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The Province Is Dead, Long Live the State? International Legal Implications of an Independent Alberta

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Matter Commented On: [Alberta's 2026 Provincial Referendum](#)

On 19 October 2026, Alberta will send eligible voters to the [polls](#). Curiously, the question is not going to be on independence directly, but rather whether “*the Government of Alberta should commence the legal process required under the Canadian Constitution to hold a binding provincial referendum on whether or not Alberta should separate from Canada.*” As curious as this step might seem, it aligns with a wider rise of [nationalism](#) and division as opposed to global cooperation. In the past 50 years, we have seen a number of independence movements, some more successful than others. Québec voted on independence twice, once in [1980](#) and another time in [1995](#), both defeated, and the UK electorate [opted to leave](#) the European Union in 2016.

Much has been said about the supposed “merits” of independence, and there is vivid discussion on both sides of the aisle on whether it would make the province [stronger](#) or [weaker](#). While the political discussion revolves predominately around [domestic issues](#) (e.g. Constitutional roadblocks, and Indigenous legal rights), not much thought has been put towards [the international downstream effects](#). What would it mean, in the context of international law, if Alberta - or any Canadian province for that matter - would become independent? For independence is not solely a domestic act but bears significant consequences on a global level.

This post does not take a view on whether independence is good or bad - this is a decision the Alberta electorate must tackle - but what independence would mean in the international legal context. If Alberta were to secede from Canada and emerge as an independent entity, would it be considered a sovereign State as understood in international law? Would Alberta have the necessary international personality to be able to meaningfully participate in our international rules-based legal order? Will Alberta be able to engage in international relations, such as treaty making, United Nations participation, and the global economy more generally? These questions are overlooked in the current political discourse but are of vital importance. If Alberta cannot participate in global community of States, it will effectively remain a province of Canada.

This post focuses on three international law questions that would arise if Alberta were to become independent:

1. Statehood: Would Alberta meet the criteria under international law to be recognised as a State?
2. Succession: What would happen to treaty rights, obligations, and international legal relationships currently held through Canada?
3. Sovereignty: Could Alberta exercise meaningful independence in the international legal order?

Because this post is necessarily limited in scope, it does not address other important topics, including the principle of self-determination and Indigenous legal rights (see Robert Hamilton, [“Get the province of Alberta in line”: Treaty Promises, Provincial Power, and the Role of Indigenous Nations in Discussions on Alberta Secession](#)” (30 May 2025)).

Let us assume for a moment Albertans vote for independence, and Alberta eventually separates from Canada. In this scenario, Alberta would no longer form part of Canada, Canadian federal law would no longer apply, Albertans would cease to be Canadian citizens, and the territory of Alberta would no longer be under the sovereign territorial jurisdiction of Canada.

Undoubtedly, in that scenario, Albertans would presumably seek to govern themselves, pursue their priorities internationally, and cooperate meaningfully with other sovereign States. However, in an international legal context, this is easier said than done. Any legal system, whether domestic, international or secular, determines to whom it applies (see Jacob Turner, *Robot rules: regulating artificial intelligence*, 1st ed (Springer International Publishing: Cham, 2019) at 42). Public international law applies to [subjects of international law](#). A subject of international law is “capable of possessing international rights and duties” and “has the capacity to maintain its rights by bringing international claims” (see *Reparation for injuries suffered in the service of the United Nations*, [Advisory Opinion](#), [1949] ICJ Rep 174 at 179). While it is nowadays accepted that international law can apply directly to [international organisations](#), and in certain cases even to [private individuals](#), States remain the primary subjects of and the main actors in public international law.

This raises one crucial question: What makes an entity a State under public international law? The generally accepted answer is that it must possess four attributes, set out in Article 1 of the [1933 Montevideo Convention](#) (regarded as a codification of customary law). These attributes are (1) a permanent population, (2) a defined territory, (3) a government, and (4) the capacity to enter into relations with other States. Alberta would need to satisfy each requirement before it could be recognised as a State. I will address each element in turn.

