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The Complex Legal Frameworks Where Special Jurisdictions Nest[1]

Nathalie Mezza-Garcia[2]

Seaphia and Institute for Decentralized Governance

nathalie@seaphia.blue

ORCID: 0009-0009-3950-1877

Abstract:

For the last seven years within the Startup Societies movement, there has been a surge in entrepreneurs, developers, and online communities, including Network States, that intend to create autonomous special jurisdictions. However, understanding how to create a jurisdiction, especially an autonomous one, is very different from wanting to create one. Among Startup Society types, Special Economic Zones (SEZs) are one of the models private developers seek the most. SEZs enjoy autonomy, and their jurisdictional arbitrage has led to significant economic and social transformations in some parts of the world. But getting there is hard. Zones are not created in institutional and legal isolation. This paper shows the institutional and legal frameworks Startup Society entrepreneurs need to navigate and untangle to create new jurisdictions. To achieve this, the paper uses the complex governance concept of "nestedness." I argue that establishing a new jurisdiction necessarily entails dealing with existing, nested complex governance structures–both regulatory and institutional–which is inherently difficult. I use complexity to show why and how. The findings are extracted from research I conducted between 2017 and 2019 on an attempted Maritime Special Economic Zone (SeaZone) called the Floating Island Project in French Polynesia, based on ethnographic research methods, namely participatory observation and document analysis. This paper synthesizes multiple nested regulatory frameworks concerning immigration, real estate, taxes, blockchain, and infrastructure. These were all aspects that the SeaZone founders needed to untangle to create a globally competitive framework. This paper makes a significant contribution to the field of special jurisdictions by highlighting the challenges and complexities involved in establishing Zones characterized by autonomous governance, legal, physical, and digital extraterritoriality. It highlights the importance of approaching Zone and Startup Society creation with a practical mindset.

Keywords: Complex governance, Floating Island Project, French Polynesia, legal structures, nestedness, Special Economic Zones, SeaZone, Startup Societies.

Resumen:

Durante los últimos siete años, dentro del movimiento de las Sociedades Startup (Startup Societies), ha habido un aumento de emprendedores, desarrolladores y comunidades en línea, incluidos los Estados de la red, que intentan crear jurisdicciones especiales autónomas. Pero desear crear una jurisdicción, especialmente una autónoma, es muy

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diferente a saber cómo crearla. Dentro de las Startup Societies, las Zonas Económicas Especiales (ZEE) son uno de los modelos más buscados por los desarrolladores y/o promotores privados. Después de todo, éstas disfrutan de autonomía y su arbitraje jurisdiccional ha llevado a importantes transformaciones económicas y sociales en algunas partes del mundo. Pero llegar allí es difícil. Las zonas no se crean en aislamiento institucional y legal. Este artículo muestra los marcos institucionales y legales que los emprendedores de Startup Societies y ZEE necesitan navegar y desenredar para crear nuevas jurisdicciones. Para ello, el artículo utiliza el concepto de gobernanza compleja de "sistemas anidados". Mi argumento es que establecer una nueva jurisdicción implica necesariamente abordar estructuras de gobernanza complejas y anidadas existentes, tanto regulatorias como institucionales, y que hacerlo es difícil. Utilizo la complejidad para mostrar por qué y cómo. Los hallazgos son extraídos de una investigación que realicé entre 2017 y 2019 sobre un intento de Zona Económica Especial Marítima (SeaZone) llamada el Proyecto de Isla Flotante en la Polinesia Francesa. En ella utilicé métodos de investigación etnográfica, incluyendo observación participativa y análisis de documentos. Este artículo sintetiza los marcos regulatorios anidados relacionados con legislación de inmigración, bienes raíces, impuestos, blockchain e infraestructura que los creadores de la Isla Flotante necesitaban desenredar para crear un marco globalmente competitivo. Este documento hace una contribución significativa al campo de las jurisdicciones especiales al resaltar los desafíos y complejidades involucradas en el establecimiento de Zonas caracterizadas por una gobernanza autónoma y extraterritorialidades legal, física y digital. El artículo concluye enfatizando la importancia de un ser prácticos en el proceso de creación de las Zonas.

Palabras clave: gobernanza compleja, proyecto de Isla Flotante en la Polinesia Francesa, estructuras legales, anidamiento, zonas económicas especiales, zona marítima, empresa emergente.

1. Introduction

Special Economic Zones (SEZs) are a type of special jurisdiction[3] or Startup Society[4]. Typically, these are small territorial areas with experimental forms of governance (Frazier & McKinney, 2019) or different regulations from the surrounding host Nation (Startup Societies, ND, 2019). This means that SEZs often have legal and physical extraterritoriality. Having legal extraterritoriality means having a parallel, supra, or distinct set of regulations to those applicable in existing Nations or States. The Moon and outer space (UNOOSA, 1979; Virgilu, 2009), Antarctica (SAT, 1959), international waters (UN, 1947), and the International Space Station all have this type of extraterritoriality. They have different regulations than those applied within state borders. However, extraterritoriality can also mean having a different regulatory regime from a physically surrounding nation. This entails being within a Nation's boundaries but not necessarily obeying its legal regime–or only partially. When legal and physical extraterritoriality coexist, places are enclaves. While not all Startup Societies have their own legal framework, Special Economic Zones (SEZs) tend to fall into this category. Not only do they operate with distinct regulations to their host Nation, but they do so while physically being inside their sovereign boundaries.

[3]Special Jurisdictions are areas that have a different legal framework from their host Nation. This framework is often to implement new laws, transitional legal frameworks, or ensure business competitiveness (IDG, 2023).
[4]Startup Societies are small areas with experimental forms of governance (Startup Societies, ND).

Traditionally, SEZs' success is due to their distinct legal framework, which allows for flexibility in fiscal, customs, and labor policies thanks to their customer incentives, ranging from duty-free imports and simplified customs processes to more lax regulatory frameworks than the host government (FIAS, 2008:2). Their competitiveness is enhanced by their nimbleness, which can be attributed to them being geographic areas being administered by a single entity (FIAS, 2008). In many cases, this combination has boosted traditional Zones' exports and local and national economic growth (Moberg, 2015a; 2015b). In 2016, for instance, Zones contributed to global exports exceeding 200 billion USD (Khanna, 2016). Zone's rapid growth has led scholars, such as Easterling (2014), to argue that Zones will be the future dominant governance system. This scenario is already visible with Dubai, Shenzhen, and Singapore's international positioning and Zones being powerful economic global expansion drivers, particularly in late-developing nations (Defever et al., 2018).

