Acknowledgments 199, 215
Act of Union 284, 285, 287
on international law 286
African Charter on Human and Peoples’ Rights 47
Ahtisaari, Martti 172
Albania 53
Allgemeine Staatslehre 16
Alma–Ata agreements 250, 251
Alma–Ata Declaration 253, 255
Alvarez, Alejandro 34
American Civil War 124
American Convention on Human Rights 101
anachronism 19
anarchy 208
Arab Charter on Human Rights 47
Arbitration Commission 67
armed conflict 322
armistice agreements 281, 288
ARSIWA 4, 5
Article 40 of 4
Article 41 of 4
asymmetric powers
constitutionalisation of 198
Australia 18
Austria 27
automatic succession 333
Awami League 317, 318, 319, 321, 323
Awami League leadership 318
Badinter Arbitration Committee 362
Badinter Commission 67, 103, 105, 224, 225, 226, 227, 228, 229, 230, 231, 233, 236
Badinter, Robert 67, 224
Balfour Declaration 277, 278, 279, 281
Balkans 214
Baltic republics 242
position of 243
Baltic states 103, 218, 219, 220, 242, 244, 252, 255
Baltic states qua states 245
Bangladesh
and right of remedial secession 312
secession of 317
Barre, Siad 296
Belarus 241
Belfast Agreement 70
Belgian Constitution 350
Bell, Christine 132
bilateral investment treaties (BITs) 338
bilateral treaties 271
birth certificate 16
bloodless revolution 296
border treaties 337
Bosnia 61, 66, 67, 68, 69, 70, 73
Bosnia-Herzegovina 223, 227, 228, 230
Bosniak-Croat Federation (FBIH) 69
Bosniak population 70
Bosnian realities 69
Bossacoma, P 187, 189, 190
Boyle, Alan 235
Brexit 145
Brexit referendum 146
Brownlie, Ian 303
Buchanan, Alan 78
Burkina Faso/Mali Frontier Dispute case 45
business-enmity 209
Cameron, David 135
Canadian Secession Reference 138
Canadian Supreme Court 214
Carreras, Francesc de 189
Catalan conflict 197
Catalan Parliament 193
Catalan Parliament resolutions 185
Catalan secessionism 195
Catalan secessionist movement 196, 205
Catalan self-governance 199
Catalonia 92, 124, 132, 183, 188, 189, 198, 205, 206, 207, 350, 351
secessionism in 195
CCSBT 86
Chagos Opinion 45
Chechyna 54
CIS 253, 255
citizenship 140
civil rights 107
Clarity Act 125, 138, 142, 203, 205
Clausewitz, Carl von 84
colonialism 14, 18, 295
Committee on the Elimination of Racial Discrimination (CERD) 52
Commonwealth of Independent States (CIS) 218, 220, 241
Comprehensive Peace Agreement 145, 327
Research handbook on secession

consensual secessions 202, 206, 252, 253
consociational efforts 61
consociational institutions 69
consociationalism 70, 73
constellation of hybrids 40
invincible 35, 36, 37
constitutionalism 137
constitutional jurisprudence 189
constitutional theory 131
Constitution of the Federal Democratic Republic of Ethiopia 351
constitutive legal effect 77
contextual illegality 364
contingency 325
contingent justifications 78
continuator states 333
continuity 333, 334, 339
conventional wisdom 65
country 43, 45
Crawford, James 15, 82, 88, 95, 220, 235, 293, 308
Crimea 18, 20, 123
Crimean referendum 106, 119, 123
Croatia 67, 223, 224, 226, 227, 230
custodial international law 13, 14, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 80, 102, 110, 271
Cyprus 24, 56
Czech laisse-faire capitalism 272
Czechoslovakia 105, 236, 256, 257, 258, 259, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 341
political and constitutional dynamics 258
Czecho-Slovak relations 263
Czech Republic 271, 341
Czechs 256, 257, 258, 259, 266
Daesh 89
Dayton Accords 68, 73
Dayton Agreement 362
Dayton Constitution 69, 70
debts 272, 340
decision-making rule 142, 143
declaration of independence 112, 113, 115, 118, 120, 123, 124, 125, 126, 202
under national law 123
decolonisation 7, 8, 32, 116, 348, 352
decolonisation period 113
deepe blue sea 333
de facto recognition 288
de facto secession 3
de facto state 24
degree of hybridity 39
de jure recognition 219
democracy 79, 101, 111, 216, 359

disembodied role of 6
democratic centralism 259
democratic consensus 130
democratic governance 101
democratic legitimacy 129, 208, 209
demotic monism 186
desovietisation 342
Dion’s model 201
