

Micronations: A Lacuna in the Law

Abstract

Around 100 active micronations exist across the globe. Led by committed and eccentric individuals, these aspirant or wannabe states assert their claims to sovereignty in myriad ways. In dressing in the language of statehood, they challenge understandings of and approaches to international legal personality. In this article we provide the first legal survey of micronations. We develop a conceptual framework to understand what it means to be a micronation, explore their various forms, and analyse key public law issues. Our survey reveals that although public law has not engaged with this phenomenon, states respond to the assertion of sovereignty by micronations in both benign and violent ways.

I. INTRODUCTION

On 2 December 1977, Prince Leonard Casley of the Hutt River Province cabled a telegram to the Governor-General of Australia declaring war.¹ With a permanent population of fewer than 20 residents, no standing army, and the Province's 75km² territory entirely enclosed by the state of Western Australia, Prince Leonard was unprepared for war. Two days later, on 4 December 1977, he tabled a second telegram announcing the cessation of hostilities.² The Australian government responded to neither correspondence, but Prince Leonard nonetheless claimed victory. According to his reading of the Geneva Conventions of 1949, a state should show full respect to a nation undefeated in war. As the Hutt River Province was undefeated, Australia must recognise its sovereignty.³

Australia has never recognised the sovereignty of the now Principality of Hutt River, but Prince Leonard is not the only person who has claimed to secede and create his or her own state. Although a new state is, of course, the goal of secessionist movements across the globe, including in South Sudan, Kosovo, Scotland, Catalonia, Quebec, and elsewhere, Prince Leonard's Principality differs from these efforts. Built around a committed and eccentric individual, possessing only a very small resident population and unrecognised by sovereign states, the Principality is an 'aspirant' or 'wannabe' state.⁴ More commonly, it is known as a micronation.

In contrast to true secessionist movements, micronations are generally considered trivial and are often ignored by the state. This may be because a micronation poses no security threat to the state and lacks a foundation in domestic and international law for its claim to independence. They are also rarely recognised in domestic or international forums as nations. Despite this, micronations dress themselves in the language of statehood and perform acts of sovereignty. In doing so, they critique and challenge understandings of and approaches to international legal personality.

Micronations are an oddity that sit outside conventional understandings of the law. Perhaps for this reason, no significant legal study of micronations exists.⁵ In this article, we rectify this by providing the first legal survey of micronations. We define what it means to be a micronation, explore their various forms, and analyse key public law issues relating to their establishment and existence. This provides a rich body of material from which to assess and understand these unique attempts to assert statehood.

¹ *Telegram from Prince Leonard Casely to Sir John Kerr (Governor General of Australia)* (December 2, 1977), <http://www.principality-hutt-river.org/Principality%20Downloads/Historic%20Documents/HRP%20Vs%20Australia%20State%20of%20War%20documents.pdf>.

² *Telegram from Prince Leonard Casely to Sir John Kerr (Governor General of Australia)* (December 4, 1977), <http://www.principality-hutt-river.org/Principality%20Downloads/Historic%20Documents/HRP%20Vs%20Australia%20State%20of%20War%20documents.pdf>.

³ Vicente de Castro and Ralph Kober, *The Principality of Hutt River: A Territory Marooned in the Western Australian Outback*, 12 SHIMA: THE INT'L J OF RESEARCH INTO ISLAND CULTURES 143, 150 (2018).

⁴ Philip Streich, *To the Sea! Sealand and Other Wannabe States*, in WEIRD IR: DEVIANT CASES IN INTERNATIONAL RELATIONS 15, 17 (David Bell Mislán and Philip Streich ed., 2019); Adam Grydehøj, *Captain Calamity's Sovereign State of Forvik*, 8 SHIMA: THE INT'L J OF RESEARCH INTO ISLAND CULTURES 34, 34 (2014).

⁵ Judy Lattas, *DIY Sovereignty and the Popular Right in Australia*, 2 (Paper presented at the Conference of the Centre for Research on Social Inclusion, Macquarie University, 2004).

Micronations are diverse in form and function. In Part II we develop a conceptual framework for micronations to better understand and interrogate their common features and considerable diversity. We do so by first establishing a definition of what it means to be a micronation, and then situating that definition within understandings of statehood. This enables us to define and better understand micronations before exploring whether and how traditional frameworks of international legal personality relate to or comprehend this phenomenon.

In Part III we explore that diversity in more detail. Drawing on our conceptual framework we survey a wide cross-section of micronations, focusing on the varied motivations for their creation. Owing to the general paucity of scholarly engagement, in many cases we rely on statements from founders and individuals connected to particular micronations. Such stories are part of a micronation's self-created history and narrative and are therefore valuable in understanding the reasons why a person chooses to found their own country. Our survey reveals that individuals and small groups from all over the globe purport to secede and establish their own countries for a wide variety of reasons.

Documenting the sheer prevalence of micronations is valuable in itself. However, uncovering the multiplicity of motivations that underlie the reasons for their formation illuminates our understanding of the legal disputes they provoke. In Part IV we discuss several key public law issues that pertain to micronations. We examine how micronations seek to assert their sovereignty and independence, as well as how recognised nations respond to such claims. As we note, while state responses range from the benign to the violent, all responses share a commitment to the full enforcement of their laws.

II. A Framework for Understanding Micronations

A. What are Micronations?

Micronations have escaped sustained attention in the legal literature. There is no legal account that identifies and comprehensively outlines the common features and outer bounds of this phenomenon. In fact, very few non-legal efforts that offer an explanatory account of micronationalism exist. In this section, we examine three non-legal attempts to develop a typology aimed at understanding and explaining micronationalism. In doing so, we explore classificatory accounts that identify commonalities and distinctions among and between micronations with the goal of discerning a legal definition to guide our discussion throughout this article.

Before commencing, it is important to note that all accounts agree that micronations are distinct from recognised states. While no unambiguously 'accepted and satisfactory legal definition of statehood'⁶ exists, the Montevideo Convention definition is most commonly adopted.⁷ Under the Convention, an entity must meet certain conditions relating to territory, population, government, and a capacity for external relations, in order to be characterised as a state. Recognition by other states is not one of those conditions. Whether and how these conditions relate to micronations is explored in more detail in the following section.

⁶ JAMES CRAWFORD, *THE CREATION OF STATES IN INTERNATIONAL LAW* 37, 198 (2nd ed, 2007); Thomas Grant, *Defining Statehood: The Montevideo Convention and its Discontents*, 37 *Columbia J. Transnatl. Law* 403, 408 (1999).

⁷ *Convention on the Rights and Duties of States*, 165 L.N.T.S. 19, art 1 (signed 26 December 1933 and entered into force 26 December 1934) ('*Montevideo Convention*').

One of the few approaches to understanding micronations is provided by a geographer. Dallen Timothy offers a broad account that delineates between four distinct models, only two of which are properly characterised as micronations.⁸ At one end of Timothy's spectrum sit internationally recognised, sovereign, non-state entities. These entities do not unequivocally meet the declarative criteria for statehood expressed in the Montevideo Convention,⁹ but are nonetheless formally recognised (by at least one other state) as *de jure* sovereign entities.¹⁰ For this reason, they are not strictly micronations but, usually, states with no control over physical territory. This category includes the Baltic States of Estonia, Latvia, and Lithuania during the Soviet annexation,¹¹ as well as the Sovereign Military Order of Malta. Founded in 1048, the Order of Malta no longer exercises jurisdiction over any territory and is not strictly a state, but nonetheless retains a 'certain international personality'.¹² While the Order once ruled (at different times) Cyprus, Rhodes, and Malta, its physical territory is now limited to two buildings in Rome. Nonetheless, it maintains diplomatic relations with 107 states, has UN permanent observer status, and issues its own passports, stamps, and coins.¹³

Timothy identifies his second model of non-nations as 'semi-legitimate places'. These entities have some historical foundation for claims of independence but, unlike the former category, have not been formally accepted or recognised by the international community. He suggests that the Principality of Seborga, situated in the hills of Liguria, Italy, falls within this category. As we discuss in more detail below, however, the Principality lacks any reasonable legal foundation for independence. A more obvious candidate is the Republic of Somaliland, a semi-autonomous region of Somalia that declared its independence in 1991, claiming to be the successor of the State of Somaliland.¹⁴ The State of Somaliland was the name assumed by the former British protectorate upon independence from the United Kingdom on 26 June 1960. It lasted only five days, joining with the Italian-administered Trust Territory of Somaliland to form the Federal Republic of Somalia on 1 July 1960. Despite arguably meeting international law conditions for statehood, the Republic of Somaliland is not recognised by any other state.¹⁵ Nonetheless, because its claim has some basis in law it is not a micronation.

⁸ Dallen Timothy, *Where on Earth is this Place? The Potential of Non-Nations as Tourist Destinations*, 28 TOURISM RECREATION RESEARCH 93, 93 (2003).

⁹ *Montevideo Convention*, *supra* note 7.

¹⁰ As James Crawford argues, 'in borderline cases, recognition may be good evidence of conformity' with the requirements for statehood: CRAWFORD, *supra* note 6, 198.

¹¹ Peter van Elswege, *State Continuity and its Consequences: The Case of the Baltic States*, 16 LEIDEN J. INT'L. LAW 377 (2003).

¹² CRAWFORD, *supra* note 6, 232; *Nanni v. Pace and the Sovereign Order of Malta*, 8 I.L.R. 2 (1935).

¹³ See generally C. D'Olivier Farran, *The Sovereign Order of Malta in International Law*, 3 INT'L & COMP. L. Q. 217 (1954); Karol Karski, *The International Legal Status of the Sovereign Military Hospitaller Order of St. John of Jerusalem of Rhodes and of Malta*, 14 INT. COMMUNITY LAW REVIEW 19 (2012). For other borderline cases see CRAWFORD, *supra* note 6, Ch 5.

¹⁴ Alison Eggers, *When is a State a State? The Case for Recognition of Somaliland*, 30 B.C. INT'L & COMP. L. REV. 211, 213 (2007).

¹⁵ See Dimitrios Lalos, *Between Statehood and Somali: Reflections on Somaliland Statehood*, 10 WASH. U. GLOBAL STUD. L. REV. 789 (2011); Benjamin Farley, *Calling a State a State: Somaliland and International Recognition*, 24 EMORY INT'L L. REV. 777 (2010). Note however, that Somaliland has established formal diplomatic relations with the Republic of Liberia, a micronation located on the Danube River: *Somaliland: Liberia States Mutual Recognition Process with Government in Hargeisa*, SOMALILAND SUN (October 12, 2017), <https://web.archive.org/web/20180308232441/http://www.somalilandsun.com/2017/10/12/somaliland-liberland-starts-mutual-recognition-process-with-government-in-hargeisa/>.