While many Zones are state-owned or operated, evidence suggests that the most economically successful and environmentally sustainable ones tend to be privately managed (FIAS, 2008). There are various methods for establishing such Zones. These include government designation, application to a country's National Zone Authority, or, as illustrated in this case study, attempting to negotiate a new, de novo, next-generation legal framework directly with a government. As Mezza-Garcia (2020) shows, and as I argue here, the latter approach is the most difficult.

There are more SEZ types than ways to create them: Foreign Trade Zones, Export Processing Zones, Digital Economic Zones, and broader next-generation SEZs, such as the Catawba Digital Economic Zone (CDEZ, ND; Zone Authority, ND) and Próspera[5]. However, there is one type no one, to date, has succeeded in creating, although there are places like the Maldives, Saudi Arabia, Busan (South Korea), and Venezuela working on similar models: floating or buoyant Special Economic Zones[6]– also called SeaZones.

SeaZones are SEZs located within a host nation's territorial waters and can have water and land areas (Bell, 2017a). Like land-based Zones, 'SeaZone' encompasses the physical space and its regulatory framework (Bell, 2017a). This paper delves into a specific SeaZone known as the Floating Island Project (FIP), which aimed to establish a Buoyant Zone within the territorial waters of French Polynesia. The term 'SeaZone' here refers to both the intended floating platforms within French Polynesia's territorial waters and the legal framework that would govern them.

[5] "Next Generation SEZs" is a broad term that refers to zones with incentives that go beyond taxes. These incentives are regulatory in nature and include jurisdictional arbitrage on business aspects, typically in spearhead industries such as blockchain, banking, medical, or criminal law.

[6] I use the term Buoyant to make the distinction between floating on the water from floating in Zero-Gravity, like the International Space Station, which is a special jurisdiction that already exists and floats (in space).

The Floating Island Project was influenced by anarcho-capitalist principles (Friedman, 1989; 2002; Steinberg et al., 2012) and represents a category of Startup Societies focused on economic, personal, and political freedom. It derives from the concept of *seasteads*, envisioned as politically autonomous human settlements in international waters. These settlements, often mistakenly called 'new countries,' are based on the benefits of having floating, mobile residences and buildings. The underlying idea is that buoyant homes enable better governance by allowing residents to move away if dissatisfied with a place's governance. This concept is known as dynamic geography. Proponents believe this mobility encourages governmental competition, leading to improved governance and innovative community designs, ranging from neighborhoods to nation-states (Blue Frontiers, 2018e:2). Behind dynamic geography is the idea of 'foot voting,' which suggests that residents express their approval of a government by either staying or relocating (Friedman, 2002; 2009; Friedman & Taylor, 2011). The idea is that by creating multiple seasteads with unique governance models, future governments in international waters would compete as service providers for residents (Friedman & Gramlich, 2009), just as internet companies compete for customers today.

The term seasteading merges "sea" and "homesteading" (Oxford, 2017b) and was coined in a report by the Stratton Group, a commission established via an Act of the U.S. Congress to develop leasing systems for non-extractive seabed activities (Christie, 1969:72). However, the term became popular through the work of The Seasteading Institute (TSI) (TSI, 2015a, 2015b), and from the idea of "homesteading the high seas" (Friedman and Taylor, 2011b:13), a concept traced back to Locke's (2013) 1689 treaties, associating land ownership with land cultivation. Before this, some US policymakers used Locke's concept as a pretext to, ironically, displace thousands of Native Americans from their ancestral property. Yet, with this framework of colonizing the seas, key figures from The Seasteading Institute, Friedman and Taylor (2010:223), defined seasteading as "the act of forming permanent, autonomous oceanic communities." The Oxford Dictionary added the word in 2017, defining seasteading as "establishing enduring habitats on oceanic structures outside any nation's jurisdiction" (Oxford Dictionary, 2017a, 2017b). Blue Frontiers, the operating company behind the Floating Island, described seasteads as permanent aquatic residences crafted for indefinite ocean occupancy, which are designed to allow for easy movement and modularity with other seasteads, facilitating jurisdictional arbitrage through dynamic geography (Blue Frontiers, 2018e). Before the term's popularization by The Seasteading Institute in 2008, several authors linked seasteading with the practicalities of self-reliant sea living (Gramlich, 1998) or simply living on a boat (Neumeyer, 1981; FitzGerald, 2006). However, the interpretation of seasteading that inspired the Floating Island SeaZone revolved around pioneering offshore floating communities with their own governance structure.

The extraterritoriality of international waters is a relevant aspect of seasteads because, for many, the ocean's extraterritoriality is thought to enable or make more accessible some things prohibited, too regulated, or poorly regulated on land, such as human stem cell treatments. Thus, the high seas are seen as a tabula rasa, the last frontier for human habitation and autonomous governance experimentation (Friedman & Gramlich, 2009; Friedman & Taylor, 2011a, 2011b). Mischaracterized as a blank canvas and far away from the influence of legacy governance[7] systems, floating settlements in international waters are considered the ideal place to start new forms of governance where "there is none" (see: Friedman & Gramlich, 2009). However, this dogmatic adherence to reimagining governance structures to maximize individual freedom and autonomy outside legacy systems is why successful, scalable seasteading has not materialized. The reasons for this will soon become clear: no place exists in complete isolation. Similarly, international waters are not a blank legal slate. Multiple international rules and conventions apply in these waters, including the International Convention for the Safety of Life at Sea (SOLAS, 1974), the International Convention on Salvage (IMO, 1989), as noted by Gónzalez (2015:12), and the United Nations Convention on the Law of the Sea (Galea, 2009).

After years of trying to create seasteads in international waters, researchers from TSI identified that international waters are full of legal constraints (Mutabdzija & Borders, 2011a:5, 2011b). Thus, the Institute decided it would be easier to partner with a host government and create a floating settlement within a host country instead of trying to create a new country from scratch (TSI, 2014). With it, seasteaders would achieve their vision of freedom, and the host country would benefit from technology transfer.[8] SeaZones would have to be established near existing cities or within the 12 nautical mile limit that defines a state's maritime territory. This proximity would ease coastal trade and protect from other nations and pirates (Mutabdzija and Borders, 2011a, 2011b). Most importantly, being part of an existing Nation's institutionally also meant more legal protections (TSI, 2014), even if this required a compromise between total independence and what existing institutions would allow. This is how the idea of a SeaZone was born.