dissolution 238
dissolution thesis 251
disembratio 266, 267
dissolution
of Czechoslovakia 222, 223
of Soviet Union 218
Dissolution Act 266
dissolution of states 10, 218
dissolution process 240
distributive justice 79
Division of Property Act 272
domestic assets 341
domestication 210, 211, 215
domestic law 130
domestic law analogy 20
domestic legal systems 348, 349, 364
Draft Articles 344
drama 212, 213, 214, 215
Dubček, Alexander 259
Dworkin, Ronald 61, 64, 65
East Bank 283, 284
East Pakistan 317, 318, 319, 320, 321, 322, 325
East Timor 179
EAW 193
Edinburgh 134
Edinburgh Agreement 135, 140, 143, 145
effective control 39
effectiveness 14, 16, 25, 26, 27, 28, 295, 300, 301, 302, 307, 308, 310
effectivity 354
Electoral Commission 143
electoral register 140
Emirate of Transjordan 279
Englishness 139
enquiry
nature and value of 77
Estonia 53, 219, 242
eternity clauses 202, 203
ethically valuable politics 83, 87, 88, 89, 90
liberty to recognise 87
Ethiopia 296
European Arrest Warrant (EAW) 193
European Convention on Human Rights 101
European Court of Human Rights (ECtHR) 246
European Parliament elections 194
external dimension 98
external self-determination 304, 305
extraconstitutional secession 183
failed states
  principle of effectiveness and peculiarities 300
federal legislation 259
Federal Republic of Yugoslavia (FRY) 169, 170, 171, 231, 233, 332
Ferrer, Victor 194
Finland 53
First World War 6, 94
foreign recognition 82
former Soviet republics 250
Fourth Geneva Convention 58
franchise 140
French Revolution 94
Friendly Relations Declaration 55, 56, 58, 62, 98, 304, 313
friendship 87
Gabčíkovo-Nagymaros Barrage System 268
Germann, Micha 93, 95
global actors 31
Good Friday Agreement 70, 71, 72, 73
Gorbachev era reform processes 240
governance institutions 84, 85
gravitas 216
Greece 228, 229
Hashemite Jordan Kingdom 281
Havel, Václav 260
Helsinki Conference 357
Helsinki Final Act 1975 44, 50
Principle VIII of 49
Hlinka, Andrej 257
Höllander, Pavol 264
House of Elders 299
ICCPR 97, 98, 100, 106, 107, 108
ICCPR scheme 63
ICESCR 97, 98, 106
ICJ 5, 6, 7, 18, 21, 45, 53, 57, 100, 104, 105, 114, 116, 117, 122, 125, 173, 179, 336, 337, 361
ICJ, Advisory Opinion on Kosovo 173
ICJ Statute
  article 38(1) 27
  article 38(1) of 17
illegal secessions 4
implausible justification 78
independence 92, 93, 94, 95, 96, 97, 99, 102, 103, 104, 105, 110, 128, 211, 212
declarations of 6
restoration of 243
unilateral declaration of 112
international actors 214
international community 245, 250
International Court of Justice (ICJ) 2, 80, 96, 314
international disputes 82
international humanitarian law 354
international intervention 83
internationalised internal conflicts 61
International Law Commission (ILC) 177, 334
international law scholarship 246
international legal doctrine 180
international legal framework 8
international legal neutrality 4
international legal obligation 96
international legal order 334
international legal personality 15
international legal rights 330
international legal scholarship 348
international legal theory 16
International Monetary Fund 271, 272, 340
international observation 109
international organisations
  membership of 270, 339, 340
international personality 221, 223, 231, 232, 233, 234, 235, 236
international recognition 75, 79, 207, 213
international relations 89
international stability 90
international treaty 23, 27, 96
invincible constellation of hybrids 35
Ireland 53
Irish Republican Army (IRA) 71
Israel’s declaration of independence 281
Italian Constitution 349
independence referendums 92, 94, 129, 141, 145
legal effects of 7
requirements for conduct of 106
Independent International Fact-Finding Mission 119
indyref
  at the confluence of law and politics 137
  avoiding the judicialization of 136
  political road to 133, 134, 135, 136
indyref saga 132
infra-constitutional requisites 203
integral state territories 59
interim constitutional framework 121
internal dimension 97
internal homogeneity 129