The last two models are more traditionally understood as micronations. In the third, Timothy identifies places with little or no claim to historical legitimacy, but which have nonetheless ‘earnestly attempted to lay claim to national independence’.¹⁶ This archetype includes the most prominent micronations, like the Principality of Hutt River in Western Australia, and the Principality of Sealand off the United Kingdom’s Suffolk coast, as well as lesser-known wannabe states like Liberland on the Danube River. We place the Principality of Seborga within this category.

Timothy’s fourth example largely eschews control of significant physical territory. Increasingly prevalent, these are ‘countries’ that assert independence ‘but are in fact little more than social clubs’.¹⁷ While they engage in performative acts of sovereignty, this is conducted primarily for amusement or to seek attention rather than to actively challenge state sovereignty. Typically, the jurisdiction claimed extends to the real property owned by its founder, whether that is an apartment in London,¹⁸ a flat in Sydney,¹⁹ or a house in Nevada.²⁰

Timothy’s typology usefully articulates major distinctions among micronations, as well as between micronations and other ‘non-nations’. However, it does not clarify all variances between such entities. Finnish artists Tellervo Kalleinen and Oliver Kochta-Kalleinen offer a more pronounced classification, distinguishing between three models: microstates, model-states and new country projects.²¹ According to Kalleinen and Kochta-Kalleinen, microstates are very small countries whose territory is typically less than 20,000km². Although they generally meet common international legal definitions of statehood, their sovereignty may or may not be recognised.²² For instance, while the Vatican City, Monaco, and San Marino are all recognised as sovereign states, the Principalities of Hutt River, and of Seborga are not.

Model-states differ fundamentally from microstates. While microstates exercise (or purport to exercise) sovereignty over a small territorial expanse, model-states do not seek to establish legitimacy on the basis of territorial claims. Rather, they are ‘experiments in forming a state with all of its political institutions’ and symbols.²³ Like ‘real’ countries, model-states perform acts of sovereignty; they write constitutions, compose national anthems, design flags, issue stamps and currency, and conduct diplomatic relations with each other (and seek recognition from recognised nations). As the founder of the Principality of Nova Arcardia, Steven Scharff, has explained, model-states are a ‘diplomatic version of a model railroad’.²⁴

New country projects are similar to model-states in that they also engage in performative acts of sovereignty. However, while model-states generally do not lay claim to substantial

¹⁶ Timothy, *supra* note 8, 94.

¹⁷ *Id.*

¹⁸ Kingdom of Lovely: JOHN RYAN, GEORGE DUNFORD AND SIMON SELLARS, MICRO NATIONS: THE LONELY PLANET GUIDE TO HOME-MADE NATIONS 28-33 (2006).

¹⁹ Empire of Atlantium: *Id.*, 74-77; Lattas, *supra* note 5.

²⁰ Republic of Molossia: RYAN, DUNFORD and SELLARS, *supra* note 18, 62-68.

²¹ Tellervo Kalleinen and Oliver Kochta-Kalleinen, *Introduction*, in PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS 52 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

²² See also Gabriel Rossman, *Extremely Loud and Incredibly Close (But Still So Far): Assessing Liberland’s Claim of Statehood*, 17 CHI. J. INT’L L. 306, 310 (2016). However, as we explain below, we distinguish between microstates and micronations.

²³ Kalleinen and Kochta-Kalleinen (eds), *supra* note 21, 52.

²⁴ Steven Scharff, *cited in* Scott Neuman, *Tiny Territories Mingle at MicroCon; Passports Optional*, NPR (April 10, 2015), <https://www.npr.org/sections/thetwo-way/2015/04/10/398757610/molossia-heads-up-big-micronation-summit-in-california>.

physical territory, new country projects involve attempts to actually establish a viable state by ‘acquiring or creating territory which does not belong to any existing state’.²⁵ This can involve sea steading initiatives in which floating structures are ‘arranged into atolls and archipelagos’ allowing individuals to settle on the high seas outside national jurisdiction,²⁶ like the Republic of Minerva, and the Floating Island Project’s South Pacific city.²⁷ It can also include emerging efforts to develop permanent habitation on satellites like the Space Kingdom of Asgardia. Many new country projects have been influenced by libertarian philosophies and their founders have sought to develop and operate economic schemes prohibited in their homelands.²⁸ More recent initiatives, like Waveland and Asgardia, may also be inspired by cosmopolitan ideas of an integrated global pan-humanity. Nonetheless, even in these cases, new country projects can carry colonial overlays and resonances. In 2014, for instance, a United States man planted a flag in the Bir Tawil desert, asserting authority over 800 square miles of land claimed by neither Sudan nor Egypt in order to establish a kingdom and fulfil a promise to his daughter to make her a princess.²⁹

The typologies by Timothy, and Kalleinen and Kochta-Kalleinen, are helpful in identifying distinctions between different forms of micronations. However, they also make clear that there are ‘incredible differences’ and ‘no clear sense of unity’ among this diverse practice.³⁰ Acknowledging this, sociologist Judy Lattas adopts a simpler definition. Lattas defines micronations as ‘tiny countries declared by ordinary people in an act that repeats the establishment of sovereign nations, at least in some of its protocols’.³¹ Lattas’ approach is valuable as it more clearly identifies what makes micronations distinct from similar entities. Nonetheless, it still fails to capture what we understand by micronations within the context of our legal analysis. After all, some micronations are established by prominent political actors rather than ordinary people. Other micronations might have only a very small resident population but may claim authority over large areas of land, or even outer space. Furthermore, spurred by the growth of the internet, some micronations claim hundreds of thousands of citizens, significantly more than many recognised states.

This demonstrates the need to adopt a different definition. We define micronations as self-declared nations that perform and mimic acts of sovereignty, and adopt many of the protocols of nations, but lack a foundation in domestic and international law for their existence and are rarely recognised as nations in domestic or international forums. Our definition simply and accurately encompasses the diversity of micronations; it includes libertarian sea steading efforts, experimental states formed within college dorm rooms or conceptual art projects, as well as states established to publicise political agendas. It also excludes similar but distinct phenomena, such as secessionist movements, Indigenous nations, microstates and intentional communities.

²⁵ Kalleinen and Kochta-Kalleinen (eds), *supra* note 21, 52.

²⁶ Surabhi Ranganathan, *Seasteading, Land-Grabs and International Law*, 32 LEIDEN J. INT’L. LAW 1, 1 (2019).

²⁷ The Seasteading Institute, *The Floating Island Project: French Polynesia*, <https://www.seasteading.org/floating-city-project/>.

²⁸ Kalleinen and Kochta-Kalleinen (eds), *supra* note 21, 52.

²⁹ Enjoli Liston, *American plans to use “his” piece of Africa for advancement of science*, GUARDIAN (July 16, 2014), <https://www.theguardian.com/world/2014/jul/16/american-claim-africa-science-jeremiah-heaton-egypt-sudan>.

³⁰ Judy Lattas *cited in* Mark Johanson, *Masters of Micronations: Meet People who started their own countries*, CNN (May 24, 2017) <https://edition.cnn.com/travel/article/micronations/index.html>.

³¹ Judy Lattas, *Queer Sovereignty: The Gay & Lesbian Kingdom of the Coral Sea Islands*, 1 COSMOPOLITAN CIVIL SOCIETIES JOURNAL 128, 129 (2009).

In contrast to micronations, secessionist movements and Indigenous nations enjoy some historical foundation for their assertions of independence, whether or not that claim has been formally recognised by domestic law or the international community. Indigenous nations, for example, are distinct political communities composed of individuals united by identity that have a long history of operating as a distinct society, with a unique economic, religious and spiritual relationship to their land.³² Even where the state does not recognise this claim, their legitimacy is based on this status. By contrast, perhaps reflecting the relative moral and political strength of their respective claims and legal foundations, micronations tend to be ephemeral. The oldest continuing micronation, the Kingdom of Elleore, was established on the Danish island of Elleore in 1944.³³ Designed to parody the royal traditions and government structure of Denmark, the Kingdom is now only occupied for a one-week celebration each year.

Our definition also excludes microstates and intentional communities. Like many micronations, microstates have a very small population and control a very small geographic area. However, as ‘modern protected states’, microstates are internationally recognised sovereign political entities;³⁴ a status that distinguishes them from micronations. Intentional communities, or communes, are communities of people that live together in common and assert authority to manage their internal affairs autonomously of the state.³⁵ Such communities can be spiritual, like the Mennonites, or secular, like Twin Oaks Community eco-village, in the United States.³⁶ In this sense they are similar to micronations. Importantly, however, intentional communities do not use the language of statehood, instead seeking to operate within the state, albeit on a distinct basis.

B. Statehood and International Legal Personality

Micronations have no foundation in domestic and international law for their existence, but in purporting to exercise sovereignty they challenge conventional understandings of statehood and international legal personality. In this section, we explore the international legal criteria for statehood to examine whether and how orthodox accounts of statehood comprehend or make sense of micronations. This is valuable, for the manner in which micronations relate to recognised states can help further illuminate their distinctive features as well as provide important contextual material to assess state responses.

As we have noted, despite their centrality in the international legal system there is no universally accepted legal definition of what it means to be a state.³⁷ In fact, many

³² Erica-Irene A Daes, *An Overview of the History of Indigenous Peoples: Self-determination and the United Nations*, 21(1) CAMBRIDGE REV OF INT’L AFFAIRS 7, 13 (2008); Harry Hobbs and George Williams, *The Noongar Settlement: Australia’s First Treaty*, 40 SYD. L. REV. 1, 7-8 (2018).

³³ RYAN, DUNFORD and SELLARS, *supra* note 18, 42-46.

³⁴ ZBIGNIEW DUMIENSKI, MICROSTATES AS MODERN PROTECTED STATES: TOWARDS A NEW DEFINITION OF MICRO-STATEHOOD 22 (2014).

³⁵ See BARRY SHENKER, INTENTIONAL COMMUNITIES: IDEOLOGY AND ALIENATION IN COMMUNAL SOCIETIES (1986).

³⁶ See generally Mark Rosen, *The Outer Limits of Community Self-Governance in Residential Associations, Municipalities, and Indian Country: A Liberal Theory*, 84 VA. L. REV. 1053 (1998). On Twin Oaks see: KATHLEEN KINKADE, IS IT UTOPIA YET? AN INSIDER’S VIEW OF TWIN OAKS COMMUNITY IN ITS TWENTY-SIXTH YEAR (1994).