SeaZones would, therefore, merge the legal aspect of SEZs–having different regulations or exceptions of their host Nation–and the spatial and political attributes of seasteads: communities floating on water. Seasteading supporters stated that this Zone strategy would prevent the Floating Island from

[7] Legacy systems is a term borrowed from software technologies. It refers to an outdated information system that organizations or individuals continue to use despite their obsolescence. In the context of governance, the term refers to traditional or established systems of hierarchy, top-down power, domination, centralization, and authority.

[8] Technology transfer is the process of sharing technology, knowledge, and skills between organizations, communities, universities, businesses, countries, or governments to advance and apply scientific developments for broader societal benefit.

ending like previous, unsuccessful seasteading attempts (Balloun 2012; Mutabdzija and Borders, 2011)[9]– in which individuals declared sovereignty over a coral reef or abandoned offshore platform and a navy gunboat followed[10].

After searching for host nations open to the idea, on January 13th, 2017, the Seasteading Institute and the French Polynesian government signed a Memorandum of Understanding (MOU) in California to create a floating special economic zone called Floating Island. The Polynesian government signed the MOU for it acknowledged that floating islands could be an eco-friendly, innovative technology for Small Island States in the Pacific, with islands that will disappear due to sea level rise (MOU, 2017:7; Weeman & Lynch, 2018)[11].

At the end of 2017, The Seasteading Institute submitted a legal feasibility study for government evaluation to study the viability of the Floating Island Project. The Polynesian Assembly was to assess this in conjunction with economic, environmental, and location studies to determine the potential benefits for French Polynesia.[12] If approved, the SeaZone regulations would be contained in a series of Acts from the Polynesian Assembly. While the SeaZone was never established, various documents speak about its intended regulatory framework. It would cover immigration, infrastructure, labor, customs, and residency, among other aspects.

These regulations would apply to the total project area. The built environment would include 12 floating platforms, ranging from 14 to 50m2 each (EMSI, 2017), spanning 75,000 m2 (7.5 hectares) of mixed-used spaces (Blue Frontiers, 2017e). They would initially house around 300 people. These platforms would be governed through a cryptographic token called Varyon, although the project ended before its exact mechanism became clear.

This project was uniquely complex. The SeaZone's special legal status, parallel to French Polynesian regulations, granted it legal extraterritoriality. Its unique location —a floating island enclave

[9] It did not. The reasons are extensively discussed by Mezza-Garcia (2020).
[10] Some examples of this occurring are Operation Atlantis, Sea City Taluga, Operation Minerva, and Ocean Builders.
[11] Research has suggested that most flat islands (atolls), especially in the Pacific, will be uninhabitable by 2100 (Storlazzi et al., 2018). Small Island States will suffer the most (Lister & Muk-Pavic, 2015:2), despite their minimal contribution to climate change (Polynesians-Leaders-Group, 2015). The vulnerability of many Pacific islands stems from their flat topography. Caron and Henry (2004) highlight fears of these islands submerging due to sea-level rise. French Polynesia is among the Pacific nations facing extreme vulnerability (SPREP, 2016). As a response, some Pacific governments, such as Kiribati's, are exploring sustainable floating islands as potential land replacements (Kiribati, 2012). Historically, Pacific islanders, like those in the Solomon Islands and Micronesia, have also contemplated artificial islands to reclaim submerged territories (Bryant-Tokalau, 2018:28), and they have even purchased land in Fiji so their Nation has a place to go when this happens.
[12] Despite timely submission of the documents to the Assembly never formally reviewed this. However, this is not the focus of this paper; the reasons have already been discussed by Mezza-Garcia (2020).

within a lagoon created by a coral reef surrounding Tahiti– added its spatial extraterritoriality. Moreover, implementing blockchain governance infused a digital dimension to its extraterritorial nature.

Innovations in specialized projects, such as the SeaZone, *complexify* setting them up. Each novel element where a jurisdiction considers innovating and that is added to the design or operation amplifies its complexity and demands careful consideration and planning.

The Island's complexity was why I chose a complex systems research lens. As Gerrits (2012) discusses in Punching Clouds, complex systems cannot be neatly boxed into simple cause-and-effect relationships. Instead, complex systems are characterized by interdependencies, feedback loops, and emergent properties, like clouds' unpredictable and ever-changing forms. Thus, their study requires the right frames of analysis. In this case, concepts of complex governance.

That being said, in this paper, I present the results of a document analysis I conducted while doing ethnographic research with participatory observation in the Floating Island Project in French Polynesia as part of the completion of my doctorate degree at the University of Warwick in the UK.[13] The discussion of complexity in the paper adds value to both fields, complexity and Special Economic Zones. It allows for a deeper understanding of the multifaceted and interconnected nature of legal and institutional structures preceding and/or influencing Zones. By applying complexity theory, the paper highlights the intricate challenges and considerations involved in establishing new jurisdictions. Specifically, the complex governance concept of nestedness helps see the governance framework surrounding the Floating Island. It helps with my argument that establishing new Zones and special jurisdictions requires dealing with the complex, nested regulatory systems already in place, and doing so is challenging and inescapable. As obvious as this may sound, as a practitioner, I have encountered more instances than I can count where projects, groups, developers, government regulators, entrepreneurs, founders, investors, or Startup Society aficionados think otherwise.

This paper is split into five sections. The next section describes the theoretical framework of complex governance. It is followed by the methodology employed. Next, I discuss regulatory aspects of the Floating Island, including immigration, real estate, free zones, floating and crypto regulations. A discussion aimed at practitioners working with SEZs follows at the end. Readers interested solely in the legal framework and not in this research's methodological or theoretical aspect can jump to Section 4.

[13] I became involved with Blue Frontiers, the project's managing company, approximately eighteen months into the PhD. I first volunteered for the project for 8 months, and later transitioned to staff, becoming the Project's podcast host and international (not local) spokesperson/communicator under the title of *Seavangelesse* or evangelist of the Sea. From mid-2017 to mid-2018, I traveled to 5 continents and attended and organized conferences, workshops, and project events around the world. I also lived in the same Tahitian villa for 3 months with the project founders.

2. Theoretical Framework: Complexity Theory & Complex Governance

This paper utilizes concepts from complex governance, a field that applies complexity science to understand governance systems, to analyze the SeaZone's pre-existing legal framework or structure[14] from where it would have branched out. Understanding governance as complex comes in handy because, as we shall see, SEZ's legal frameworks are embedded into a tangled web of regulations and institutions. Complex systems theory has developed frames of analysis to study these kinds of systems. Note that complexity is not a synonym of complicated but a particular property of complex systems, as described below.

