was unfair in its specifics but not entirely without foundation in its underlying anxiety. A jurisdiction administered by a Delaware corporation, populated primarily by foreign residents, and governed by legal frameworks far removed from those familiar to ordinary Hondurans, does not naturally read as an expression of Honduran national interest, even if it is legally invited by the Honduran state.

The lesson for Startup States is structural rather than merely reputational. The alignment of financial interests between the new country and the host state, which this book has argued at length is not merely desirable but essential, was absent from the Próspera arrangement in its critical dimension: Honduras received no equity stake in the enterprise, no guaranteed revenue regardless of commercial outcomes, and no structural participation in the new entity's governance. The host bore the political and reputational costs; the new entity's founders and investors retained the upside. That asymmetry is precisely what the Startup States model's founding treaty framework is designed to prevent.

B.5 The Superior Pathway

If Próspera represents the cutting edge of delegated jurisdictional innovation, Startup States represent its natural evolution: polities designed from first principles with treaty-based permanence, genuine alignment of interests with the host state, and full international legal personality rather than domestic subnational status.[5]

The key distinction is not the quality of the governance design, which in Próspera's case is genuinely impressive, but the legal foundation on which that design rests. A Startup State's authority does not derive from statutory delegation; it is embedded in an international treaty, grounded in the Vienna Convention on the Law of Treaties, and protected by the full range of international legal mechanisms that govern relations among recognised countries. No domestic legislature can repeal it overnight. No change of government can dissolve it unilaterally. And its commercial disputes are adjudicated not in the shadow of a domestic constitutional framework that has already shown its hostility but in international arbitral forums that the founding treaty has specifically designated.

Had Próspera been constituted as a Startup State rather than as a ZEDE, its story might look substantially different. The Republic of Honduras would have been a financial stakeholder in the enterprise, with equity par-

ticipation, guaranteed revenue flows, and a structural incentive to defend rather than undermine the arrangement. The founding treaty would have been ratified through Honduras's constitutional processes, providing a degree of legal entrenchment that a statutory framework cannot match. And the diplomatic engagement required to secure the treaty would have generated the kind of broad-based international buy-in that Próspera, established through domestic legislation without significant multilateral visibility, never achieved.

Próspera showed us the ceiling of what subnational governance can achieve. It is a remarkable ceiling. Startup States exist to move beyond it.

B.6 Conclusion: A Pathbreaker and Its Legacy

Próspera is not a failure. It is, by any serious measure, one of the most ambitious governance experiments of the early twenty-first century. It demonstrated that law can be treated as a platform, that administration can be digitally native from day one, and that investors are willing to commit real capital to genuinely novel governance environments when the regulatory design is sufficiently clear and credible. These are contributions to the intellectual and practical tradition of governance innovation that will outlast the specific legal difficulties that Próspera now faces.

But the lesson of Próspera is ultimately the lesson of every subnational governance experiment that has preceded it: brilliant design cannot substitute for foundational legal permanence. The ceiling of delegated autonomy is real, and it imposes costs that no amount of operational excellence can fully mitigate. Startup States inherit Próspera's insights about what good governance looks like, its commitment to lean administration, its regulatory clarity, its market-aligned design, and they build them into a structure that does not share Próspera's critical structural vulnerability. Not zones that can be revoked, but nations that endure.

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NOTES

1 Decreto No. 120-2013, Ley Orgánica de las Zonas de Empleo y Desarrollo Económico, Honduras, 6 June 2013; and Constitutional Amendments to Articles 294, 303, and 329 of the Constitution of the Republic of Honduras, Decreto No. 236-2012.

2 On Paul Romer's charter city theory and its Honduran application, see: Paul Romer, "Technologies, Rules, and Progress: The Case for Charter Cities," Centre

for Global Development Working Paper 3, March 2010; and Sebastian Luban, "Why Honduras's Experiment in Libertarian Governance Failed," *Reason*, June 2012.

3 On Próspera's operational model and governance design, see: the Próspera Regulatory Handbook (various editions, available at prospera.hn); and the analysis of charter city design in the Startup States context in Chapter 4 of this volume.