First, would an independent Alberta have a permanent population? The short answer to this question is “yes”. International law does not prescribe any [minimum population](#), nor does it require a certain longevity or certain [nationality](#) of that population. The population just needs to maintain a relatively defined permanent residency within the territory of the State (see John H. Currie, *Public International Law*, 2nd ed (Irwin Law: Toronto, 2008) at 240). Currently, there are roughly [5 million people](#) who call Alberta their home and maintain permanent residency in the province. An independent Alberta would therefore fulfil the first requirement.

Second, would an independent Alberta have a defined territory? A defined territory remains one of the most important attributes of Statehood. Traditionally, international law has treated the effective possession and control over a defined land mass as critical. In its recent [Advisory Opinion](#) on the Obligation of States in Respect to Climate Change, however, the International Court of Justice (ICJ) surprisingly departed from this principle holding that once a State is established, there is a strong presumption of continued Statehood even if its land mass disappears (at para 363). The court was not unanimous on this point ([Declaration of Judge Tomka](#)). In the recently adopted [Declaration on Sea Level Rise](#) States showed support for the presumption of continued Statehood in cases where landmass disappears. It will be interesting to see whether this will result in the crystallisation of a new rule of customary international law.

Whatever the case may be, international law does not prescribe a [certain territorial size](#), and the territorial boundaries do not need to be exact. What is essential is that some territory falls under the control of the potential State (Currie at 25). While there may be questions about federal land (like national parks) and territory belonging to Indigenous peoples, an independent Alberta would likely have a more or less defined territory, which would be roughly the land mass currently considered to be within the provincial borders. Therefore, the second element would also be fulfilled.

Third, would an independent Alberta have a government? The answer to this question is also yes. International law sets relatively [modest](#) requirements in this respect. The international legal system does not prescribe any specific form of governance – whether democratic or otherwise (Currie at 28). Indeed, even military dictatorships may qualify as “government” under customary law. As long as the government can [effectively govern](#) – that is exercise control over the territory and population as well as carry on international obligations, the requirement is met. Alberta’s existing governance structure, divided among the legislature, executive, and judiciary, would likely continue to operate in much the same way. Like other provincial governments in Canada, it already exercises effective authority over Alberta’s population and territory. The Legislative Assembly enacts laws, the executive enforces them, and the judiciary provides oversight. This system would likely qualify as a “government” for the purposes of international law.

Fourth, would an independent Alberta have the capacity to enter into relations with other States? This requirement is closely related to whether the State can act independently in the international sphere and whether other States recognize it as capable of doing so. To answer our fourth question in the affirmative, both [independence and recognition](#) would need to be met.

Let us look at the element of independence first. Under the Westphalian model, a sovereign State must exercise ultimate authority over a defined territory and population, subject only to international law itself (Currie at 29). A State may voluntarily [limit](#) aspects of its sovereignty, including through treaties, but the decisive factor is whether it does so independently of another State's legal authority, even if political or economic pressure is present. As [Judge Anzilotti](#) explained: "[T]he legal conception of independence has nothing to do with a State's subordination to international law or with the numerous and constantly increasing states of *de facto* dependence which characterize the relation of one country to other countries (...). As long as these restrictions do not place the State under the legal authority of another State, the former remains an independent State however extensive and burdensome those obligations may be." (at paras 83 – 84)

I have no doubt that the first element of independence would be fulfilled. At the core of the independence movement in Alberta lies the desire to act independently, free from Canada and the Canadian government. Alberta would want to choose its own path. It will be able, and undoubtedly willing, to engage in international relations.