The idea that governance is complex is not new. The social sciences, especially political science, increasingly acknowledge that human social systems are complex (Mitleton-Kelly, 2003a, 2003b; Sawyer, 2005; Sanderson, 2009; and others), and this has led to more scholars incorporating a complexity framework into social science disciplines (see: Castellani and Hafferty, 2009; Omerod, 2012; Mitleton-Kelly, 2003b; Byrne & Uprichard, 2012; Byrne and Callaghan, 2013; Gerrits, 2012; Batty, 2013; Walby, 2003a, 2003b), despite complexity studies' origin in more "hard sciences".[15] This science, the science of complexity, therefore, as tautological as it may sound, focuses on studying systems that are complex.

Complex systems are described as having numerous, nonlinearly interacting elements. They are diverse, interdependent, self-evolving, and influenced by their histories (Cilliers, 1998; Gerrits, 2012; Mitchell, 2011; Rescher, 1998; Wolfram, 2002; Walby, 2003a, 2003b). Order and structures within these systems emerge through local interactions and without centralized control (Holland, 1995; Nicolis & Nicolis, 2012). However, local interactions in complex systems can denote physical or informational proximity. This means that remotely located elements or even far away elements can maintain direct connections.[16] This is in part because boundaries with their environment are open, because the levels of a complex system can be blurry. After all, there is cross-level influence and exchange of energy, matter, and/or information, leading to interaction, influence and communication throughout all levels of the system. Many, if not most, animal social systems, including human social systems and their legal systems, exhibit properties of complex systems.

[14] Structure and framework are here used interchangeably.
[15] Hard science is the term used to define natural and physical sciences that study the universe through theories, hypotheses and experiments. The subjects that are included in this category are physics, math, chemistry, biology, anatomy, and astronomy, to name a few.
[16] This is exemplified in complex digital systems such as internet networks.

Legal systems like the ones I discuss here are considered complex systems because, although they may originate from central entities (governments), they evolve over time through the interactions of numerous participants, including lawmakers, judicial systems, enforcement agencies, private companies, interest groups, and the public. These interactions often occur nonlinearly and are influenced by various social, political, and economic factors, leading to emergent behaviors and outcomes that are not always predictable or directly controlled by the central entity. Additionally, the interpretation and application of laws can vary, adding further complexity to the system. An easy-to-understand example of a complex governance system is the European Union. Countries and their parties are their underlying elements, and politics drives the information flows. Interests from one country can travel the EU network and scale up in the EU legal hierarchy. They can become general policies that affect other members even if these do not share borders with the original proponent. This shows the complex, nonlocal, yet local, information flows in complex legal systems. This nonphysical travel of information leads to complex systems emergent structures. Like the regulatory frameworks I present here, many are tangled webs with networked topologies (see: Solé, 2009)[17].

In the last two decades, the literature studying complexity in governance has surged. Like with complexity, complex governance is a field and an adjective. Something is complex, but complexity (sometimes called complexity theory, science or simply complexity) is the science of studying complex phenomena (Maldonado & Gomez-Cruz, 2010). Likewise, complex governance is governance with features of complex systems, but it is also a field of research studying these types of systems and behaviors.

As a field, Morçöl (2014) defines complex governance as an amalgamation of governance, network, and complexity studies. As a concept, complex governance is described as governance that spans multiple dimensions, stakeholders, and scales (Vella & Baresi, 2017). Other similar perspectives focus more on the network nature of the latter, as opposed to the elements themselves. Jessop's (1997) definition of complex governance is closer to my approach. He describes it as "the art of steering multiple agencies, institutions, and systems that are both operationally autonomous from one another and structurally coupled through various forms of reciprocal interdependence." This becomes a useful definition to comprehend why private SEZ developers need to engage with existing governance structures, and why I focus on what are

[17] Complex systems properties were originally identified and systematically understood in biological and chemical systems (Prigogine, 1977; 1978; Gell-Man, 1995; Nicolis, G & Prigogine, 1977, Nicolis & Nicolis, 2012) as well as in physical systems (Prigogine & Stengers, 1983, Turing, 1990). However, complex systems do not exclusively belong to these realms. The study of complex systems spans a wide array of subjects, encompassing phenomena as diverse as ant colonies (Gordon, 2010), fungi networks (Babikova et al., 2013), large infrastructure projects (Gerrits and Verweij, 2018), cities (Sassen, 1994; Batty, 2018), human societies (Bar-Yam, 1997), the internet (Barabasi, 2014; Solé, 2009), biological organisms (Solé and Goodwin, 2000), and life-like systems (Bedau, 2007; Iordache, 2012).

the regulations that were in place for the topics the SeaZone sought. Despite how useful complexity can be for Zones, Zones, only a handful of publications use a complexity perspective to discuss them.[18] The number of academic publications discussing Special Economic Zones and the concept I use here–nestedness–is even more limited, despite how resourceful it is.

Nestedness is a property of complex systems that can be defined as a hierarchy of systems encapsulated within one another (Simon, 1962), similar to Matryoshkas (Russian Dolls). Nestedness is visible across biological systems (Oltvai and Barabási, 2002), societies (Simon, 1962; Cilliers, 1998), and even the construction of digital spaces like the internet (Barabasi and Bonabeau, 2003) or what Bratton (2016) calls The Stack[19]. From cells to tissues, organs, and organisms to the overarching biosphere, complex systems are organized through levels and hierarchical organization. Nestedness in governance, thus, refers to the encapsulation of multiple institutions and layers within each other, constructing intricate governance frameworks (Vella and Baresi, 2017; Gómez Lee and Maxfield, 2017; Haarstad, 2016; Zia and Koliba, 2011; Hamilton and Lubell, 2017; Lubell et al., 2017).