³⁷ CRAWFORD, *supra* note 6, 37; Grant, *supra* note 6, 408.

international legal scholars have argued against the utility of establishing a clear definition. In 1949, for instance, the International Legal Commission considered that ‘no useful purpose would be served by an effort to define the term “State”’, and it demurred from outlining the conditions necessary for an entity to become a state.³⁸ Without a clear definition, the Montevideo Convention is generally employed,³⁹ though many scholars consider it both under- and over-inclusive.⁴⁰ It outlines four criteria an entity must meet to be regarded as a state: (1) a defined territory; (2) a permanent population; (3) a government; and (4) a capacity to enter into relations with other states.⁴¹ The criteria themselves are flexible, however, and ‘a variety of entities with differing circumstances’ fall within the definition.⁴² Indeed, a brief survey reveals that entities with a very small⁴³ (or no)⁴⁴ territorial footprint, population,⁴⁵ or entirely ineffective or non-existent government,⁴⁶ continue to be considered and treated as states. There is simply no rule prescribing a minimum area of territory, size of population, or effectiveness of government.⁴⁷

The criteria are also passive rather than active. While they set out elements that a state must possess, they ‘do not prescribe specific rights, powers or capacities’⁴⁸ that a state must be able to exercise in order to qualify as a state. This framing is intentional, as substantial variety in practice precludes definition along capability lines. After all, even if independence – what James Crawford describes as ‘the central criterion for statehood’⁴⁹ – is added, significant peculiarities must be countenanced. The rise of regional and global international organisations, for example, has limited the capacity of states to act in certain ways, while many micro-states delegate powers to neighbours without risking loss of their status.⁵⁰

The Montevideo definition allows considerable room for a variety of entities to qualify as states. Do micronations meet the criteria? The answer is no.⁵¹ In his seminal examination of the creation of states in international law, Crawford considers that the key to statehood is ‘governing power with respect to territory’.⁵² That is, ‘to be a State, an entity must possess a government or system of government in general control of its territory, to the exclusion of

³⁸ *Report of the International Law Commission on the Work of its First Session, 12 April 1949*, Official Records of the General Assembly UN Doc. A/CN.4.13, 289 (1949).

³⁹ *Montevideo Convention*, *supra* note 7.

⁴⁰ See for example Grant, *supra* note 6, 453; Eggers, *supra* note 14; See also Bruno Coppieters, ‘Statehood’, ‘*de facto Authorities*’, and ‘*Occupation*’: *Contested Concepts and the EU’s Engagement in its European Neighbourhood*, 17 *Ethnopolitics* 343, 345 (2018).

⁴¹ These criteria were adopted by the 1991 Arbitration Commission of the Conference on Yugoslavia: see Opinion No. 1 reproduced in Alain Pellet, *The Opinions of the Badinter Arbitration Committee A Second Breath for the Self-Determination of Peoples*, 3 *EJIL* 178, 182 (1992).

⁴² CRAWFORD, *supra* note 6, 197.

⁴³ See for example Vatican City: 0.17 square miles; Monaco: 0.78 square miles; and, Nauru: 8.1 square miles.

⁴⁴ See for example Poland and Czechoslovakia, which were recognised by France in World War I despite not possessing any territory: Grant, *supra* note 6, 436.

⁴⁵ See for example Vatican City: 800; Tuvalu: 10,200; and, Nauru: 11,000.

⁴⁶ See for example, Somalia.

⁴⁷ CRAWFORD, *supra* note 6, 46, 52. See further JORRI DUURSMA, *FRAGMENTATION AND THE INTERNATIONAL RELATIONS OF MICRO-STATES: SELF-DETERMINATION AND STATEHOOD* (1996).

⁴⁸ CRAWFORD, *supra* note 6, 44-45.

⁴⁹ *Id.*, 62.

⁵⁰ *Id.*, 70; DUMIENSKI, *supra* note 34.

⁵¹ For discussion on specific micronations see Rossman, *supra* note 22, 326-334; Andrew Lyon, *The Principality of Sealand, and its Case for Sovereign Recognition*, 29 *Emory Int’l L. Rev.* 637 (2015).

⁵² CRAWFORD, *supra* note 6, 56, 254.

other entities not claiming through or under it'.⁵³ It is this limb where micronations are most likely to fail. As we will explore further in Part IV, micronations may assert their independence, but they are unable to do so to the exclusion of other entities. The lack of any legal foundation for their claim means that their assertion of jurisdictional authority over territory is legally contested by recognised states and not recognised in domestic and international forums, even if their actual occupation of that territory is permitted.

It may be that our understanding of what a state is will evolve to encompass micronations. After all, 'states are not innate or physical truths, but rather are recursively created by human social action and interaction',⁵⁴ and there is no reason that this must always exclude micronations. This, however, would seem highly unlikely, at least in the short term. No such evolution is evident, and no support for such a change has been expressed, apart from micronations themselves.

It is possible that a micronation can become a state. As we explore below, libertarian-inspired micronations often prioritise the creation of an effective (albeit limited) government. In some cases they do so on land or sea they claim no state exercises lawful authority over, either because the area is unoccupied, or because the micronation has built platforms or reclaimed land in international waters. Assuming that their legal basis for possession is correct and that they build a functioning government capable of exercising legitimate authority over defined territory, the micronation may come to constitute a state. This is a question of fact.⁵⁵ As art 3 of the Montevideo Convention confirms, recognition is independent from statehood, meaning that whether another state recognises an entity as a state or not is immaterial to its status. Hence, if a micronation is able to satisfy the criteria of statehood, non-recognition would not foreclose its status.

The consequence of a micronation becoming a state is that it acquires a legal foundation for its existence. As a result, the entity would cease to be a micronation because an inherent characteristic of a micronations is that it lacks any such legal basis. This reveals how micronations and states should be conceived as mutually exclusive entities. It may be possible for an entity to shift its status between the two, and even perhaps for a state to become a micronation, but an entity cannot enjoy the status of both at the same time. This demonstrates how micronations are by their nature a non-state entity that nonetheless adopt the trappings of a state, perhaps as a parody of a state, or perhaps in defiance of it.

This conception of micronations challenges scholars to consider statehood more broadly. Why do micronations assert sovereignty and dress in the language of statehood? What value do they see in the status of a state, as opposed to adopting corporate personhood or organising as an autonomous intentional community? The diverse motivations of founders and proponents are explored in more detail in the following part, but before then it is worth considering the consequence of statehood claims.

⁵³ *Id.*, 59. Though of course, practice is critical. Crawford reminds us that statehood must be more than merely effective governance because effective entities that are not regarded as States exist, and non-effective entities have also been considered States (at 97). Referring to Rhodesia, Taiwan, the Turkish Republic of Northern Cyprus, and the Baltic States during Soviet annexation.

⁵⁴ Tom Sparks, *State*, in *CONCEPTS FOR INTERNATIONAL LAW: CONTRIBUTIONS TO DISCIPLINARY THOUGHT* 838, 840 (JEAN D'ASPREMONT AND SAHIB SINGH eds., 2019).

⁵⁵ Jean D'Aspremont, *The International Law of Statehood: Craftsmanship for the Elucidation and Regulation of Births and Deaths in the International Society*, 29 *Conn. J. Int'l L* 201, 205 (2014).

Historically, states were the sole subjects of international law. While international scholars have recognised for many years that this is no longer the case,⁵⁶ and a wide variety of non-state entities enjoy international legal personality, states remain the primary actors. In this sense, assertions of statehood may be understood as claims to international legal personality. In many cases this is how existing states perceive micronations' claims to statehood. Understanding assertions of sovereignty as geared towards secession and external self-determination, states often jealously guard their own authority by acting swiftly to quell incipient challengers. Such action is supported by international law, which does not generally recognise unilateral secession outside the colonial context as lawful.⁵⁷

Micronations' assertion of statehood are, however, not always aimed at achieving statehood. A micronation may be created to parrot the workings of a state because this offers a path to material advancement. After all, many recognised states 'profit by selling or renting out their sovereign prerogatives',⁵⁸ including by selling stamps, souvenirs and memorabilia, and even citizenship,⁵⁹ diplomatic recognition⁶⁰ and positions on international organisations.⁶¹ Founders and proponents of micronations may be interested in profiting likewise.

More significantly, micronations may not be established to access the range of entitlements, duties and liabilities imposed by international law on states, but for relevance. In the words of Fleur Johns, to lay claim to international legal personality is an argument that 'the subjectivity of the entity in question merits international legal notice and respect',⁶² that it deserves 'to be taken seriously'.⁶³ By asserting their status as states, even though in fact they lack any legal claim to such status, micronations 'come into sight' and are made 'visible' to the domestic and international legal community.⁶⁴ Understood in this light, micronations should not always be conceived as initiating a challenge over jurisdiction, but as a means to draw attention and engage with particular issues and claims. As Prince Leonard Casely's son, Prince Graeme, explained in the aftermath of Leonard's death in February 2019: 'Hopefully, the Australian Government will sit around the table and talk to us about things, which is what Prince Leonard had been asking for the 47 years he was sovereign of the principality'.⁶⁵ As Prince Graeme intimates, assertions of statehood should not necessarily be taken literally, but as an avenue to promote dialogue, either with a state or with fellow citizens.

⁵⁶ See for example Hersch Lauterpacht, *The Subjects of the Law of Nations*, 63 *Law Quarterly Review* 438 (1947); *Reparation for Injuries Suffered in the Service of the United Nations*, ICJ Rep, 174, 178 (1949).

⁵⁷ CRAWFORD, *supra* note 6, 415; though cf. *Accordance with international law of the unilateral declaration of independence in respect of Kosovo*, ICJ Rep, 403 (2010).

⁵⁸ JC Sharman, *Sovereignty at the Extremes: Micro-States in World Politics*, 65 *Political Studies* 559, 561 (2017).

⁵⁹ Vikram Mansharamani, *The \$2 Billion Market for Passports*, FORTUNE MAGAZINE (April 2, 2016), <http://fortune.com/2016/04/02/passports-citizenship-investment/>.

⁶⁰ Kevin Stringer, *Pacific Island Microstates: Pawns or Players in Pacific Rim Diplomacy?*, *Diplomacy and Statecraft* 547 (2006)

⁶¹ ABRAM CHAYES, ANTONIA HANDLER CHAYES, *THE NEW SOVEREIGNTY: COMPLIANCE WITH INTERNATIONAL REGULATORY AGREEMENTS* (1995) 266.

⁶² Fleur Johns, *Introduction*, in *INTERNATIONAL LEGAL PERSONALITY* xi, xxv (FLEUR JOHNS ed., 2010).

⁶³ Jan Klabbers, *The Concept of International Legal Personality*, in *INTERNATIONAL LEGAL PERSONALITY* 3, 30-31 (FLEUR JOHNS ed., 2010).

⁶⁴ JANNE NIJMAN *THE CONCEPT OF INTERNATIONAL LEGAL PERSONALITY, AN INQUIRY INTO THE HISTORY AND THEORY OF INTERNATIONAL LAW*, 455-456 (2004).

⁶⁵ Laura Meachim, *Hutt River Province at \$3m stalemate with ATO after death of Prince Leonard*, ABC NEWS (March 6, 2019), <https://www.abc.net.au/news/2019-03-06/what-happens-to-prince-leonard-ato-debt-now-he-is-dead/10850968>.

III. A SURVEY OF MICRONATIONS

Micronations are non-state entities that lack any domestic or international legal basis for statehood and are rarely recognised as nations in domestic or international forums. Beyond their shared commitment to performing and mimicking acts of sovereignty, however, they are an incredibly diverse phenomenon. In this part we undertake a survey of some of the most prominent micronations by focusing upon the myriad of (often overlapping) motivations for their creation. This study complements our definition and conceptual framework by expanding our knowledge on the various justifications provided for micronations and the assorted rationales that underlie assertions of statehood.