4 On the reputational and political dynamics surrounding Próspera, see: Carey Biron, "Honduras ZEDE Dispute: Investors Bet Big on Libertarian City," *Al Jazeera*, October 2021; and the ICSID arbitration proceedings: *Honduras Próspera Inc, St John's Bay Development Company LLC and Próspera Arbitration Center LLC v Republic of Honduras*, ICSID Case No ARB/23/2.

5 On the structural superiority of treaty-based independent statehood over subnational delegation, see: James Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), pp. 673-699; and Lotta Moberg, *The Political Economy of Special Economic Zones* (London: Routledge, 2017), Chapter 6.

APPENDIX C

Doctrinal Context and Authoritative Foundations

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This Appendix situates the arguments advanced throughout this book within the orthodox law of statehood as articulated by the leading international legal authorities. Its purpose is neither promotional nor polemical. It seeks to demonstrate that the analytical framework employed in Startup States is continuous with the dominant doctrinal, jurisprudential, and practice-based understanding of how statehood is assessed, recognised, and stabilised under contemporary international law. The works discussed below are routinely cited in judicial decisions, arbitral awards, academic literature, and governmental legal advice. Together they represent the mainstream legal grammar of statehood, recognition, territorial title, and effectiveness within which the Startup States model operates.

C.1 The Principal Authorities

James Crawford, Judge of the International Court of Justice and former Whewell Professor of International Law at Cambridge, produced in The Creation of States in International Law the definitive modern treatment of the subject. Crawford's central contribution lies in his disciplined synthesis of doctrine and practice. He treats statehood neither as a purely factual phenomenon nor as a political concession, but as a legal status assessed through effectiveness, legality, and acceptance. He famously observes that statehood is a matter of fact and law, and that no single criterion is determinative in isolation. The Startup States model adopts this methodological caution throughout.

Ian Brownlie, edited by Crawford in its later editions, remains the leading single-volume treatise in international law. Brownlie emphasises that the existence of a state is a question of fact while recognising that law supplies the criteria by which those facts are assessed. This balanced formulation mirrors the approach taken in this book: neither purely factual nor purely normative, but grounded in the interaction between the two.

Malcolm Shaw's International Law is the most widely used graduate-level text in the field. Shaw stresses that international law does not prescribe a mechanical process for creating states but does impose constraints and evidentiary expectations. His analysis of statehood and recognition is notable for its clarity and restraint. Thomas D. Grant's The Recognition of States focuses on recognition as both law and practice, demonstrating that recognition is expressed through conduct, including treaties, diplomatic relations, and organisational membership. This directly supports the treaty-centred approach advanced in this book.

Stefan Talmon's work on the recognition of governments and representation in international organisations underscores the importance of effective, stable governance structures capable of representing the state externally. Marcelo Kohen's edited volume on secession demonstrates the international legal system's strong preference for territorial stability and consensual change. Nina Caspersen's work on unrecognised states illustrates the practical costs of remaining outside formal recognition frameworks. And the contemporary scholarship of Dapo Akande, Marko Milanović, and their collaborators demonstrates how modern courts approach contested statehood claims with institutional restraint and close attention to systemic consequences.

C.2 The Montevideo Criteria and Their Application

The Montevideo Convention on the Rights and Duties of States (1933) identifies four criteria of statehood: permanent population, defined territory, government, and capacity to enter into relations with other states.[1] Crawford describes these as a convenient summary of the requirements of statehood, while cautioning that they are not exhaustive and must be applied in context. Shaw similarly notes that the existence of a state is not dependent upon recognition alone, but upon the factual satisfaction of these criteria as assessed through law.

Permanent population

The requirement of a permanent population does not impose numerical thresholds or ethnic homogeneity. What matters is a stable community capable of sustaining social and governmental organisation. The Startup States model's emphasis on actual settlement and residence, and on rigorous vetting of founding citizens as genuine community participants rather than nominal affiliates, aligns directly with this orthodox understanding.