That being said, it is important to distinguish nested systems from multi-level structures. In nested systems, while higher levels encapsulate and may constrain lower ones, lower ones can also influence higher ones. For example, a successful SEZ can lead to national reforms (Moberg, 2015). The point I am alluding to is that while nested systems are hierarchically organized in levels, information exchange does not necessarily follow the top-down hierarchy. Information can flow bottom-up, stay in place, go elsewhere, etc. This is one reason why Zones, as the "smallest" level of governance in a system of institutional

[18] Most Zone publications that appear on online searches surface because of the colloquial use of complexity as a misused synonym of complicated. That being said, there are authors (Devadas and Gupta (2011) and Cooke and Fangzhu (2012) do look at Zones, specifically Chinese Zones and urban Zones using notions of complex systems such as a lack of centralized control and a systems dynamic methodology. Others, such as Lagendijk et al. (2009), center on the interplay of various types of governments in Zones. Likewise, Man & Chen (2020) investigate the urban growth patterns of the Shenzhen SEZs through the lens of fractal dimensions analysis and models including sigmoid functions. Mezza-Garcia (2019) uses complexity's self-organization concept to discuss governance of the Floating Island Project, and Fragkias & Seto (2009) explore urban evolution in the Pearl River Delta's metropolitan areas where many SEZs are located—Shenzhen, Foshan, and Guangzhou—by employing a multidisciplinary approach that incorporates various concepts from complexity theory, such as emergent phenomena, nonlinear dynamics, interconnectivity, self-organization, and scale-free patterns. They do so to study the evolution and sustainable development of urban forms in Chinese metropolitan areas. Similarly, Gomez-Zaldivar et al. (2019) use the theory of economic complexity developed by renowned complexity authors to assess how the establishment of Mexican SEZs might encourage diversification and sophisticated production within the states where these zones are located. In a similar way, Zihao & Wenting (2019) look at network effects and proximity to analyze the influence of Special Economic Zones in Chinese exports. Lastly, Gomez-Zaldivar & Molina-Perez (2020) also use the economic complexity methodology to investigate how Special Economic Zones (SEZs) could catalyze productive capabilities and potential for structural change in the less developed southern states of Mexico.

[19] The system formed by: user-interface-address-city-cloud-Earth

hierarchies, can have autonomy. Similarly, SEZ developers can negotiate with a host Nation, even though the host Nation is higher in the hierarchy.

In nested systems, information processing occurs through network interactions at various scales involving many structural parts (Eberbach et al., 2004; Goldin et al., 2006; Dodig-Crnkovic, 2011; Schneider, 2012; Burgin & Dodig-Crnkovic, 2013). Unlike multi-level systems, cross-level interactions are characteristic in nested systems. Thus, nestedness in complex systems makes it difficult to segregate them into micro and macro scales (Gerrits, 2012; Gell-Man, 1995). When establishing a new Special Economic Zone (SEZ) or similar framework, it's essential, therefore, to engage with all parts of the structure, considering their non-linear dynamics. While simplifying existing governance systems is part of creating SEZ legal frameworks, the complexity, and multitude of elements present challenges and require time.

In the context of creating new jurisdiction with legal extraterritory, such as an SEZ, engaging in this process knowing it is challenging has higher success chances than working as if assuming that there are no structures in place, as some seasteading projects that have taken the post-anarchist route have done[20, 21]. The results also contrast with the beliefs and actions of those who think establishing a jurisdiction is as simple as finding a nation willing to trade its land and/or sovereignty for a few million dollars or less.[22] In this context, my definition of legal nestedness refers to a jurisdiction's hierarchical institutional structure and its interconnected regulatory network. Each jurisdiction is embedded within a larger one, operating with a degree of autonomy while being part of a broader, interconnected network. This structure allows for mutual influence between different levels of the system. Entrepreneurs establishing new legal jurisdictions must navigate and untangle this complex structure.

In complex governance literature, the concept of "tangled" appears often associated with nestedness. Parts of a nested system are tangled because they are interconnected within a network where all levels can influence each other (Brenner, 2001; Rowe and Bavinton, 2011; Clarke, 2007). My example above of the European Union illustrates this "networked togetherness." In the context of creating new legal jurisdictions (SEZs), the fact that nested systems are tangled is key as it highlights the complexities SEZ entrepreneurs face in creating new jurisdictions. They must untangle pre-existing relations, institutions, and

[20] Post-anarchism refers to acting as if governance structures were not in place. In this context, an example is Ocean Builder's Thai floating home placed in Thailand's exclusive economic zone and claiming sovereignty in 2019 (Wikipedia Contributors, ND).

[21] I expressly say "in this context" because there are many instances where the post anarchist route is more justified and produces part of the desired results, such as the actions of the Animal Liberation movement. Unfortunately even for that case, the individuals who conduct the acts are many times prosecuted due to the existing structures in place.

[22] Yet, there are projects that do take the post-anarchism route taken by some previous seasteading attempts or by projects that think that the right strategy is to first create the legal framework, and only after to find a Nation willing to concede to it.

regulations, which is challenging given that many zones are established with exceptions to existing rules. That a Zone's starting point is tangled makes an already difficult process even more so.

3. Research Methodology

The main research method for this paper was document analysis. This document analysis took place while conducting ethnographic-like research through participatory observation (see: Herbert, 2000). Participatory observation is a research method consisting of a systematic observation by the researcher while actively engaging within the community (Guber, 2001), and where the researcher integrates into the community she is part of, but never fully becoming one of them. Indeed, to conduct this research, I had two distinct roles: I was a doctoral candidate researching the Floating Island (external), and later a company contractor working as the project's international (not local) spokesperson (internal). This was *ouvert* research, meaning that everyone I interacted with openly knew of my researcher role.

Throughout the data collection process, data was initially gathered from weekly project meetings, calls, and marketing documents. Besides weekly meetings, the research's most important data collection method was document analysis, which involved systematically analyzing and evaluating marketing and legal documents (Bowen, 2009). These served as "stable" reference points, which is useful when researching an ongoing project, as Merriam (1988) notes—like the Floating Island.

Participatory observation comes with dual roles, and this often leads to epistemological tensions (Hammersley and Atkinson, 1995; Guber, 2001:61). This paper focuses exclusively on existing regulations and documentation rather than on my experiences as a participant. Therefore, this tension was excluded as much as possible from the information presented here. That being said, participating in the Floating Island did enrich my legal comprehension of the Project. It helped me discern the validity of some biased media representations and facilitated access to confidential information, which I was given permission to use afterward, such as the legal feasibility study (Thevenot, 2017; GB2A, 2017). This study outlined the aspects in which the Floating Island could obtain legal exemptions or need extra help in creating a new regulatory framework.

The research was done while under a Non-Disclosure Agreement. Therefore, this paper does not disclose the specific SeaZone concessions considered in the legal framework. However, I do reference public sources by Blue Frontiers and others, including the MOU, that speak to the Island's regulatory aspirations. For additional precautions and in compliance with the non-disclosure agreement, I consulted and received previous approval from the Company and shared with its representative the excerpts referencing the legal study.