A. *Libertarianism*

A primary driver for the foundation of many micronations is frustration with state authority, whether manifested in resistance to taxation, or regulation of any sort.⁶⁶ Indeed, as Kochta-Kalleinen has succinctly noted, ‘to understand micronations, one has to understand libertarianism’,⁶⁷ a political philosophy that ‘sees the ideal society as one of free autonomous individuals relating to each other on a voluntary, consensual basis with minimal interference from the state’.⁶⁸

A right-libertarian utopian ideal lay behind the ill-fated creation of the Republic of Minerva in the 1970s. Michael Oliver, a wealthy Nevadan real estate mogul sought to establish a new state, free of government interference that would levy no taxation and expend no social welfare, on two submerged atolls located in the Pacific Ocean around 250km south of Tonga. In 1971, sand was ferried on barges from Australia to raise the reefs above sea level and rudimentary construction began. On 19 January 1972, a Declaration of Independence was issued to neighbouring countries, currency was minted, a flag was raised, and a provisional President elected.⁶⁹ All was not well, however. ‘Alarmed by the prospect of unwelcome neighbors on numerous reefs in the area’, a coalition of South Pacific nations raised the issue at the South Pacific Forum with Australia and New Zealand.⁷⁰ Tonga’s sovereign claim over the reefs was eventually accepted, and it commenced a series of actions to substantiate its claim.⁷¹ Oliver and his followers left later that year.

Frustration with government regulation was a key factor in the establishment of several other prominent micronations, including the Principality of Sealand. In the United Kingdom (UK) in the 1960s, the British Broadcasting Corporation enjoyed a ‘legal monopoly on radio

⁶⁶ Lattas, *supra* note 5, 6.

⁶⁷ Oliver Kochta-Kalleinen, *Micronations—From Utopian Communities to Space Settlements*, in PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS 38, 42 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

⁶⁸ Anastasiya Astapova and Vasil Navumau, *Veyshnorica: A Fake Country in the Midst of Real Information Warfare*, 131 THE JOURNAL OF AMERICAN FOLKLORE 435, 440 (2018). See further JASON BRENNAN, LIBERTARIANISM: WHAT EVERYONE NEEDS TO KNOW (2012).

⁶⁹ Lawrence Horn, *To Be or Not to Be: The Republic of Minerva: Nation Founding by Individuals*, 12 COLUM. J. TRANSNAT'L L. 520, 520-528 (1973).

⁷⁰ Robert Trumbull, *Pacific Islanders Fight Reef Plan*, NEW YORK TIMES (February 27, 1972), <https://www.nytimes.com/1972/02/27/archives/pacific-islanders-fight-reef-plan-see-to-halt-the-creation-of.html>.

⁷¹ J.R. Hennessy, *Failed Republic*, MUSEUM (March 2018), <http://www.jrhennessy.com/blog/2018/3/5/failed-republic>.

broadcasting'.⁷² In an attempt to bypass this restriction, several pirate radio stations operating from outside the UK's territorial waters were established. Roy Bates, a former Major in the British Army, was one such radio operator. Bates transmitted 'Radio Essex' from an abandoned WWII-era anti-aircraft gun platform called Knock John, which was located at the mouth of the Thames estuary. Bates' geography was a little off; the platform was located within the UK's 3-mile territorial zone, and his occupation was ruled unlawful in 1966 and he was fined £100.⁷³ In 1967, Bates moved to another decommissioned offshore naval fort, Roughts Tower, located 7 miles off the coast of Suffolk.

Roughts Tower may have been decommissioned but it was not abandoned. A rival pirate radio station, 'Radio Caroline', was already operating from the tower. Over the first half of 1967, Bates and the staff of Radio Caroline struggled to wrest control. Bates eventually triumphed, evicting the crew from the tower, and repulsing their repeated attempts to return with petrol bombs and an air rifle.⁷⁴ Victory was short-lived. Enactment of the *Marine & Broadcasting (Offences) Act 1967* in August that year closed the legal loophole that allowed pirate radio stations to operate. Rather than continue Radio Essex, Bates declared himself the ruler of the new Principality of Sealand, whose territory comprised Roughts Tower, on 2 September 1967.

The UK's response to Bates' declaration will be explored in Part IV. Before that, however, it is important to note that libertarianism continues to propel the establishment of new micronations. On 13 April 2015, for instance, Czech politician Vit Jedlička announced the establishment of the Free Republic of Liberland,⁷⁵ with the intention of developing a libertarian utopia free of government regulation and taxation.⁷⁶ Located on the Croatian side of the Danube River, Liberland asserts jurisdiction over 'three square miles of uninhabited and disputed land' claimed by neither Croatia nor Serbia.⁷⁷ As we note further below, Jedlička has so far been rebuffed by Croatian authorities from perfecting his claim and exercising authority.

Similarly, in October 2016, Russian-Azerbaijani scientist Igor Ashurbeyli announced the establishment of Asgardia, a Space Kingdom based on low-earth orbit satellites.⁷⁸ Ashurbeyli explains that the micronation was established with four overarching goals: 'to ensure the peaceful use of space, to protect the Earth from space hazards, ... to create a demilitarized and free scientific base of knowledge in space...[and] set[] up habitable platforms in space and build[] settlements on the Moon'.⁷⁹ Perhaps more important, however, is the fact that Ashurbeyli believes that his new state will be able to avoid the restrictions imposed by the *Outer Space Treaty*.⁸⁰ Despite challenges in implementation, Asgardia is an ongoing concern: in June 2018, its 250,000 citizens elected its first parliament.⁸¹

⁷² James Grimmelmann, *Sealand, Havenco, and the Rule of Law*, 2 U. ILL. L. REV. 405, 415 (2012); Wireless Telegraphy Act, 1949, 12 & 13 Geo 6, c.54, s 1 (U.K.).

⁷³ *R v. Kent Justices, Ex parte Lye* [1967] 2 QB 153.

⁷⁴ Grimmelmann, *supra* note 72, 416-417.

⁷⁵ Gideon Lewis-Kraus, *Welcome to Liberland, the World's Newest Country (Maybe)*, NEW YORK TIMES (August 11, 2015), <https://www.nytimes.com/2015/08/16/magazine/the-making-of-a-president.html>.

⁷⁶ Ryan Gorman, *This New Microcountry Wants to be a Big Tax Haven*, BUSINESS INSIDER, (April 23, 2015), <https://www.businessinsider.com.au/liberland-this-newly-declared-microcountry-wants-to-become-the-worlds-foremost-tax-haven-2015-4>.

⁷⁷ Rossman, *supra* note 22, 308.

⁷⁸ *Constitution of the Space Kingdom of Asgardia*, art 5 (September 9, 2017).

⁷⁹ Asgardia, *Concept: Asgardia—the Space Nation*, <https://asgardia.space/en/word>.

⁸⁰ *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies*, 610 U.N.T.S 205 (opened for signature 21 January 1967, and entered into

B. Acts of resistance

Libertarianism may be a driving force behind many declarations of independence, but it is not always sufficient. The financial challenges and psychological resources involved in acquiring territory and continually performing (unrecognised) acts of sovereignty over many years means something more is often required. As Lattas explains, that something more is the transformation of a personal grievance into a political grievance, a ‘sense of being cheated out of some sort of natural right’ that develops into a ‘feeling about a loss of sovereignty’.⁸² Lattas emphasises that for micronations founded by these individuals, secession is:

not an act of withdrawing the self, but of presenting and re-presenting the self, in courts of law, in administrative tribunals, in bureaucratic offices and all the theatres within which may be played out a contesting of the authority to manage. The gesture of secession is one of refusing to withdraw oneself, refusing to cease, pushing oneself forward, getting ‘in your face’. Micronationalists feature strongly among those ‘vexatious litigants’ whose obdurate presence in the courtroom and the corridor threatens to jam up the system, making it unmanageable.⁸³

These are ‘not utopian communes’, Lattas reiterates, but rather an ‘imaginative way of articulating resistance to bureaucracy’.⁸⁴

The combination of ideological resistance to state authority and bureaucracy and a strong sense of political injustice helps account for the founding of the Principality of Hutt River. Considered ‘something of a template for modern micronations’,⁸⁵ the Principality initially emerged out of a dispute over a wheat harvest. Situated in Yallabathara, about 500km north of Perth and comprising about 75km², the Principality is today a regional tourist attraction,⁸⁶ and continues under the leadership of Prince Leonard’s youngest son Graeme.⁸⁷ Leonard Casely bought the property at Hutt River in the 1960s, intending to establish a wheat farm. In 1969, however, a shift in Australian agriculture policy put that in doubt. Casely was preparing to harvest around 6,000 acres of wheat, but concern about oversupply and a corresponding price reduction, led the Western Australian government to issue quotas; Casey

force 10 October 1967); Daniel Cleary, *Space Oddity: Group claims to have created nation in space*, SCIENCE (October 12, 2016), https://www.sciencemag.org/news/2016/10/space-oddity-group-claims-have-created-nation-space?r3f_986=https://en.wikipedia.org/.

⁸¹ Imogen Saunders, *The “Space Kingdom” Asgardia has its own flag and anthem, but a state it is not*, THE CONVERSATION (August 15, 2018), <https://theconversation.com/the-space-kingdom-asgardia-has-its-own-flag-and-anthem-but-a-state-it-is-not-101250>.

⁸² Judy Lattas cited in ABC Radio National, *Micronations* (April 15, 2010), <https://www.abc.net.au/radionational/programs/lifematters/micronations/3039654>.

⁸³ Lattas, *supra* note 31, 130.

⁸⁴ Judy Lattas cited in Matt Siegel, *The Royal Me: What’s With Australia’s Secession Obsession?*, THE ATLANTIC (April 2012), <https://www.theatlantic.com/magazine/archive/2012/04/the-royal-me/308912/>.

⁸⁵ RYAN, DUNFORD and SELLARS, *supra* note 18, 22.

⁸⁶ de Castro and Kober, *supra* note 3, 154.