Defined territory and lawful title

International law does not require perfectly delimited boundaries. What is required is a reasonably defined territorial base and a lawful claim to title. Crawford emphasises that modern international law strongly disfavours unilateral acquisition of territory and privileges consensual arrangements. This doctrinal position directly supports the model's insistence on treaty-based territorial arrangements and its categorical rejection of claims grounded in unilateral occupation.

Government and effectiveness

Crawford writes that effectiveness is the primary criterion for the existence of a government. Contemporary doctrine increasingly takes account of normative considerations alongside factual effectiveness: a government that achieves control through gross violations of peremptory norms does not thereby acquire full legal legitimacy. The Startup States model's emphasis on institutional design, constitutional clarity, and genuine accountability reflects this evolved doctrinal position.

Capacity to enter into relations with other states

Grant's work shows that treaties are among the clearest expressions of this capacity, particularly when concluded with recognised states acting as states. The treaty-first approach of the Startup States model therefore aligns with orthodox recognition practice, provided it is understood as part of a broader pattern of external engagement rather than as a single sufficient act.

C.3 Recognition Mechanics

Recognition occupies an unusual position in international law: it is neither a purely legal determination nor a purely political act.[2] Crawford

formulates the orthodox position as recognition being not constitutive of statehood, but an important factor in its consolidation and in the exercise of rights attaching to it. Grant demonstrates that recognition is expressed through a range of practices, including treaty-making, diplomatic exchange, and support for admission to international organisations. Recognition is therefore incremental, contextual, and cumulative.

The declaratory versus constitutive debate has largely given way in contemporary scholarship to a pragmatic synthesis: the declaratory theory states the better view as a matter of principle, as Crawford puts it, but the practical effects of recognition on the enjoyment of rights and international participation are decisive. The Startup States model reflects this synthesis: it treats recognition as neither irrelevant nor omnipotent, but as a process that can be cultivated through lawful design and sustained diplomatic practice.

The obligation of non-recognition, articulated in cases such as the Namibia Advisory Opinion and reaffirmed in subsequent jurisprudence, establishes that illegality at the point of a new entity's origin contaminates its claim to statehood regardless of subsequent effectiveness. This reinforces the Startup States model's categorical insistence on lawful origin and consensual arrangement as non-negotiable preconditions.

Taken together, the nine authorities surveyed in this Appendix articulate a coherent and stable understanding of statehood in international law: one that emphasises effectiveness, legality, territorial stability, and integration into the community of states, and that exhibits strong scepticism toward unilateral or symbolic claims. The Startup States framework is consistent with this mainstream position. It does not propose an alternative theory of statehood. It operationalises orthodox doctrine in a deliberate and structured manner. On this basis, its core legal premises are supported by the leading authorities in the field.

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1 Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19, Article 1. On the Montevideo criteria and their application, see: Crawford, *The Creation of States in International Law*, 2nd edn (Oxford: Clarendon Press, 2006), pp. 37-95; and Malcolm Shaw, *International Law*, 9th edn (Cambridge: Cambridge University Press, 2021), Chapter 5.

2 On recognition mechanics, see: Crawford, *The Creation of States in International Law*, pp. 3-28; Thomas D. Grant, *The Recognition of States: Law and Practice in Debate and Evolution* (Westport, CT: Praeger, 1999); and Ian Brownlie (as edited by Crawford), *Principles of Public International Law*, 8th edn (Oxford: Oxford University Press, 2012).

APPENDIX D

The Limits of Orthodoxy: A Systematic Response to the Critique of Intentional State Formation

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This Appendix addresses, in systematic form, the principal legal and quasi-legal objections to treaty-based intentional state formation as a legitimate mode of creating new countries. It is not a repetition of the ethical objections addressed in Chapter Twenty-Four, which focused on the broader moral, political, and practical dimensions of the enterprise. It addresses a specific set of arguments, advanced in legal and quasi-legal terms, to the effect that the Startup States model is doctrinally defective, structurally illegitimate, or systemically dangerous. Each objection is stated at its strongest before the counterpoint is developed.