However, the main documents that informed this research were other first-hand documents publicly available through Blue Frontiers' website and the French Polynesian government's online archive of regulations. I also consulted French Polynesian legal professionals. Besides these regulations, I meticulously examined the Project's environmental, economic, and location studies (Blue21, 2017; EMSI, 2017; Blue Frontiers and Blue21, 2017ls), and delved into reports focusing on energy, water, waste (Blue Frontiers, 2017e), and food (Blue Frontiers, 2017f) drafted in late 2017 by volunteer and staff groups. The project's cryptocurrency white paper also offered key insights (Blue Frontiers, 2018e), and so did the Company's Medium blog and various Seasteading Institute publications.

Another key document from which information was extracted is the Memorandum of Understanding signed between the private developers and the French Polynesian president. This document stated that the SeaZone regulations would address topics such as governance, labor, customs duties, international relations, flag and registration, immigration entry, and residence permits (MOU, 2017). I discuss the legal structure of each of these aspects to make my claim that a) it is difficult to create a new jurisdiction and b) when creating it, it is inescapable not to deal with existing governance systems; c) the structure of these systems is nested.

4. Complex Legal Framework in the Floating Island Project

The Floating Island Project offers a quintessential example of complex governance theory in practice. This section shows how nestedness, a fundamental property of complex systems, manifests in the project's multifaceted legal framework. What I present here is the Project's starting point, from which SeaZone's legal framework would have been created or departed. Seeing this legal framework is helpful insofar as it paints a clear picture of the complex systems Startup Society entrepreneurs must navigate.

The legal framework of French Polynesia predating the Floating Island was complex because it had multiple institutions, entangled regulations and cross-jurisdictions. Trying to create the Island's legal framework entailed navigating complexity because it meant carving a space within these overlapping institutions, jurisdictions, and rules so that the final product was competitive and autonomous.

To understand the complex governance framework of the Floating Island, it is important to realize that French Polynesia is institutionally nested within French institutions due to its history. To this date, France has an ongoing colonial relationship with Polynesia. French Polynesia is an overseas collectivity of France (Const. Fr, Art 74). This means its autonomy is similar to that of French regions (Const., Art 72). However, unlike French regions, for French laws to be applicable in French Polynesia, they have to specifically mention collectivities (Loi No. 2004-192: Art. 7). When France does mention Collectivities

within legislation, the Polynesian Assembly can spell out rules for their specific application (Loi No. 2004-192, Art. 11). However, for French Polynesia to modify its political relationship with France, it needs the French Constitutional Council's (Const., Art 46) and the French Prime Minister's approval. French Polynesia's Autonomy Statute, which granted Polynesia autonomy (Loi 2004-194: Art 47)–not independence–shows France's control in vital Polynesian sectors. Graphic 1 illustrates this.

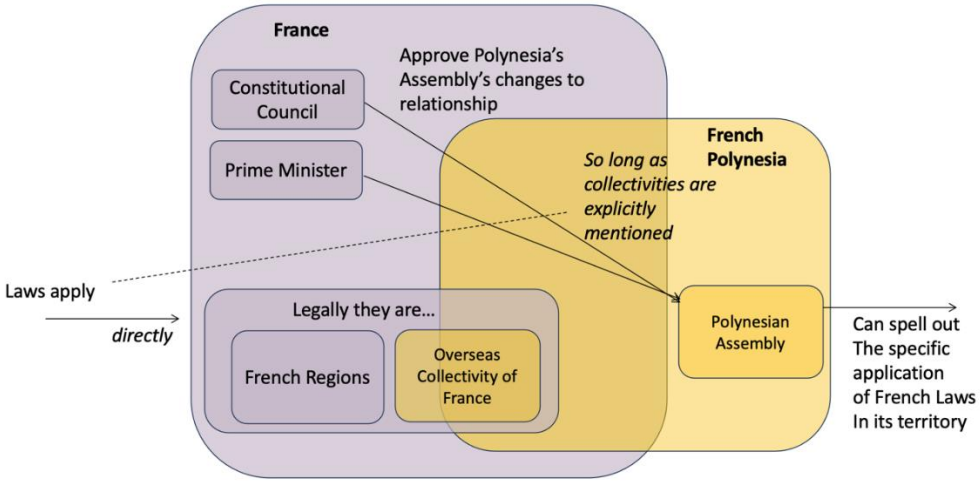


Figure 1. French Polynesia's nested structure

To have autonomy in its policy-making, the SeaZone developers sought to govern the island through one single private entity, at the most local level of this nested structure. This institution would have been called the SeaZone Authority. Had the project implementation succeeded, and the developers achieved the autonomy they wanted, the SeaZone Authority would govern the Floating Island's operations, from design to rule-setting (Blue Frontiers (2018e:28). It would mediate disputes and control the Island's desired and sole accepted currency, the Varyon (Blue Frontiers, 2018n). As for Blue Frontiers, the private company, it would supply utilities, infrastructure, and financial services (Blue Frontiers, 2018e). The following graph summarizes the roles.

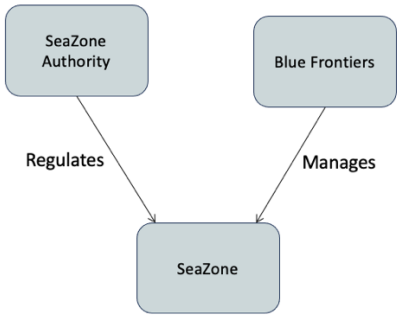
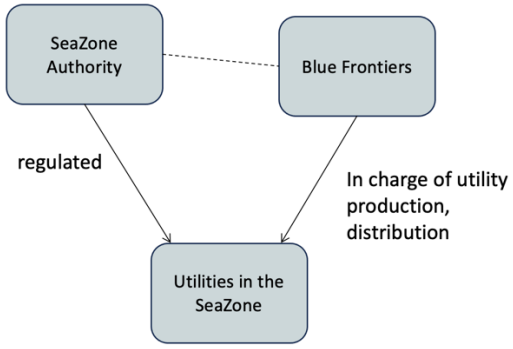


Figure 2. Sought legal and operating structure

Each concession the SeaZone sought would have a similar structure: the Zone Authority regulated and Blue Frontiers operated. For example, the Floating Island aimed to be autonomous in energy production (solar), desalinating water, harnessing rainwater, implementing closed-loop utility cycles, including composting toilets, allowing for water recycling (Blue Frontiers, 2017c; 2018c), and other off-the-grid solutions, as the following graphic show.