⁸⁷ Sarah Taillier and Sebastian Neuweiler, *Hutt River Principality Now Ruled by Prince Graeme as Prince Leonard Stands Aside*, ABC NEWS (February 12, 2017), <https://www.abc.net.au/news/2017-02-12/prince-leonard-abdicates-long-live-prince-graeme/8262748>.

was notified that he could sell only 100 acres.⁸⁸ Working within Australian law, Casley filed complaints with the Premier and Governor of Western Australia, as well as the Wheat Quota Board, and lodged a notice for compensation.⁸⁹ These avenues proved futile. Casley served a formal notice of secession to the Australian government on 21 April 1970, and—after observing what he considered a legally required two-year notice period—officially declared the formation of a new state on 21 April 1972.⁹⁰

A similar combination of motivations sheds light on many other micronations. For example, Prince Paul and Princess Helena founded the Snake Hill Principality (located near Mudgee, New South Wales, Australia) following a long-running dispute with their bank. Similarly, the Principalities of Ponderosa (150km north of Melbourne), United Oceania (180km north of Sydney), Wy (Mosman, North Sydney), and the Independent State of Rainbow Creek (175km east of Melbourne) all emerged as frustration with government transformed into something more powerful.⁹¹ In the case of the Principality of Ponderosa, Princes Virgilio and Joe Rigoli maintain that secession emerged as the only valid response to a government purportedly discriminating against ‘Christians, white Anglo-Saxons and capitalists’.⁹² For the Principality of Wy, it was a rejected council application to construct a driveway.⁹³

C. Personal expression and attention seeking

Micronations are not always so serious. For many founders and citizens, micronations are ‘designed to be funny’,⁹⁴ and simply a ‘bit of a laugh’.⁹⁵ Widespread use of faux-regal titles, European-inspired heraldry, and made-up military medals suggests personal expression and attention seeking can be a primary motivator behind the formation of micronations. Consider the Republic of Whangamomona, located on the North Island of New Zealand, for instance. In 1989, the boundaries of New Zealand’s Regional Councils were redrawn. The revised maps moved the town of Whangamomona from the Taranaki Region into the Manawatu-Wanganui Region. Upset about potentially having to play rugby union for their rivals, residents objected; they decided to secede from New Zealand and declared themselves a republic on 1 November 1989.⁹⁶ Republic Day is now commemorated biennially in January,

⁸⁸ de Castro and Kober, *supra* note 3, 146-8; Hutt River Province, *Judicial Factors Effecting the Legality of Secession*, 1 (undated), <http://www.principality-hutt-river.com/Principality%20Downloads/Historic%20Documents/Secession%20Documents/JUDICIAL%20FACTORS%20EFFECTING%20LEGALITY%20OF%20SECESSION.pdf>.

⁸⁹ *Letter from Leonard Casley to Crawford Nadler (Minister for Agriculture, Western Australia)* (November 14, 1969), <http://www.principality-hutt-river.com/Principality%20Downloads/Historic%20Documents/Secession%20Documents/1969%20Letter%20to%20Ag%20Minister.pdf>. See also *Letter from Leonard Casley to Wheat Quota Board* (November 3, 1969), <http://www.principality-hutt-river.com/Principality%20Downloads/Historic%20Documents/Secession%20Documents/Wheat%20Quota%20Board%20Nov%201969.pdf>.

⁹⁰ RYAN, DUNFORD and SELLARS, *supra* note 18, 23.

⁹¹ *Id.*, 145.

⁹² David Fickling, *Passport to Pimlico – Aussie Style*, GUARDIAN (November 20, 2002), <https://www.theguardian.com/world/2002/nov/20/australia.davidfickling>.

⁹³ The Principality of Wy, *History* (2010), <http://principalityofwy.com/history/>.

⁹⁴ Grydehøj, *supra* note 4, 35.

⁹⁵ Volker von Prittwitz, *State, Size and Democracy: A Brief Comparative Survey of Micro-, Meso-, and Macronations*, in PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS 26, 28 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

⁹⁶ RYAN, DUNFORD and SELLARS, *supra* note 18, 35.

attracting visitors from across the North Island.⁹⁷ Revealing the spirit in which secession was undertaken, elected Presidents have included a goat (1999-2001) and a poodle (2003-2004).⁹⁸

The vast majority of micronations are relatively young, but several purport to trace their history back hundreds of years in an effort to legitimate their claims. The Principality of Seborga, for instance, traces its history to the 10th century. Located in the North Italian Province of Imperia in Liguria, the town of Seborga is about 35km from Monaco. Its claim as an independent state rests on the failure to properly register a contract. As the story goes, in 954 the Counts of Ventimiglia bestowed the village to the Benedictine Monks of Lérins.⁹⁹ A century later, the monastery's abbot was made a prince in the Holy Roman Empire, and was granted temporal authority over the Principality of Seborga. In 1729, the Principality was allegedly sold to the King of Sardinia, and it consequently became part of the Kingdom of Italy following the 1861 Act of Unification. However, the people of Seborga argue that the 1729 sale was not registered and point to the fact that Seborga is not mentioned in either the 1861 Act of Unification or the 1944 Declaration of the Italian Republic.¹⁰⁰ Bolstering their claim is Benito Mussolini's 1934 apocryphal statement acknowledging that 'for sure the Principato di Seborga does not belong to Italy'.¹⁰¹ In 1963, Giorgio Carbone convinced the townspeople of this history, and was elected with 304 out of a possible 308 votes as His Tremendousness Giorgio I, Prince of Seborga.¹⁰² His Tremendousness was apparently relatively successful: in addition to writing their Constitution, designing a flag and minting currency, Carbone purports to have 'convince[d] around 20 states to recognise Seborga' and maintains consular representation in ten countries.¹⁰³ Prince Giorgio I reigned until his death in 2009. Prince Marcello I, was subsequently elected for a 7-year term.¹⁰⁴

The rise of hobbyist or humorous micronations has risen in line with the growth of the Internet. As Lattas notes, the mid-1990s saw 'a sudden increase in interest' in the phenomenon, as the ease with which micronations could be established and promoted increased.¹⁰⁵ Today, many contemporary micronations exist only 'within extended social media spaces'.¹⁰⁶ While others claim to exercise physical territory, their extent is limited. The Republic of Molossia, for instance, consists of three properties owned by President Kevin Baugh in the United States, with its capital, Baughston, located near Dayton, Nevada. Like other micronations, the Republic has its own flag, national anthem, and currency, but also its

⁹⁷ Visit Taranaki, *Whangamomona Republic Day 2017*, <https://visit.taranaki.info/visit/news/whangamomona-republic-day-2017.aspx>.

⁹⁸ RYAN, DUNFORD and SELLARS, *supra* note 18, 36.

⁹⁹ Viktoriya Serzhanova, *Concept and Status of Fictional States*, 17 ANNALES UNIVERSITATIS APULENSIS SERIES JURISPRUDENTIA 82, 85 (2014).

¹⁰⁰ RYAN, DUNFORD and SELLARS, *supra* note 18, 55.

¹⁰¹ *Id.*

¹⁰² Serzhanova, *supra* note 99, 85.

¹⁰³ *His Tremendousness Giorgio Carbone*, THE TELEGRAPH (November 27, 2009) <https://www.telegraph.co.uk/news/obituaries/royalty-obituaries/6671765/His-Tremendousness-Giorgio-Carbone.html>.

¹⁰⁴ Nick Squires, *Tiny Italian Principality Announces New Monarch Called "His Tremendousness"*, THE TELEGRAPH (April 27, 2010), <https://www.telegraph.co.uk/news/worldnews/europe/italy/7639617/Tiny-Italian-principality-announces-new-monarch-called-His-Tremendousness.html>.

¹⁰⁵ Lattas, *supra* note 5, 1.

¹⁰⁶ Philip Hayward, *Secessionism, Submergence and Site-Responsive Art: The Embassy of the Commonwealth of New Bayswater at the 1st Fremantle Biennale*, 12 SHIMA: THE INT'L J OF RESEARCH INTO ISLAND CULTURES 160, 161 (2018). See also Philip Hayward and Susie Khamis, *Fleeting and Partial Autonomy: A Historical Account of Quasi-Micronational Initiatives on Lundy Island and their Contemporary Reconfiguration on MicroWiki*, 9 SHIMA: THE INT'L J OF RESEARCH INTO ISLAND CULTURES 69-84 (2015); Ruth Wedgwood, *Cyber-Nations*, 88 KY. L.J. 957 (2000).

own system of dates.¹⁰⁷ Molossia has ‘played an unparalleled role in micronational development’;¹⁰⁸ inaugurating the Intermicronational Olympic Movement in 2000, and establishing MicroCon, a biennial convention of micronation governments held since 2015.¹⁰⁹

The Kingdom of North Dumpling, a three-acre island situated in Long Island Sound just off the coast of Connecticut, United States, also owes its existence to a combination of frustration with state authority, an appreciation of the ‘theatrical’,¹¹⁰ as well as environmental concerns. In November 1987, New York State authorities refused to allow Dean Kamen, the island’s owner, to construct a 100-foot wind turbine on his property, as regulations restricted structures more than 40 feet tall in residential areas.¹¹¹ Rather than amend his plans, Kamen purported to secede from the United States. Styling himself as Lord Dumpling, Kamen has staged ‘various tongue-in-cheek performances of sovereignty’, including writing a Constitution and national anthem, designing a flag, creating a currency, and naming a Cabinet.¹¹² Within that Cabinet, the founders of Ben and Jerry’s ice cream, Ben Cohen and Jerry Greenfield, serve as Ministers of Ice Cream.¹¹³ In an intriguing and unusual example of faux-recognition by sovereign authorities, Kamen convinced his friend, President George HW Bush, to sign a non-aggression pact,¹¹⁴ though the United States does not formally recognise the Kingdom.

D. Critiques of statehood

The Kingdom of North Dumpling is a useful forum for Kamen to gain media attention for his economic interests and political concerns, but micronations are also established for more critical reasons. In their form and function, micronations ‘mimic and in many ways parody established sovereign nation-states’, allowing ‘for playful and critical approaches to sovereignty’.¹¹⁵ Indeed, as Philip Hayward has noted, assertions of secession are often ‘highly performative and/or rhetorical’, and for this reason several micronations ‘have been formed by artists in response to local issues and/or as components of broader artistic projects’.¹¹⁶ Consider the Kingdom of Elgaland & Vargaland (KREV), for example. Developed by Swedish artists Carl Michael von Hausswolff and Leif Elggren in 1992, KREV has a flag and national anthem, and issues passports and stamps on request.¹¹⁷ KREV claims sovereignty over ‘all border frontier areas between all countries on earth, and all areas (up to

¹⁰⁷ RYAN, DUNFORD and SELLARS, *supra* note 18, 62-68.

¹⁰⁸ *Id.*, 63.

¹⁰⁹ MicroCon 2015 (Anaheim, CA, April 11, 2015), <http://www.molossia.org/microcon/microcon2015.html>.

¹¹⁰ Nick Ravo, *From L.I. Sound, A New Nation Asserts Itself*, NEW YORK TIMES (April 22, 1988).

¹¹¹ Clarice Butkus, *North Dumpling Island: Micronationality, the Media and the American Dream*, 8 SHIMA: THE INT’L J OF RESEARCH INTO ISLAND CULTURES 84, 85 (2014).

¹¹² *Id.*, 87.

¹¹³ Michael Inbar, *Welcome to secret island of an eccentric genius*, TODAY (October 22, 2010), <https://www.today.com/news/welcome-secret-island-eccentric-genius-wbna39775733>.