D.1 Colonialism, Neo-Colonialism, and Structural Exploitation

The critique

A recurrent objection to treaty-based state formation facilitated by private consortia is that such arrangements amount, in substance if not in form, to colonialism rearticulated for the contemporary era. The presence of consent, compensation, and treaty formalities is said not to redeem the arrangement but merely to camouflage its underlying character. Sovereignty itself is being commodified and transferred to actors possessing capital, legal sophistication, and geopolitical reach. The alleged extraction is not material but political: what is said to be appropriated is the legitimacy of the international system itself, the principle that state-

hood emerges organically from peoples, territory, and historical struggle rather than through negotiated transactions involving private actors.

The counterpoint

This critique conflates sovereignty as an abstract moral artefact with sovereignty as a legally exercised administrative competence. International law does not require that statehood emerge only through historical accident, revolution, or prolonged ethnogenesis. States routinely exercise authority to reorganise territory, devolve jurisdiction, and redefine the allocation of powers between levels of government. The designation of an unused or economically inert portion of territory as a separate state is, at its core, an administrative act. It does not dispossess a population, extinguish rights, or impose governance by force. Colonialism, in its historical and legal meaning, is defined by domination without consent, extraction without reciprocity, and governance imposed upon subject populations. None of these elements is present in the model under examination. The objection that sovereignty is being commodified mistakes the presence of consideration for the absence of agency. States routinely make decisions that reflect economic, strategic, and diplomatic incentives. The existence of compensation does not negate agency; it is an expression of it.

D.2 Abuse of Self-Determination and the Doctrine of Recognition

The critique

A graver accusation holds that inducing an existing UN member state to recognise and midwife the creation of a new entity at the behest of a private consortium fatally compromises the normative foundations of the doctrine of recognition. Recognition, on this account, is monetised: the recognising state has sold a core sovereign prerogative, transforming it into a transactional output and hollowing out the doctrine itself.

The counterpoint

This critique mischaracterises both self-determination and recognition as static moral absolutes rather than dynamic legal doctrines. Self-determination is not infringed where no population is coerced, displaced, or denied political agency. In the case of uninhabited or economically unused territory, there is no self to be denied determination. Recognition, moreover, is not sold. It is exercised. States retain full discretion to

recognise, to refuse recognition, to condition it, or to withdraw it. Compensation does not extinguish agency; it is a straightforward expression of it. States routinely take recognition decisions informed by strategic alliances, security considerations, economic integration, and diplomatic advantage. To insist that recognition must be insulated from all material considerations is to deny the empirical reality of international relations. What matters is not the absence of consideration but the legality, transparency, and voluntariness of the process.

D.3 The Absence of Precedent

The critique

A further objection asserts that the absence of direct precedent for treaty-based state formation facilitated by private consortia is itself condemnatory: international law has deliberately avoided such arrangements precisely because they threaten to normalise the privatisation of state creation.

The counterpoint

The absence of precedent is a descriptive fact, not a normative conclusion. International law evolves through state practice. Every recognised state was, at some point, unprecedented. The fact that no direct analogue exists does not establish illegality or impropriety; it reflects historical contingency. The fear of cascade, moreover, presupposes that states lack agency and strategic judgment: that they will irrationally dismember themselves for short-term gain despite long-term interests, reputational costs, and domestic political constraints. This assumption is neither empirically supported nor theoretically compelling. International law does not prohibit innovation in institutional form. It constrains outcomes through the doctrines of consent, effectiveness, recognition, and non-coercion. Where these conditions are satisfied, novelty is not a defect but an inevitable feature of legal development.

D.4 Irreversibility and Sovereign Path Dependency

The critique

One of the most intuitively powerful objections is that sovereignty, once reallocated, cannot be meaningfully undone. Recognition, once extended and acted upon by third states, cascades: treaties accrete, populations settle, international obligations crystallise. The host state may later

regret the decision, yet reversal may prove prohibitively costly. Critics frame this as a sovereign path dependency problem: the arrangement converts present-day incentives into permanent structural outcomes.