However, to manage waste, energy and water production, the SeaZone Authority needed to be given autonomy to regulate utilities. One of the local entities that need to opt-out from its regulations extending to the SeaZone's nested institutional framework would have been French Polynesia's Office of the Environment, which enforces regulations as per the Environmental Code (CDE, 2017)–a document that is itself influenced by and borrows from French regulations. Had this autonomy not been given, SeaZone's utility framework would have ended up looking like the simplified figure below.

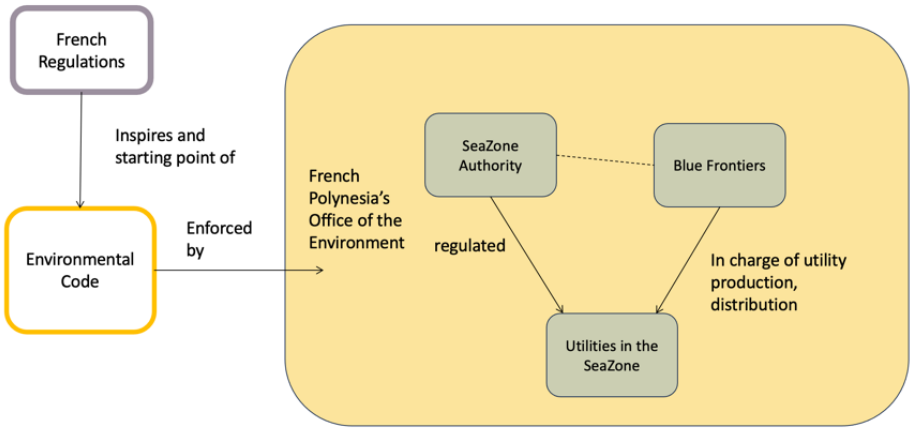


Figure 3. SeaZone utility nestedness

The nested framework was more complex for immigration matters. Located far from major global financial centers, SeaZone's regulatory framework needed to have competitive benefits (tax, finance, or otherwise) that would motivate prospective tenants.[23] One of the benefits could have been immigration reform. The developers wanted easy visa processing for their target market: Digital Nomads. After all, the biggest seasteading survey to date (TSI, 2014) characterized the seasteading demographic as being between 18 and 29 years old; 70% were unmarried; 20% had no children; 60% needed excellent WIFI where they lived; most were in engineering, software development, consultancy, entrepreneurship, and marketing fields; and 82% said they would be comfortable living in a 27m2 apartment. These results and my ethnographic research confirmed a need to seek a solid residence permit legal framework. This would have meant untangling existing French immigration regulations (Loi 2004-193).

Today, many citizens from around the globe can visit French Polynesia without a visa for up to three months. For most, staying longer depends on employment or being accepted into a local education institution. The Council of Ministers of French Polynesia approves work permits, following regulations from Polynesia's Autonomy Statute (Loi 2004-192, Art. 91) and the Labour Code (CM, 2011b; PM, 2010). This suggests that the Project needed National endorsement. However, due to Polynesia's status as an

[23] This is referring to the concept of jurisdictional arbitrage. In the context of businesses, this is done either by structuring transactions, locating assets, or organizing operations in a way to take advantage of more favorable laws, regulations, or tax regimes in one jurisdiction over another. In the context of seasteading, jurisdictional advantage consists of choosing to move your floating house away to a jurisdiction with a political system or regime closer to your liking.

overseas collectivity of France, the High Commissioner of the Republic (France) in French Polynesia (HCRFP) is generally the entity responsible for issuing residence permits.

Moreover, French Polynesia's Autonomy law states that immigration remains under the purview of the French State. Specifically, this means that: 1) France retains legislative authority over Polynesian immigration laws concerning entry and stay of foreigners, 2) Polynesia's foundational policies and laws related to immigration are typically established by France; 3) France has to approve any proposed local adjustments or changes to immigration-related matters; 4) immigration enforcement is carried out under the authority of the French State; and 5) France negotiates international immigration agreements on behalf of French Polynesia. So even if French Polynesia's Council of Ministers deals with work permits locally, this is done under French jurisdiction. In a nutshell, because Polynesia is not entirely sovereign[24], creating a legal framework with exceptions or new rules for the Maritime Special Zone in question entailed negotiating with institutions at multiple levels. Obtaining this regulatory exception would have been key for the project's objective to evolve from a 300-person platform to a much larger floating city. Most physical cities, with exceptions such as Burning Man or the nascent Zuzalu, require a semi-permanent population. Another problem was that many digital nomads work as freelancers, and therefore, they do not work for one single company that can back their residence application. So, untangling immigration rules was crucial for the Zone. The graph below shows the institutions I have mentioned and their regulations. Note how the SeaZone Authority is at the "smallest" level of the nested structure. Without an autonomous immigration framework, this is the framework under which the SeaZone Authority would operate for immigration rules.

[24] Note the distinction between autonomy and sovereignty here.

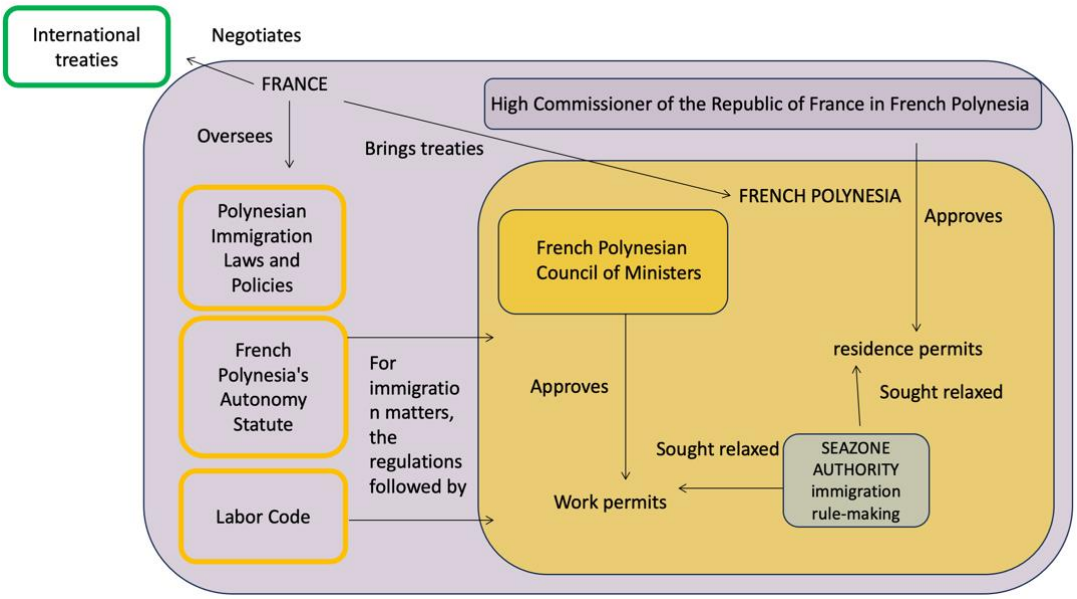


Figure 4. SeaZone Authority nested in immigration institutions and regulations.