internal self-determination 73, 303
international legal doctrine 180
international legal framework 8
international legal neutrality 4
international legal obligation 96
international legal order 334
international legal personality 15
international legal rights 330
international legal scholarship 348
international legal theory 16
International Monetary Fund 271, 272, 340
international observation 109
international organisations
  membership of 270, 339, 340
international personality 221, 223, 231, 232, 233, 234, 235, 236
international recognition 75, 79, 207, 213
international relations 89
international stability 90
international treaty 23, 27, 96
invincible constellation of hybrids 35
Ireland 53
Irish Republican Army (IRA) 71
Israel’s declaration of independence 281
Italian Constitution 349
Research handbook on secession

Jellinek, Georg 16
Jičínský, Zdeněk 264
Johnson, Boris 139
Jordan 53, 275
Jordan River 278
jus cogens 112, 114, 117, 118, 120, 121, 125, 177
violation of 117
Kantanga 75
Katangese Peoples’ Congress v Zaïre 48
Kevin Mgwanga Gunme v Cameroon 48
Khrushchev, Nikita 259
Klaus, Václav 261, 264, 265
Kosovo 20, 24, 83, 104, 181, 355
secession of 167
unilateral secession 174, 175, 176
Kosovo Advisory Opinion 5, 6, 56, 96, 114, 115, 176
Kosovo Albanians 172
Kosovo Liberation Army (KLA) 168
Krajina, Kninska 226
Latvia 219, 242
Lauterpacht, Hersch 15, 16, 20, 77, 82, 89
lawmaking power 211
law of statehood 29, 36, 39, 41
‘neutrality’ of 37
legal analysis 185, 192
legal barriers 205
legal boundaries 4
legality 4, 40, 133, 348, 352, 353, 354, 355, 359, 362
legal neutrality 2, 4
legal orders 202
legal personality 333
legal positivism 16
legal qualification 253
legal reforms 209
legal rules 128
legal salience 76
legal status 168
of secession referendums 188
legal uncertainty 208
legislative competence 136
legitimacy 3, 207, 354
lex specialis 173, 178
liberal democracies 201
liberalism 216
Lichtenstein 344
Lijphart 68
Lithuania 219, 241, 242
Llorente, Rubio 189
Luhmann, Niklas 99
MacCormick, Neil 134
Macedonia 223, 228, 229, 230, 231, 232
Machakos Protocol 97
Malcolm, Noel 168
Martí, J. L. 194
Mas, Artur 183
Masaryk, Tomáš Garrigue 257, 258
May, Theresa 139
Mazzawi 286
McCorquodale, Robert 20
McGarry, John 72
Mečiar, Vladimír 261, 263, 264, 265, 273
Mendez, Fernando 93, 95
Military Technical Agreement 170
Minsk Agreement 220, 221, 251
modern states 84
Montenegro
independence of 233, 234
Montevideo codification process 33, 34
Montevideo Convention 13, 14, 16, 32, 33, 34
Montevideo criteria 25, 180, 248, 325
colonial roots of territorialism 18
explanatory power, lack of 14
ir-relevance of 14, 18
natural or legal personality 15
Montevideo-plus theory 15
Mukti Bahini 323
Mukti Bahini fighters 320
multilateral treaties 269, 335
mutual recognition 86
nationality 330, 342, 343, 345, 346
national law 113, 123
national legal systems 351
national sovereignty 187
natural birth of a state 24
natural personality theory 16
negotiation 205, 346
neoliberal reforms 272
Netherlands 22, 53
‘neutrality’ paradigm 353, 354
Nicholson 25, 26
non-recognition 207
duty 88
non-state actors 22
normative capaciousness 132
normative realm 215
Northern Ireland 61, 64, 66, 70, 71, 72, 73
Notebohm 342
Novotný 259
objective factors 248
O’Leary, Brendan 72
openness 144
Operation Searchlight 318
opinio juris 17, 19, 24, 25, 27, 56, 57, 102, 324, 348, 353, 358, 361

Jure Vidmar, Sarah McGibbon, and Lea Raible - 9781788971751
Downloaded from PubFactory at 09/17/2023 10:31:13PM
via free access
Orakhelashvili, Alexander 117
Ottoman Constitution 276
over-legalised approaches 19
over-politicized approaches 19
pacta de contrahendo 330, 346
Palestine 275
Palestine Conciliation Commission 281
Palestine Liberation Organisation (PLO) 275
Palestinian Arab people 276
Palestinian Intifada 291
uprising 290
Palestinian people 276
Paris Peace Treaties 96
Partition Plan 287
peaceful environment 107
peel partition plan 279
People’s Democratic Republic of Algeria 75