The counterpoint

The irreversibility critique overstates the exceptionalism of sovereignty while understating the permanence of many existing sovereign decisions. States routinely undertake actions that are functionally irreversible: entry into supranational organisations, adoption of constitutional settlements, recognition of borders, and accession to binding treaty regimes all generate path dependencies that are politically and legally costly to unwind. Irreversibility is not an anomaly in international law; it is one of its defining features. The Startup States model does not deny this reality. It disciplines it. By insisting upon treaty-based formation, explicit consent, and upfront institutional design, the model front-loads deliberation rather than deferring it. The fact that recognition is difficult to retract is not a defect to be avoided but a stabilising feature to be acknowledged and managed. Durable commitments are the foundation of credible international order, not obstacles to it. The alternative, a world of informally revocable subnational arrangements, generates not flexibility but hidden fragility.

D.5 The Two-Tier International Order

The critique

A structural concern holds that Startup States may contribute to a two-tier international order in which small, newly formed states possess formal equality but lack the material power, diplomatic reach, and strategic depth of established nations. Initial differentiation might become permanent stratification, producing a class of permanently weak states multiplying symbols of statehood without corresponding substance.

The counterpoint

This critique assumes that weakness is an intrinsic property of small or newly formed states rather than a contingent outcome of institutional design and behaviour. The historical record does not support this assumption. Numerous small states have achieved outsized influence through reliability, neutrality, financial credibility, and diplomatic competence. Institutional quality matters more than territorial extent. Startup States,

by design, are not born institutionally naked: they begin life with negotiated treaties, defined governance frameworks, and, in many cases, significant institutional backing from the host state. This initial scaffolding does not diminish their standing; it enhances it. Over time, as these states demonstrate reliability, compliance with international obligations, and constructive participation in global affairs, their diplomatic networks naturally expand. The two-tier objection collapses into a temporal anxiety: initial differentiation does not imply permanent stratification. It reflects the ordinary process by which all states, regardless of origin, establish credibility over time.

D.6 Treaty Saturation and Normalisation

The critique

A final objection concerns scale: if treaty-based intentional state formation becomes commonplace, sovereignty might become routine and recognition might be reduced to a technical procedure. The very success of the model could undermine the normative gravity of statehood itself, and states might respond defensively through new conventions or norms discouraging intentional state creation.

The counterpoint

Startup States do not threaten the rules-based international order. They reaffirm it. The model is explicitly Westphalian in structure and temperament: it presupposes territorial statehood, treaty-making capacity, recognition, and participation in existing institutions. Rather than rejecting the current order, it operates wholly within it. Sovereignty does not atrophy through use; it atrophies through neglect. When international frameworks cease to accommodate peaceful evolution, pressure accumulates elsewhere. History suggests that stagnation, not proliferation, is the greater systemic risk. Bottlenecks that prevent lawful adaptation tend to produce rupture and confrontation rather than stability. If new norms or standards emerge in response to the model's wider adoption, they are more likely to refine the practice than to suppress it. Minimum procedural requirements, transparency expectations, or co-ordination mechanisms would not invalidate treaty-based state formation; they would confirm its legitimacy as a recognised mode of sovereign evolution.

D.7 Concluding Determination

When assessed in aggregate, the critiques examined in this Appendix reveal a consistent pattern. The objections are not primarily legal. They are prudential, psychological, and institutional: expressions of anxiety about novelty, permanence, and systemic change rather than demonstrations of violations of existing international law. In each case, the counterpoints do not deny the risks they contextualise. They demonstrate that the Startup States model does not introduce unprecedented dangers, but renders existing dynamics explicit and governable. Where traditional pathways to statehood relied on conflict, collapse, or imperial retreat, the treaty-based model substitutes consent, foresight, and design.

The conclusion follows with analytical clarity. Treaty-based intentional state formation, when conducted transparently, consensually, and lawfully, does not weaken statehood as an institution. It operationalises it. Startup States do not represent the commodification of statehood. They represent its modernisation: a logical extension of the core principles of international law under contemporary conditions. The limits of orthodoxy, in this light, are not barriers to progress. They are markers of a system ready to evolve.