¹¹⁴ George Dunford, *A Mini-History of Micronations*, THE FUTURIST 34, 34 (May-June, 2009).

¹¹⁵ Fiona McConnell, Terri Moreau and Jason Dittmer, *Mimicking State Diplomacy: The Legitimizing Strategies of Unofficial Diplomacies*, 43 GEOFORM 804, 810 (2013).

¹¹⁶ Hayward, *supra* note 106, 160. See also the Kingdom of Lovely and Neue Slowenische Kunst, discussed in Eda Cufer and Irwin, *NSK—State in Time*, in PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS 86-102 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

¹¹⁷ Kingdoms of Elgaland-Vargaland <<https://elgaland-vargaland.org/>>. Discussed in Mika Hannula, *Nightmares Fallen from the Tree*, in PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS 19-20 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

a width of 10 nautical miles) existing outside all countries' territorial waters'.¹¹⁸ This expansive claim is intended to challenge the concept of the nation state. As King Michael I explains, 'the nation state is bullshit in our opinion...it barely has any power. The multinational companies have the economic power and the economic power runs everything else'.¹¹⁹

KREV's assertion of physical territory is intended to critique state sovereignty, but other conceptual art inspired micronations have firmer physical territory, even if their claims for sovereignty are similarly weak. The State of Sabotage (SOS), for instance, began entirely as an art project aimed at challenging 'the condition of statehood'.¹²⁰ Founded in 2003 by Czech artist Robert Jelinek as part of the *Amorph! Festival of Micronations*, SOS subsequently bought land near Tenterfield on the New South Wales/Queensland border in Australia. As Jelinek explains, this location was chosen because in 1889 Henry Parkes delivered the Tenterfield Oration, advocating the federation of the Australian colonies, and as such, the town is considered the 'birthplace of [the] nation'.¹²¹ SOS's transformation from conceptual art piece to proprietor of real property suggests micronations can develop and evolve in their motivations and form.

E. Political protest

Micronations do not just challenge existing understandings of nationalism and globalism. Rather, in asserting sovereignty over a defined physical territory, writing constitutions, regulating citizenship status, and performing other acts of sovereignty, micronations are 'active political agents...[whose]...experimental politics'¹²² can have 'a real transformative force'.¹²³ For this reason, micronations are often founded as a mechanism to protest government policy or state actions, and not just with frustration at the administrative state. For example, the online Republic of Veysnoria emerged in 2017 as a political riposte to the autocratic Belarusian state conducting joint-military exercises with Russia in Western Belarus.¹²⁴ Similarly, the Gay and Lesbian Kingdom of the Coral Sea Islands was founded in 2004 in protest at the passage of Australian legislation prohibiting same sex marriage.¹²⁵ Self-styled Emperor Dale Anderson sailed to the uninhabited island of Cato, east of the Great Barrier Reef, planted a flag, issued a Declaration of Independence, and laid a memorial plaque.¹²⁶ Emperor Dale explained his motivations:

[O]nly sovereign states and territories can access an international court. So ...we can't as a community take on Iran and say, look, why did you, you know, kill those two teenage boys last month because they were gay ...we

¹¹⁸ *Id.*, 66.

¹¹⁹ King Michael I cited in *Round Table Talks*, in *PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS* 141 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

¹²⁰ Robert Jelinek, *Summit of Egonations—How Not to Start Your Own Country*, in *PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS* 126, 127 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

¹²¹ Robert Jelinek, *Notes of Seduction*, in *PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS* 128, 129 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

¹²² Astapova and Navumau, *supra* note 68, 442.

¹²³ Tellerovo Kalleinen and Oliver Kochta-Kalleinen, *Foreword*, in *PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS* 6, 6 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005).

¹²⁴ Astapova and Navumau, *supra* note 68, 440.

¹²⁵ Marriage Amendment Act, 2004 (Aust).

¹²⁶ RYAN, DUNFORD and SELLARS, *supra* note 18, 39.

thought, if we have a sovereign, if we have some type of sovereignty that could access the courts and give gay people a voice on the international stage, whether it be through the UN or [whatever]...then why not look at doing that?¹²⁷

Reflecting its existence as a political statement, Emperor Dale dissolved the Kingdom in 2017, following the legalisation of same-sex marriage in Australia.¹²⁸

IV. LEGAL ISSUES

Micronationalism is a diverse phenomenon, with these non-state actors varying widely in form and function. This has consequences for the public law issues that they provoke. For instance, micronations that purport to claim authority over specified territory give rise to questions over the recognition and regulation of acts of secession, while micronations that reclaim land, develop floating structures on the sea, or seek to build habitable structures in space, can catalyse enquiries into customary international law's conditions for statehood. In contrast, micronations established as humorous endeavours or even conceptual art projects may not intend to seriously engage in these debates, but they too still face questions over the enforcement of domestic laws. In this part, we explore how micronations seek to legitimate their sovereignty, and how states respond to the formation and establishment or potential challengers within their midst. Our discussion illuminates the ways in which micronations ignore or seek to flout public law.

A. *Assertions of Sovereignty*

Micronations challenge existing conceptions of statehood and international legal personality, but do so largely by engaging in statehood rituals rather than contesting them. In practice, this means that although usually unqualified or unskilled in law,¹²⁹ proponents act through their understanding of the law, rather than acting outside the law. Instead of unilaterally declaring independence, they send letters to government officials, foreign states, and even the United Nations, informing them of their planned actions, and justifying those actions under their interpretations of international law.

Such performative assertions, or mimetic reproductions, of sovereignty can have an effect regardless of the state response.¹³⁰ If the state refrains from responding, the micronation may regard that non-response as an implicit acceptance of its sovereignty. Likewise, if the state reacts by simply acknowledging receipt or suggesting an alternative department to contact, the micronation may assert that its sovereignty has been recognised. Finally, if the state responds by implying that the micronation has engaged in some form of criminality, it opens up space for political and legal debate for the micronation to contest its claim. As Stuart Hill, the leader of the Crown Dependency of Forvik has remarked, 'it's a win-win situation'.¹³¹

¹²⁷ Interview with Emperor Dale Anderson, *cited in* Lattas, *supra* note 31, 133.

¹²⁸ Marriage Amendment (Definition and Religious Freedoms) Act, 2017 (Aust), amending the Marriage Act, 1961 (Aust).

¹²⁹ Lattas, *supra* note 5, 2.

¹³⁰ McConnell, Moreau and Dittmer, *supra* note 115, 810.

¹³¹ *Cited in Id.*

Consider the Principality of Hutt River. Following realisation that he would not be excluded from the enforcement of Western Australia's wheat quota, Leonard Casely took radical action. On 21 April 1970, Casely served a formal notice of secession to the Australian government, contending that the Magna Carta and the Atlantic Charter permits individuals threatened with loss of economic livelihood to form a 'self-preservation government'.¹³² The Australian government did not reply. Two years later, on 21 April 1972, Casely officially declared the formation of a new state,¹³³ and adopted the ordinary state protocols: a flag was designed, a Constitution drafted, and a government formed.

Prince Leonard did not identify what section or which aspect of the Magna Carta or Atlantic Charter he drew upon in purporting to legitimate his self-preservation government. This is relatively common. Reflecting an awareness, but certainly not mastery of, legal argument and legal instruments, foundational documents like the Magna Carta are often blithely cited by micronations seeking to legitimate their actions. Other international instruments frequently adopted include the 1966 International Covenant on Civil and Political Rights, which recognises the right of all peoples to self-determination, as well as the 1689 English Bill of Rights.¹³⁴

A range of international instruments are also often proffered in support. The Grand Duchy of Westarctica, for example, asserts its sovereignty on the basis of a supposed loophole in the Antarctic Treaty.¹³⁵ The Treaty precludes nations from making territorial claims, but according to Travis McHenry, does not prohibit claims made by individuals.¹³⁶ Discovering that Marie Byrd Land, an uninhabited 1,610,000km² parcel of land between the Ross Ice Shelf and the Ross Sea had not been claimed by any state, McHenry claimed it for himself—and then established a state to rule over the land. On 2 November 2001, McHenry wrote letters to each of the twelve original signatories of the Antarctic Treaty announcing his formal claim. His letter was ignored, but the Grand Duke continues to assert and exercise Westarctican sovereignty by contacting states across the globe and requesting formal diplomatic relations. While no internationally recognised state has yet accepted, the Duchy has entered into a treaty of mutual recognition, cooperation and friendship with the Republic of Molossia.¹³⁷

The Law of the Sea also often serves as a key instrument underlying the purported independence of micronations. For instance, in 1968, two Italian citizens built an artificial island off the coast of Rimini in the Adriatic Sea. Located 300m outside Italian territorial waters, the entrepreneurs declared it a new independent nation named *Isola Delle Rosa*—the Republic of Rose Island.¹³⁸ When the harbour office of Rimini issued a demolition order, the citizens appealed to the Italian Council of State, arguing that 'the Geneva Convention on the High Seas, ratified by Italy, granted a right to the free use of the high seas both to States and

¹³² Letter from Leonard Casely to Sir David Brand (Premier, Western Australia) (April 21, 1970), [http://www.principality-hutt-river.com/Principality%20Downloads/Historic%20Documents/Fait%20Accompli%20\(original\).pdf](http://www.principality-hutt-river.com/Principality%20Downloads/Historic%20Documents/Fait%20Accompli%20(original).pdf).

¹³³ RYAN, DUNFORD and SELLARS, *supra* note 18, 23.

¹³⁴ Bill of Rights, 1688 1 Will & Mary sess 2 c 2 (U.K.). See Lattas, *supra* note 5, 8.

¹³⁵ *The Antarctic Treaty* 402 U.N.T.S 71 (opened for signature 1 December 1959 and entered into force 23 June 1961).

¹³⁶ RYAN, DUNFORD and SELLARS, *supra* note 18, 111.

¹³⁷ *Id.*, 112.

¹³⁸ Samuel Pyeatt Menefee, "Republics of the Reefs": *Nation-Building on the Continental Shelf and in the World's Oceans*, 25 CAL. W. INT'L L.J. 81, 105 (1994).

to individuals'.¹³⁹ The Council of State dismissed this argument. Instead, it held that the Convention 'only creates rights and obligations of an international character for the Italian State with respect to other nations of the international community'.¹⁴⁰ The Republic was subsequently demolished.