perseverance 211, 215, 216
persistence 205
PLO 289, 290, 292
Poland 53
polarisation 206
political agreement 133
political community 65, 140
political decision 230
political judgment 193
political minorities 69
political participation 96, 98, 100, 101, 102, 110
Political Parties, Elections and Referendums Act 2000 (PPERA) 136
political reality 143
political rights 107
Portugal 62
Portuguese Constitution 202, 350
positivist scholarship 16
post-decolonisation 114
power 13, 139
PPERA 140
Prague Spring 259
‘procedural’ paradigm 359
pro-independence forces 132
property 272
public international law 358
public law 208
public law crisis 208
Puigdemont 184, 193
Purple dissolution 256
qualified constitutional right 204
Quebec 55, 64, 125, 149, 151, 152, 153, 154, 155, 158, 159, 162, 163, 164, 173
Québécois sovereigntist movement 196
Quebec referendum 109
Quebec Secession Reference 206
Quebec sovereignty 138
Radan, Peter 95
Rambouillet Accords 170
ramifications, conceptual 19
Rapporteurs’ language 46
constitutive theory of 77, 180
moral contribution of 85
referendum campaign 133
remedialising secession 213
remedial secession 40, 98, 176, 312, 328
doctrine of 326
Renan, Ernest 102
representative government 43, 47, 49, 50, 51, 52, 55, 56, 58
Republika Srpska Krajina (RSK) 57, 66
responsibility 330, 331, 332, 335, 338, 341, 343, 344, 346
Ribbentrop-Molotov Pact 220
Rich 232
right of veto 265
right to revolution 207
Romanian Constitution 202
RSFSR 240
RSFSR Declaration 249
rule of law 202
Russia 248, 250, 251
legal status 247, 252
position of 249
Russian-Georgian conflict 357
Salmond, Alex 135
salt water colonialism 59
San Remo Conference 276
saturation of thinking 41
Schoiswohl, Michael 301, 302, 307, 310
Scotland 2, 21, 81, 109
factors facilitating democratic process 140
political and constitutional process 128
Scotland Act 1998 133, 134, 135
Scotland Act 2016 137
Scottish Constitutional Convention 133
Scottish devolution referendum 142
Scottish independence referendum 138, 146
Scottish Independence Referendum Act 140
Scottish nationalism 132
Scottish National Party (SNP) 134
secession 1, 3, 29, 35, 36, 37, 38, 39, 40, 42, 47, 82, 83, 95, 129, 195, 200, 204, 238, 275,
Research handbook on secession
as non-linear process 145
consensual and unilateral 3, 4
illegal 4
independence and 112
in liberal-democratic contexts 201
law and politics 1
of Quebec 110, 125
political and constitutional process 130
unconstitutional declaration of 3
secession contests 131
secessionism 183, 195, 199
in Catalonia 195
secessionist claims 131
secession movements 78, 301
secession processes 364
illegality in 348
Secession Reference 7, 10, 138, 176, 181, 187,
206, 351
secession referendum 184, 188
secession trades 328
Second World War 7
section 30 order, Scotland Act 1998 134
Security Council Resolution 1244 115, 121, 167,
168, 170, 171, 172, 173, 174, 178, 179
self-determination 1, 9, 10, 15, 18, 19, 20, 21, 29,
35, 36, 38, 40, 42, 43, 45, 46, 47, 50, 51,
52, 56, 58, 71, 73, 74, 92, 93, 94, 95, 96,
97, 98, 99, 100, 101, 102, 104, 105, 108,
110, 113, 114, 130, 141, 144, 175, 177,
187, 205, 275, 282, 292, 293, 294, 295,
303, 306, 308, 309, 313, 316, 321, 322,
324, 350, 355, 356, 361, 362, 364
Self-determination of secession 59
structural conditions, political community 61
self-determination referendums 197
self-governance 192, 196, 197
Separation Agreement 75
Serbia 167, 168, 169, 170, 171, 172, 174, 178,
182, 351
SFRY 67, 168, 223, 224, 229, 230, 231, 232,
236, 251, 253
Slovak Christian Democrats 262
Slovak clericalism 257
Slovak Constitution 268
Slovakia 264, 341
Slovak Resistance 258
Slovens 256, 257, 258, 259, 264, 265, 272
Slovenia 53, 223, 224, 225, 226, 227, 230
SNP 134, 135, 139
Socialist Federal Republic of Yugoslavia
(SFRY) 60, 66, 168, 218, 239
societal homogeneity 142
Somalia 295, 298, 299
end of central government in 297
Somaliland 26, 293, 297, 299
contemporary position 299
independence for 308
Somali National Movement (SNM) 297