Glossary

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The following terms are used in this book with the specific meanings indicated. Where a term has a well-established meaning in international law, that meaning is stated. Where a term has a specialised meaning within the Startup States framework, that meaning is distinguished from any broader general usage.

Auctoritas fundatrix provisoria: The provisional founding authority of a new country during the pre-recognition phase of its establishment, before full governmental capacity has been achieved.

Bilateral investment treaty (BIT): An agreement between two countries providing reciprocal protections to investors from each country, including access to international arbitration.

Bona fide: In good faith; a standard applied throughout the law of treaties, requiring genuine and honest intent in the conclusion and performance of international agreements.

Capacity to enter into relations: The fourth Montevideo criterion for statehood, requiring that an entity possess the ability to conduct foreign relations with other states.

Charter city: An urban development granted special jurisdictional status under host state sovereignty; distinguished from a Startup State by its subnational rather than independent legal character.

Citizen dividend: A periodic payment made to all residents of a new country from the returns generated by its collective assets and economic activities; modelled in part on the Alaska Permanent Fund.

Consensual Theory of Statehood: The foundational principle of the Startup States model, holding that the legitimacy of statehood derives from the genuine and ongoing consent of those who constitute the political community, rather than from historical inheritance or geographic accident.

Condominium: A territorial arrangement jointly administered by two or more states, preserving the authority of each whilst establishing a shared governance framework for the territory.

Constitutive theory: The view that statehood depends upon recognition by existing states, rather than solely upon meeting objective criteria such as those in the Montevideo Convention.

Declaratory theory: The view that statehood arises from the objective satisfaction of the Montevideo criteria, independently of recognition by other states.

Defined territory: The second Montevideo criterion for statehood, requiring a reasonably defined geographical area under the effective control of the government. Precise boundary delimitation is not required.

De facto recognition: Acknowledgement of a government or authority as it exists in fact, without full formal recognition of its legal status.

De jure recognition: Formal legal recognition of a state or government as lawful, with full diplomatic and legal consequences.

Dominium: Ownership or proprietary title over land; distinguished from imperium (governing authority) in the foundational analysis of the Startup States model. The host state retains dominium throughout the founding arrangement.

Effectivités: Actual and continued display of governmental authority over a territory, used as evidence of sovereignty in recognition and boundary disputes.

Erga omnes: Obligations owed by states towards the international community as a whole, rather than merely to specific treaty partners; peremptory norms have erga omnes character.

Estoppel: The doctrine in international law preventing a state from asserting a position inconsistent with one it has previously accepted, where another state has relied on that prior position to its detriment.

Ex injuria jus non oritur: A right cannot arise from a wrongful act; the principle underlying the Stimson Doctrine and the collective non-recognition of territorial acquisitions achieved through force.

Founding treaty: The bilateral international instrument through which a host state and the founding consortium of a Startup State establish the new country's territory, governmental authority, financial arrangements, and relationship to the international community.

Grantor State: Alternative terminology for the host state in the Startup States framework, emphasising its role in conferring the territorial and governmental basis of the new country.

Government: The third Montevideo criterion for statehood, requiring an organised authority exercising effective control over the territory and capable of representing the entity in its external relations.

Host state: The recognised independent country that co-creates a Startup State by concluding the founding treaty, providing the territory under long-term lease or equivalent arrangement, and granting governmental authority to the new country within that territory.

ICSID: The International Centre for Settlement of Investment Disputes, a World Bank Group institution providing international arbitration for disputes between investors and states.

Imperium: Governing authority; the power to legislate, adjudicate, and enforce within a defined territory; distinguished from dominium (ownership). The Startup States model transfers imperium to the new country whilst the host state retains dominium.

Jus cogens: Peremptory norms of international law from which no derogation is permitted, including the prohibition on the use of force, the prohibition of slavery, and the prohibition of genocide.

Lex ferenda: The law as it ought to be; aspirational or developing law that has not yet been fully codified or recognised as binding.