But what if other States are not willing to do the same? What if they are unwilling to recognise Alberta? This is where the "dream" of an independent Alberta would quickly and decisively falter. International law is, as [Charles Rousseau](#) put it, "un droit de coopération et non de subordination" (at 150). The International legal order fundamentally rests on cooperation among formally equal sovereign States. A core aspect of this sovereignty is the freedom to decide whom to recognise, and therefore with whom to cooperate. Recognition is therefore essential to full Statehood in international law and acceptance into the international legal community as a sovereign State. Even if Alberta seceded from Canada, it would likely struggle to achieve that status because other States would not readily recognise it. For example, Somaliland, which proclaimed its independence in 1991, has only been recognised by [Israel](#). China would also probably object to Alberta's full recognition because it would weaken its own position on [Taiwan](#). As Taiwan's disputed status illustrates, many States would likely also not recognise Alberta in order to not antagonise China. On the other hand, the United States, whose leaders have publicly considered making Canada the [51st State](#), might have an interest in recognizing Alberta's independence to some extent. This could be done to persuade Alberta to join the United States as a new State, which paradoxically would mean losing independence.

Whatever way this may play out, disputed recognition would likely be the outcome. For that reason, the second element of recognition would likely not be met. The fourth question must

therefore be answered in the negative. An independent Alberta would not have the capacity to enter into relations with other States.

This, in turn, would mean that Alberta would struggle to meaningfully participate in the international legal system. Membership to the United Nations, or any of its specialised bodies, would likely be out of reach as would the ability to conclude treaties. This, I think, may be one of the gravest risks of independence. Being part of Canada, Alberta benefits from more than a thousand bilateral and multilateral treaty relationships to which Canada is a party. If Alberta seceded, this would change. Canada would most certainly continue to exist and remain bound by its treaties, but Alberta would face difficulty being recognised as a new State. Generally, treaties are, with a few exceptions, non-transmissible (Currie at 45). This is the logical consequence of the sovereign equality of States and the consensual nature of international treaty law.

Even if Alberta were to make a unilateral declaration purporting to accede to all treaties that Canada concluded on its behalf, accession would require the agreement of other State parties. Without recognition of Statehood, such consent would almost certainly not be granted. Alberta would therefore risk becoming a landlocked pseudo-independent entity with disputed sovereignty and limited recognition. The consequences would be significant and impact Alberta as a whole.

International civil aviation illustrates this point clearly. Modern civil aviation is built on the [Chicago Convention](#) of 1944, a treaty. Annexes to the Chicago Convention and Standard and Recommended Practices (SARPS) are negotiated through the [International Civil Aviation Organisation](#), a specialised UN agency. Reciprocal access to airspace is also governed by comprehensive [Open-Skies and Transit Agreements](#), international agreements. Albertans can fly from Calgary to São Paulo because Canada has concluded agreements not only with Brazil, but also with the States whose airspace is crossed along the route. An independent Alberta would not automatically inherit those rights. Reciprocal airspace access was granted to Canada, not Alberta. Alberta would therefore need to negotiate new agreements, including with Canada directly, simply to be able to access Canadian sovereign airspace. WestJet could fly from Calgary to Edmonton, but not necessarily from Edmonton to Toronto. Strictly speaking, a Calgary – Toronto flight would become an international flight (rather than remain a domestic flight) with all customs and regulatory consequences that follow. The aviation sector serves as only one example of the impact independence would have in the international legal context.

Independence would undoubtedly raise important domestic legal questions. But those questions do not exhaust our legal analysis. The international legal consequences must not be treated as an afterthought.

Independence is not a binary choice, nor can it be solely understood through its domestic consequences. This is especially important in the current political environment in which State sovereignty is increasingly challenged by major global powers. The real question is not just

whether Albertans might vote for or against independence, but what independence legally means. Even if Albertans voted for independence, it would not mean independence would necessarily follow. A successful vote would not make independence a reality. It would only be a small step within a broader set of domestic and international requirements. Recognition as a State is central among them. In my view, an independent Alberta would likely not secure the necessary recognition by other States – at least not without considerable uncertainty. Alberta would therefore fail to become a fully sovereign State, and thus a full subject – and beneficiary – of the international legal order.

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