Somali Youth League (SYL) 296
South Africa 62
South African Constitution 349
Southern Rhodesia 15, 118
sovereign states 310
sovereignty 104, 137, 186, 240, 282, 350
recognition for 131
sovereignty referendums 93
Soviet legislation 204
Soviet-modelled Constitution 258
Spain 21, 92, 141, 188, 206, 350
Spanish Constitution 349
Spanish Constitutional Court 146, 183, 184, 185,
186, 187, 189, 190, 191, 192, 193, 198,
206, 350
Spanish constitutional culture 199
Spanish Constitutional Tribunal 138
Spanish Criminal Code 194
Spanish Supreme Court 194
spatial organization 31, 34
stability thesis 81
state coercion 207
state continuity 237, 239, 243, 245, 247, 248,
249, 250, 251, 252, 254, 332
state creation 13
state-creative function 27
state dissolution 236, 237
state extinction 237, 239
statehood 13, 14, 15, 17, 21, 22, 26, 76, 77, 78,
82, 83, 86, 88, 120, 177, 181, 182, 237,
238, 239, 241, 242, 243, 245, 248, 250,
253, 254, 255, 293
as constellation of hybrids 29
customary international law status 25, 26
doctrine of 32
in international law 13
legal status of territory 25
statehood criteria 17
state identity 239, 247
state of law 335
state property 340
state responsibility 345
state’s integral territory 60
state sovereignty 43
state succession 239, 330, 331, 332, 333, 334,
340, 347
legal concept 330, 331, 332
nationality of persons 342
state responsibility and 344
states with adjectives 23
Stein, Eric 262
Sturgeon, Nicola 138
Šturma 265
‘substantive’ paradigm 355, 356
succession 236
Sudan 326
sui generis 128, 136
supranational integration 207
Supreme Court of Canada 3, 6, 7, 10, 98, 177
SUSM 234, 235
Suteu, Silvia 21
Switzerland 54
Sykes-Picot agreement 278
tabula rasa 334
Taiwan 83, 86
Tatarstan 54
temperance 212
terra nullius 18
territorial entity 15
territorial integrity 1, 20, 21, 26, 29, 36, 40, 49, 57, 58, 62, 63, 77, 128, 238, 305, 314, 350, 358
and use of force 44
general reference to principles 48
instruments silent on 47
of country 45
of Spain 186
of states and self-determination 46
principle of 42
scope of obligations 56
violation of principle of 115, 116
territorialism 18, 19
territorial population 63
territorial principle 272
Treaty of Lausanne 277, 282
Treaty of Turin 96
Turkish Republic of Northern Cyprus (TRNC) 20
UK constitutional law 129
Ukraine 253, 357
UN Charter 1945 44, 74
Article 2(4) of 43
UN Convention on the Reduction of Statelessness 343
UNDRIP 50
Article 46(1) of 57
UNGA 322, 340
UN Human Rights Committee 101
unification 331
unilateral declaration of independence (UDI) 191
unilateral secession 113, 115, 116, 117, 123, 124, 175, 176, 181, 206, 208
union 275, 288
international legal significance 285
Union of Soviet Socialist Republics (USSR) 237
United Kingdom 2, 21, 71, 85, 96, 190, 332
United Kingdom Constitution 190
United Nations 4, 103, 197, 317
Universal Declaration of Human Rights (UDHR) 100, 343
universal succession 334
universal suffrage 108
UNMIK 171
UN Partition Plan 280
UN Security Council 170, 323
unsuccessful remedies 19, 20, 21, 22, 23, 24
US Declaration of Independence 99
USSR 10, 241, 255, 324, 325
position of 244
USSR legislation 204
uti possidetis 40, 46, 338, 352, 359, 363
uti possidetis juris 360, 362
valuable politics 88
Van Middelaar, Luuk 212
Velvet Revolution 256
Veneto Region 350
Venice Commission 108, 143, 191
Vienna Convention on Succession of States in Respect of State Property, Archives and Debts (VCSSP) 340, 341, 345
Vienna Convention on Succession of States in Respect of Treaties (VCSST) 256, 267, 268, 335, 336, 337, 345
Vienna Conventions 346
Vienna Declaration 52, 99
Vienna Declaration and Programme of Action 358
voter information 143
voter qualification 108
West Bank 283, 284, 286, 287, 288, 291
Western Sahara Advisory Opinion 6, 7, 104
Westminster supremacy 137
West Pakistan 321
World Bank 271, 272, 340
World Conference on Human Rights 101
World Intellectual Property Organization 271
Yeltsin 242
Yugoslav National Army (YNA) 224, 226
Ziemele, Judge 246