Lex lata: The law as it currently stands; positive law in force, as distinguished from aspirational or proposed legal development.

Micronation: A self-declared entity claiming independence or sovereignty without the legal foundation, effective governmental control, or international recognition required for statehood under international law.

Montevideo Convention: The 1933 Convention on the Rights and Duties of States, whose four criteria, permanent population, defined territory, government, and capacity to enter into relations, provide the foundational legal test for statehood in international law.

Network State: A concept advanced by Balaji Srinivasan describing an online community that leverages blockchain technology and digital infrastructure to develop the social capital and institutional coherence that might, in principle, eventually support a territorial presence and a claim to recognition.

Pacta sunt servanda: Agreements must be kept; the foundational principle of treaty law, codified in Article 26 of the Vienna Convention on the Law of Treaties.

Permanent population: The first Montevideo criterion for statehood, requiring a stable community of people residing in the territory; no minimum size is specified.

Provisional Founding Authority: See: Auctoritas fundatrix provisoria.

Recognition: The formal or informal acknowledgement by existing states of a new entity as a participant in the international legal order; neither purely constitutive nor purely declaratory, but an important practical factor in the consolidation of statehood.

Recognition sequencing: The strategic management of the order and timing of bilateral recognition requests, designed to build a coalition of recognising states in a manner that maximises diplomatic credibility and minimises geopolitical friction.

Regulatory sandbox: A defined environment in which new business models, technologies, or governance approaches can be tested under relaxed regulatory requirements before being subjected to the full burden of mature regulation.

Self-determination: The right of peoples to freely determine their political status and pursue their economic, social, and cultural development, as enshrined in Article 1(2) of the UN Charter and confirmed in numerous subsequent instruments.

Special economic zone (SEZ): A designated area within a country with distinct economic regulations, typically designed to attract foreign investment; distinguished from a Startup State by its subnational character and its dependence on host state domestic law.

Startup State: A new, independent, self-governing country constituted by bilateral international treaty, with a defined territory, a voluntarily affiliated permanent population, an effective government exercising independent authority, and the capacity to enter into relations with other states; designed from first principles to govern well.

Startup States Society: The Geneva-based institute devoted to the research, study, and promulgation of peaceful, consensual, treaty-based new statehood under public international law; the institutional home of the Startup States model.

Stimson Doctrine: The principle, articulated by United States Secretary of State Henry Stimson in 1932 and subsequently codified in United Nations General Assembly Resolution 2625 (1970), that the international community will not recognise territorial acquisitions achieved through military force or other violations of international law.

Tabula rasa state: A new country constituted entirely de novo, without inherited institutional structures, legal frameworks, or fiscal obligations from a predecessor polity.

Terra nullius: Land belonging to no one; historically invoked to justify colonial territorial acquisition, but effectively abolished in modern international law by the Western Sahara Advisory Opinion of the International Court of Justice (1975).

Treaty of the Founding: See: Founding treaty.

Uti possidetis juris: The principle that newly independent states inherit the boundaries established under the prior administrative framework, providing territorial stability during transitions to statehood.

Vienna Convention on the Law of Treaties: The 1969 multilateral treaty codifying the law of treaty formation, interpretation, validity, and termination; the primary legal instrument governing the founding treaties of Startup States.

ZEDE: Zona de Empleo y Desarrollo Económico; the Honduran special governance zone framework under which Próspera was established; a subnational arrangement distinguished from a Startup State by its domestic statutory basis and its dependence on the continuing goodwill of the Honduran legislature.

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Afterword

✴

A Note on the Moment

Books, like the institutions they describe, rarely emerge in a straight line. This one is no exception. Its arguments were drafted, revised, reconsidered, and sometimes reconstructed from fragments across a period in which the outside world kept reminding everyone engaged in this work that Startup States is not an abstract academic exercise. It is an ongoing and accelerating conversation, conducted in real time, with real stakes.