Even where the Law of Sea does not found a claim of sovereignty, it often plays a role in the purported establishment of a new micronation. In 1997, for example, Greenpeace claimed a 785m² rocky atoll, named Rockall located 167 nautical miles west of Scotland's St Kilda archipelago and around 230 nautical miles northwest of Ireland. Initially the subject of competing claims by Iceland, Ireland, and Denmark, the UK annexed the tiny granite knoll in 1955 to prevent the USSR from using it to monitor British missile testing and to use it as a base to further its exclusive economic zone.¹⁴¹ In 1972 it sought to perfect this claim by fixing a plaque and formally incorporating it into the Shire of Inverness.¹⁴² However, art 121 of the *United Nations Convention on the Law of the Sea* (UNCLOS) precludes uninhabitable rocks from sustaining an exclusive economic zone. When the UK signed the UNCLOS in 1997, it acknowledged that Rockall could not sustain human habitation, and therefore lost its claim to a 200 mile exclusive economic zone.¹⁴³ In June 1997, Greenpeace landed. Announcing that they rejected British sovereignty, they claimed the rock and adjacent seas 'for the planet and all its peoples', and declared Rockall the capital of the new global state of Waveland.¹⁴⁴ Around 15,000 people across the world registered as citizens, attracted by its founders' stated aspiration 'to protect the global commons rather than to exploit it',¹⁴⁵ and its commitment to block fisheries and oil exploration. The UK government ignored the development. Greenpeace's occupation ended after 42 days and Waveland has since ceased to exist.

Rockall may not be inhabited, but it is still claimed by the UK. The Republic of Liberland, by contrast, grounds its existence and authority on the international law doctrine of *terra nullius*. Located on a small uninhabited parcel of land beside the Danube River, Liberland's territory is claimed by neither Croatia nor Serbia. Although once part of Serbia, the land was formally handed over to Croatia when the international borders were redrawn following the dissolution of Yugoslavia.¹⁴⁶ However, Croatia refuses to recognise its possession because doing so would force it to accept the new border, which gives significantly greater portions of historically Croatian lands to Serbia than vice versa.¹⁴⁷ Croatia therefore insists that Liberland is Serbian. For its part, Serbia has issued a statement that Liberland would 'not theoretically

¹³⁹ Chierici (November 14, 1969) 71 ILR 258, 259.

¹⁴⁰ *Id.* See also Menefee, *supra* note 138, 105-106; Imogen Saunders, *Artificial Islands and Territory in International Law*, 52 VAND. J. TRANSNAT'L L. 655, 667 (2019).

¹⁴¹ Stephen Royle, "This Mere Speck in the Surface of the Waters": *Rockall aka Waveland*, 8 SHIMA: THE INT'L J OF RESEARCH INTO ISLAND CULTURES 72, 76 (2014).

¹⁴² Island of Rockall Act, 1972 (c. 2) (U.K.). During debate over the Bill, Lord Kennet said of Rockall: 'It is a dreadful place. There can be no place more desolate, more despairing, more awful to see in the world': United Kingdom, *Parliamentary Debates*, House of Lords, vol 325, col 754-755 (Lord Kennet) (November 18 1971).

¹⁴³ Royle, *supra* note 141, 78.

¹⁴⁴ *Id.*, 79-80.

¹⁴⁵ *Cited in Id.*, 80.

¹⁴⁶ MLADEN KLEMENČIĆ AND CLIVE SCHOFIELD, WAR AND PEACE ON THE DANUBE: THE EVOLUTION OF THE CROATIA-SERBIA BOUNDARY 12 (2006); Peter Radan, *Post-Secession International Borders: A Critical Analysis of the Opinions of the Badinter Arbitration Commission*, 24 MELB U. L. R. 50, 52 (2000).

¹⁴⁷ Rossman, *supra* note 22, 311-2.

impinge on its border'.¹⁴⁸ Nonetheless, as we explore in the following section, despite asserting authority over unclaimed land, Liberland and its 500,000 online citizens have been prevented by Croatia from exercising any authority.

Micronations do not only assert their sovereignty in the immediate act of secession. As we have noted, many founders enjoy sovereignty's performative aspects. This includes designing flags, drafting Constitutions, minting currency, and sometimes selling 'royal' titles. The Principality of Sealand, for instance, offers several titles at different price points. A person can become a Lord, Lady, Baron or Baroness for US\$44.99, a Sir or Dame for US\$146.99, a Count or Countess for US\$294.99, or a Duke or Duchess for US\$734.99.¹⁴⁹ Performative aspects can also encompass attracting citizens to populate the new nation—an exercise that can bring in substantial capital. As Lars Vilks, the founder of Ladonia discovered, however, mimicking statehood can create challenges.

During the 1980s Vilks built two large sculptures in an inaccessible nature reserve near Skåne, Sweden. When the local authorities discovered the sculptures they ordered their destruction, reasoning that they were buildings which were prohibited in the reserve. Following a series of appeals, Vilks eventually proclaimed the establishment of Ladonia in protest in 1996.¹⁵⁰ Eager to attract citizens to the new nation, Vilks set up an online citizenship form. In the early years, a steady but small stream of new citizens applied and were registered. In 2002, however, this process became problematic, as migrants and refugees from across the globe, believing Ladonia to be a real country, applied for citizenship with the hope of obtaining a pathway into Sweden and Europe.¹⁵¹ Vilks explains:

Suddenly the reality in the world connects in a very direct, very bizarre way. Ladonia is a kind of ridiculous thing. You make a toy country and everyone says, 'well you're just playing around'. But then this comes. Something happens; it has consequences, certain consequences you wouldn't even imagine...

They don't know that Ladonia has something to do with an art project. They have no references to such a thing because they say: 'why would you do that?' It happened that some people even thought we played a nasty trick on them, you know.¹⁵²

Micronations are non-state entities, but their purported legal status can negatively affect persons seeking in good faith to rely on this status. It can also be beneficial for fraudsters and other individuals seeking to avoid domestic and international regulation. For instance, the now defunct New Age International University claimed to be 'a leading university of

¹⁴⁸ Euan McKirdy, *Liberland: Could the world's newest micronation get off the ground?*, CNN (April 19, 2015), <https://edition.cnn.com/2015/04/25/europe/liberland-worlds-newest-micronation/index.html>.

¹⁴⁹ Sealand, *Sealand Shop*, <https://www.sealandgov.org/shop/>.

¹⁵⁰ Lars Vilks, *Ladonia*, in PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS 76, 76 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005); Ladonia, *Ladonia* (2019), <https://www.ladonia.org/history/>.

¹⁵¹ Vilks, *supra* note 150, 77.

¹⁵² Interview with Lars Vilks and Martin Schibli (Susan Kelly, August 29, 2003) In Susan Kelly, *Lobby*, in PROTOCOLS: AMORPH!03>SUMMIT OF MICRONATIONS 152, 154 (TELLERVO KALLEINEN AND OLIVER KOCHTA-KALLEINEN eds., 2005)

Seborga', licensed by the Principality's Department of Education.¹⁵³ However, admissions, licensing and certification was controlled by an institute in Kolkata, India, and the university was not accredited in Italy or any other European country. The university was a diploma mill, established to provide illegitimate academic degrees for a fee. As these two examples demonstrate, micronations can be exploited for criminal and other like purposes. That some people find it hard to distinguish between them and recognised nations will, if nothing else, create opportunities for exploitation.

B. State Responses

In declaring independence, drafting a constitution, regulating citizenship and issuing passports, micronations position themselves as rival sites of authority. Internationally recognised states respond in various ways. In some cases, perceiving their existence as a provocation or threat to their own claims of authority and to jurisdiction, states act in swift and decisive ways to foreclose micronations' scope of action. In other cases, states determine to ignore micronations, considering them to be unserious or unthreatening. In all circumstances, however, states deny the international legal personality of micronations and ensure that any encounter occurs entirely within and according to domestic law.

Micronations may appear trivial, but where a state perceives its own authority contested or open to question, it can respond violently to what appear to be secessionist projects. The Republic of Minerva, for instance, collapsed when a small contingent of soldiers arrived to assert Tongan sovereignty.¹⁵⁴ Similarly, in 2019 Thai authorities raided a floating cabin anchored 12 nautical miles off the Phuket coast in the Andaman Sea, contending that the structure endangered national sovereignty. The American and Thai couple avoided capture, but a police complaint alleges they intended to 'deteriorate the independence of the state', an offence punishable by death.¹⁵⁵ The recently-declared Republic of Liberland faces comparable challenges, despite laying claim to a small uninhabited portion of land not claimed by any major state. Concerned over allowing a precedent to develop, Croatian authorities have frequently prevented Vit Jedlička and other supporters from accessing the area.¹⁵⁶ Supporters have been detained and fined for illegally crossing the Croatian border. Czech-born Jedlička has even been banned from entering Croatia.¹⁵⁷

As purportedly independent states, micronations are often used as a vehicle to avoid domestic laws. However, even where states do not actively seek to curtail their existence, states act to ensure that micronations cannot avoid the ordinary laws of the land. A key site of contestation between micronations and internationally recognised states is over the

¹⁵³ Institute of Education Research and Development, *Ph.D Programme*, https://www.webcitation.org/6CoUGqmYA?url=http://ierdworld.org/phd_programmeabroad.

¹⁵⁴ Hennessy, *supra* note 71.

¹⁵⁵ Alan Weedon, *Bitcoin couple could face death penalty in Thailand for 'seastead' floating home in international waters*, ABC NEWS (April 19, 2019), <https://www.abc.net.au/news/2019-04-18/bitcoin-couple-face-death-penalty-in-thailand-for-seastead/11031336>.

¹⁵⁶ Dusan Stojanovic, *Police in the Balkans block inauguration of Europe's new "mini-state"*, US NEWS (May 9, 2015), <https://www.usnews.com/news/business/articles/2015/05/09/microstate-tax-haven-in-the-balkans-not-that-easy>; Sally Hayden, *Liberland Accuses Croatia of Invasion and Releases Video of "Citizen" Abduction*, VICE NEWS (June 20, 2015), https://news.vice.com/en_us/article/43my8n/liberland-accuses-croatia-of-invasion-and-releases-video-of-citizen-abduction.

¹⁵⁷ Joylon Jenkins, *The man who created a tiny country he can no longer enter*, BBC NEWS (November 14, 2016), <https://www.bbc.com/news/magazine-37941931>.

enforcement of domestic laws of taxation. For instance, Prince Casely of the Principality of Hutt River has repeatedly found that the Australian state still considers him bound by the provisions of the relevant Income Tax Acts. In a series of cases over the years, Australian courts have held that arguments that the Province is ‘not part of Australia and not subject to Australian taxation laws’ are ‘completely unarguable’, ‘fatuous, frivolous and vexatious’,¹⁵⁸ and ‘gobbledygook’.¹⁵⁹ As Le Miere J of the Western Australian Supreme Court noted in 2017: ‘Anyone can declare themselves a sovereign in their own home but they cannot ignore the laws of Australia or not pay tax’.¹⁶⁰

The Australian government’s relaxed approach to the more extreme dimensions of the Principality’s assertion of sovereignty has been combined with a strict approach to the enforcement of domestic law. Other Australian micronations have had similar experiences. In 2005, the Princes of Ponderosa,¹⁶¹ Virgilio, Philip, and Joseph Rigoli were sentenced to jail and fined \$25,000 for failing to declare income from their polystyrene-box manufacturing business,¹⁶² though the conviction was overturned on appeal.¹⁶³ The same is true for the Principality of Snake Hill. In a 2012 interview with *The Atlantic*, Princess Paula of Snake Hill explained how the Australian government reacted to their declaration of independence:

‘We did fully expect the response that most people do get around the world when they try to secede: they usually get a letter or some visits from government employees who try to mediate the situation’, Paula says. ‘Mum even said that they’ll send tanks. I said: “Relax, this is Australia, no one reads anything”. And it’s true. They just sent a letter saying, “Thank you very much for the letter”, and that was it’.¹⁶⁴

Nonetheless, citizens of the Principality of Snake Hill have been forced to contest actions against a series of banks within Australian courts. In September 2009, the New South Wales Supreme Court held in favour of the Bank of Queensland in a lawsuit to recover over \$800,000 from the Royal Family. Princess Paula was unable to bring the case before the International Court of Justice, but appeared frequently in New South Wales courts between 2011 and 2014.¹⁶⁵

In some cases, micronations resolve disputes with their larger neighbours through creative means. For example, the Republic of Molossia continues to pay property taxes to the relevant Nevadan local government, but characterises it as foreign aid. Similarly, despite the

¹⁵⁸ *Casley v. Commissioner of Taxation*, [2007] HCATrans 590 (Heydon J).