On 1 November 2025, at the Free Cities Conference in Prague, the president of a self-declared polity on the Danube approached without warning. Tall, self-possessed, and evidently accustomed to navigating both attention and scrutiny. Other attendees at that same conference recounted being trespassed by Croatian police for visiting a disputed strip of land that had attracted the attention of governance innovators. Some had received entry bans from Croatia. These were not theoretical disputes about international recognition doctrine. They were lived consequences of jurisdictional friction, the limits of state capacity, and the contested nature of new country initiatives.

On 1 December 2025, former Honduran President Juan Orlando Hernández, whose administration created the ZEDE framework under which Próspera operates, was pardoned and released from a United States prison. Around the same time, Argentina, under President Javier Milei, pursued a radical programme of market-oriented reform whilst simultaneously seeking financial assistance from the United States. These events served as reminders that even the most ambitious reformist agendas do not unfold in isolation from geopolitical realities, and that the relationship between institutional innovation and political power is never simple.

On 26 December 2025, the State of Israel formally recognised the Republic of Somaliland as an independent state. Somaliland had long been treated as a paradigmatic example of durable de facto statehood without de jure recognition: a community that had governed itself effectively for decades with no formal standing in the international system. That bilateral recognition does not resolve Somaliland's status, nor compel wider acceptance. But it demonstrates something important: recognition is not a binary condition granted or withheld once for all. It is a gradual process shaped by endurance, governance capacity, diplomatic engagement, and shifting geopolitical alignments. Entities long excluded from formal recognition may still move incrementally toward it, not through assertion alone but through sustained institutional performance and the patient accumulation of diplomatic relationships.

From late 2024 and into 2025, senior figures in the United States publicly revisited the possibility of Greenland altering its political relationship with the Kingdom of Denmark. The scenarios discussed ranged from deeper association with the United States to full independence under alternative constitutional arrangements. Whatever form any such discussions might eventually take, their legitimacy could arise only through the express and informed consent of the people of Greenland, together with the lawful and constitutional assent of the relevant parties through their own legal processes. Acquisition by force is categorically impermissible. Negotiated association, freely agreed, falls squarely within the longstanding practice of lawful statecraft. The distinction matters, and it is the distinction that this book has argued throughout.

A tweet from Balaji Srinivasan that appeared in the weeks after Prague captured something that had been forming in the background of this project for some time: the observation that a country which stays small to remain true to its roots eventually gets absorbed, while a country that pursues scale loses touch with those roots. Stay small and get conquered; get big and get diluted. Does this put an end to the idea of establishing new countries? Not in the least. It describes the gravitational field within which new countries must navigate, and it reinforces the importance of institutional design that is both durable and principled: not so insular as to be vulnerable, not so ambitious as to become something it was never meant to be.

Startup States do not seek to challenge empires or to become empires. They seek to work within the existing international order, offering more bespoke governance options and helping existing countries to leverage

their territorial and institutional resources through the consensual creation of new jurisdictions. The scale of ambition is deliberate: not a replacement for the state system, but an addition to it. Not a revolution, but a reinvention.

It is important to recognise that the broader movement within which Startup States sits, encompassing Free Cities, Network States, and the growing intellectual community of governance innovators, is still in its early stages. Judging the entire project by a handful of its most visible or most controversial early examples is no more analytically sound than judging any young field by its outliers. Early ecosystems are messy, experimental, and ideologically diverse. This is a feature of emergence, not evidence of failure.

The larger question that persists at the end of this project is whether new countries, however they are designed and however they are created, will ultimately become little different from what already exists. Whether humanity will do all this work only to find itself back where it began. The honest answer is that we cannot know. What we can say is that the accumulated lessons of governance failure and governance success that are now available to founding teams are more extensive and more practically accessible than they have ever been. The intellectual tradition that this book draws on, spanning international law, institutional economics, constitutional design, and the practical experience of the Free Cities and Network State communities, represents a genuine resource for those willing to use it carefully.

If the ideas here resonate, the invitation is the same as it has always been: treat them not as a conclusion but as a beginning. To connect with others building in this space, to access additional resources, and to stay informed as this field develops, please visit startupstates.swiss.

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