¹⁵⁹ *Deputy Commissioner of Taxation v. Casley* [2017] WASC 161, [15] (Le Miere J). See also *Casley v. Commonwealth* [2017] WASC 196.

¹⁶⁰ *Deputy Commissioner of Taxation v. Casley* [2017] WASC 161, [5].

¹⁶¹ See *Rigoli and Commissioner of Taxation* [2012] AATA 757, [20] (November 1, 2012).

¹⁶² “*Prince*” and heir jailed over tax fraud, THE AGE (July 30, 2005),

<https://www.theage.com.au/national/prince-and-heir-jailed-over-tax-fraud-20050730-ge0ltd.html>.

¹⁶³ Peter Gregory, “*Prince*” free as tax fraud overturned, THE AGE (January 26, 2006),

<https://www.theage.com.au/national/prince-free-as-tax-fraud-overturned-20060126-ge1n0s.html>.

¹⁶⁴ Cited in Siegel, *supra* note **Error! Bookmark not defined.**84.

¹⁶⁵ See for example *Bank of Queensland v. Hoerman* [2011] NSWSC 73 (February 22, 2011); *Jensen v. Bank of Queensland* [2011] NSWCA 71 (March 25, 2011); *Combe v. Bank of Queensland* [2011] NSWSC 1347 (November 11, 2011); *Bank of Queensland Ltd v. Jensen* [2011] NSWSC 1566 (December 16, 2011); *Combe v. Bank of Queensland (No 3)* [2012] NSWSC 1172 (September 28, 2012); *Jensen v. Bank of Queensland (No 2)* [2013] NSWSC 1325 (September 20, 2013); *Jensen v. State of New South Wales* [2014] NSWSC 682 (May 15, 2014).

Principality of Hutt River's longstanding clash with the Australian government, it has paid local shire rates for many years. Rather than accept this as taxation, however, it reports this action variously as 'an annual gift, a goodwill gesture to the local community, international courtesy, or a donation'.¹⁶⁶ Although it is unlikely that the local shire pays much attention to the terminology, it ensures that the Principality can continue to assert and exercise its sovereignty without further attention from the Australian state.

Disputes over taxation are most prominent, but micronations challenge a plethora of state laws. In doing so, they can sometimes secure successes. Take the Principality of Sealand as an example. Roy Bates was already mired in legal disputes with the UK prior to Sealand's declaration of independence. Bates had made no effort to pay his 1966 fine or costs order,¹⁶⁷ Customs sometimes refused to clear his boat for departure because it lacked a seaworthiness certificate, and the UK government had commissioned legal advice to eject him.¹⁶⁸ That advice concluded that UK criminal jurisdiction may extend to Sealand. Following an incident in May 1968, where Bates' son, Michael, fired a pistol in the direction of lighthouse staff working on a buoy near Roughs Tower, Roy and Michael were indicted for violations of the *Firearms Act*.¹⁶⁹ Unfortunately for the UK, the case was dismissed. Justice Chapman held that although the Parliament possessed 'the power to make it an offense for a British subject to have a firearm with intent to endanger life in Istanbul or Buenos Aires, or where have you', it had not done so in this case; the *Firearms Act* was held to 'operate only within the ordinary territorial limits'.¹⁷⁰ While the Court did not hold that Sealand was independent—and in fact concluded that the Parliament could extend its jurisdiction to encompass the offshore platform—the Principality nonetheless considers it de facto recognition.¹⁷¹

In the aftermath of this decision, James Grimmelmann notes that the issue was 'promptly escalated back up to the Cabinet Office', which 'came to a pragmatic conclusion'.¹⁷² Bates' continued occupation may have been undesirable, but as he was 'doing no actual harm...and the Ministry of Defence had not need of the Fort themselves', 'there were no pressing reasons for evicting Mr Bates, certainly none that would justify the use of force or the passage of special legislation'.¹⁷³ This decision set in place the UK's approach to the Principality over the following decades. Sealand may have its own Constitution, as well as flag, coat of arms, national anthem, and passport, and it may also attempt to negotiate with other sovereign states,¹⁷⁴ but the UK generally ignores it in recognition that it is in reality a non-state actor with no claim to jurisdictional authority—provided that it does not cause trouble.¹⁷⁵

Sealand is well aware of this unstated arrangement. In 2000, the Principality reached agreement with HavenCo, a US data hosting company, allowing it to operate from Roughs Tower. HavenCo's libertarian directors intended the company to 'offer its customers a

¹⁶⁶ de Castro and Kober, *supra* note 3, 154.

¹⁶⁷ See *supra* note 73.

¹⁶⁸ Grimmelmann, *supra* note 72, 419-422.

¹⁶⁹ *Id.*, 422; *Firearms Act 1968*, 1 Edw. 8 & 1 Geo. 6, c. 12, s 22 (U.K.).

¹⁷⁰ *R v. Bates, The Shire Hall, Chelmsford* (October 25, 1968) 8 (Chapman J). The UK extended its territorial jurisdiction to 12 miles, encompassing Rough Towers, in 1987: *Territorial Sea Act 1987* c. 49, s 1(a) (U.K.).

¹⁷¹ Sealand, *About the Principality of Sealand* (2019), <http://www.sealandgov.org/about/>.

¹⁷² Grimmelmann, *supra* note 72, 423.

¹⁷³ *Minutes of Meeting Re: Roughs Tower* (5 November 1968) (UK-NA: CAB 1301355) cited in *Id.*, 423.

¹⁷⁴ *Id.*, 438.

¹⁷⁵ As Adam Grydehøj notes, 'it is not particularly difficult to get away with claiming that a tiny piece of land is its own country—as long as one does not really inconvenience one's host state': Grydehøj, *supra* note 4, 44.

combination of first-world infrastructure and third-world regulation'.¹⁷⁶ While Sealand would not permit a 'zone of complete lawlessness', HavenCo expected its typical customer to 'be a company looking for subpoena-proof data storage'.¹⁷⁷ It claimed that as Sealand was not a member of the World Trade Organisation or the World Intellectual Property Organisation, international intellectual property law and copyright did not apply. Ultimately, this arrangement collapsed after only a few years. Concerned that HavenCo 'was bad for Sealand's image and quest for sovereignty', the Bates' ejected the original US directors and adopted a new acceptable use policy consistent with international and EU laws.¹⁷⁸

HavenCo demonstrates the contested terrain of legality that micronations straddle. The data hosting company sought to rely on international law recognising Sealand's claim for legal personality in order to protect its operations from UK domestic law. This position proved precarious for the company, however, as Sealand itself felt pressure to ensure it did not cause anxiety to recognised states by breaching international and domestic laws. This example also demonstrates that the enjoyment that comes from undertaking rituals of statehood and appropriating sovereignty can have a darker side. While micronations are generally regarded as trivial, they can be used as a vehicle to threaten the effective implementation and enforcement of domestic and international law. Even though their claim for international recognition is spurious, the act of dressing in the language of statehood can confuse and elide material distinctions.

V. CONCLUSION

In this article, we have provided the first legal survey of micronations. Exploring several accounts of micronations, we have devised a definition that encompasses their critical legal elements and situated this definition within understandings of statehood in order to distinguish them from other similar entities. We have found that micronations are self-declared nations that perform and mimic acts of sovereignty, and adopt many of the protocols of nations, but lack a foundation in domestic and international law for their existence and are rarely recognised as nations in domestic or international forums.

This definition allows us to focus on the motivations of the founders and proponents of various prominent micronations. Our article demonstrates that micronations come in many shapes and sizes; the considerable diversity essentially reflecting a multiplicity of justifications and rationalizations for their emergence. Some are established as conceptual art projects designed to critique understandings of statehood and sovereignty. Others are founded in a combination of frustration with regulation and the burning sense of a political injustice. Still others owe their formation to their creators' sense of personal expression and desire for attention. In all cases, however, although micronations may purport to assert sovereignty in any number of ways, they remain conceptually distinct from recognised states.

Micronations are frequently dismissed as trivial or an oddity. Nonetheless, in dressing in the language of statehood and purporting to claim sovereignty these non-state entities provoke important public law challenges. Whatever their nature or form, micronations catalyse questions over the nature of statehood, international legal personality, and legitimate authority. Exploring the phenomenon of micronationalism sheds light on the manner in which

¹⁷⁶ Cited in Grimmelmann, *supra* note 72, 451.

¹⁷⁷ *Id.*, 452.

¹⁷⁸ *Id.*, 455-6.

the politics of recognition plays out. Micronations position themselves as competing sites of authority capable of or legitimately entitled to exercise jurisdiction over place and people. On this account, disputes between recognised and unrecognised authorities is part of a larger story that concerns ‘encounters between rival jurisdictions’.¹⁷⁹ Unsurprisingly, states do not accept this framing. As we have demonstrated, state responses stretch from the benign to the violent, but in each case they deny the international legal personality of micronations and act to ensure that any encounter takes place entirely within the domain of the law of the state.

Micronations resist this move by states and continue to assert their sovereignty in myriad ways, even if there is no realistic prospect this will lead to their recognition as states. Indeed, a key characteristic of micronations is the absence of a legal basis in domestic and international law for secession and independence. In this sense, it is not so much that micronations exist in the shadow of the law as in complete contradiction to it. Yet, this will not stop eccentric and committed individuals from testing the waters. As the Principality of Hutt River’s motto records, ‘While I Breathe, I Hope’.¹⁸⁰

¹⁷⁹ Sundhya Pahuja, *Laws of Encounter: A Jurisdictional Account of International Law*, 1 LONDON REV OF INT’L LAW 63, 65 (2013).

¹⁸⁰ Mark McGinness, “Prince” Leonard of Hutt River Province, SYDNEY MORNING HERALD (February 27, 2019), <https://www.smh.com.au/national/prince-leonard-of-hutt-river-province-20190227-p510iq.html>.