The situation would have been similar for real estate investors. French territories offer various types of investor visas and permits, which allow foreign nationals to get a residence or citizenship if they make a significant financial investment in its islands. Many of these investors tend to be real estate investors. But regulations state that foreign individuals aiming to acquire property on the islands of Polynesia are obliged to obtain approval from the Presidency (APF, 1996; CM, 2011a), and many of the French institutions involved in regular work permits form part of this process too, including the High Commissioner of the Republic in French Polynesia. Graphic 4 illustrates this nested structure and the institutional overlapping.

Another important aspect for the project developers was governing the Island via its own cryptographic token, Varyon (Blue Frontiers, 2018h), used to fundraise. This nested framework included not only France but also the United States and China. The United States was part of the structure because at least 55% of the expected Project supporters were United States citizens (TSI, 2014). At the time the United States Securities and Exchange Commission (SEC) was prosecuting tokens crowdfunding through Initial Coin Offerings regardless of their place of issuance. The SEC argued it had jurisdiction when US citizens were involved or participated (SEC, 2013; Securities Act of 1933). While Varyon was a utility token, not a security, Blue Frontiers took the safer and less financially beneficial route: only US accredited investors were allowed to buy Varyon[25], since in the United States only accredited investors are permitted to purchase securities via private placements.

[25] A US accredited investor must have an annual income exceeding $200,000 USD or $300,000 USD together with their spouse, or their net worth must exceed $1,000,000 USD.

Chinese citizens could not buy the token either (Blue Frontiers, 2018e:13, 36). In 2018 China passed strict blockchain regulations (CAC, 2019). The government had control over blockchain content, including the ability to delete, ban, and prosecute, aligning with its strict anti-anonymity policies. Graphic 10 illustrates the institutions that framed the Floating Island's decisions and whose regulations it needed to navigate.

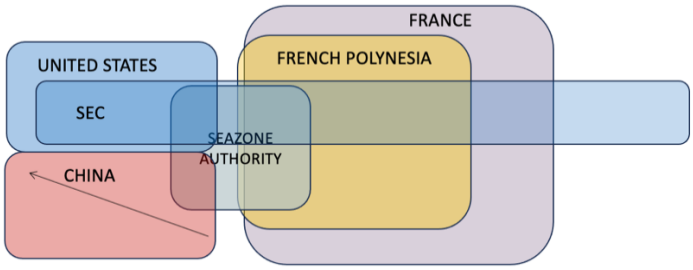


Figure 5. SeaZone Legal framework for Blockchain, Cryptocurrency, and Initial Coin Offerings and their regulations

Having a good tax framework is another topic relevant for the traditional seasteading demographic and people moving for jurisdictional arbitrage reasons. Special tax regulations were included in marketing materials of the FP (Blue Frontiers, 2017c) and in the Memorandum of Understanding with the French Polynesian government. It is not uncommon for Zones to offer tax exemptions or reductions to their tenants or residents–even if successful Zones aren't solely dependent on tax benefits (FIAS, 2008; Moberg, 2015a; Frazier and McKinney, 2019b). Yet, taxes are what attracts tenant companies and residents in traditional Zones. To offer the minimum that other Zones around the globe offer, the SeaZone needed to provide relief from contributions to the host Nation, which in French Polynesia often go to salary, wage, pension funds, maternity leave, and unemployment programs (APF, 1994; APF, 2012a; CGI, 2019).

The legal study noted existing tax exemptions (see CGI, Art 211) for real estate purchase (see CGI, 2019; APF, 2012b), income (CDI, Art. 178), and certain productive investments in economic development or the Nation's priority economic sectors (Loi 2003-660; Loi 86-824, 1986; CDI, Art 112). These sectors included tourism and hotels (Loi 2004-192; Loi 2014-12). Because tourism is Polynesia's primary revenue source, French Polynesian attorney and scholar Lallemant-Moe (2017) stated that the Floating Island could try to get similar tax concessions and subsidies to those given today to hotels (see: APF, 1995). To secure the them, the FIP needed to untangle nested legal and institutional frameworks. Specifically, it required the ratification of French Polynesia's Council of Ministers (CGI, Arts. 911-913), whose decisions on the matter largely conform to the French Tax Code (CGI, 2019a24:Art. 199; Loi 2004-192:Art. 7-8). Overall, the SeaZone Authority's jurisdiction of taxes could have ended up as a nested structure with it at the center

surrounded by French Polynesian institutions and France, which in turn adheres to European Union regulations (EU, 2012:26:Art. 198). Figure 6 synthesizes this idea.

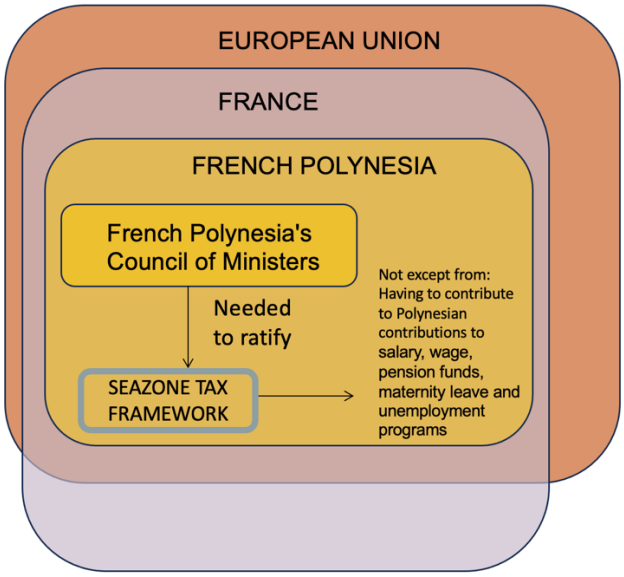


Figure 6. SeaZone tax framework if no untangling took place

In contrast, Figure 7 shows how the SeaZone framework would have been if the SeaZone Authority had full autonomy in tax regulations.

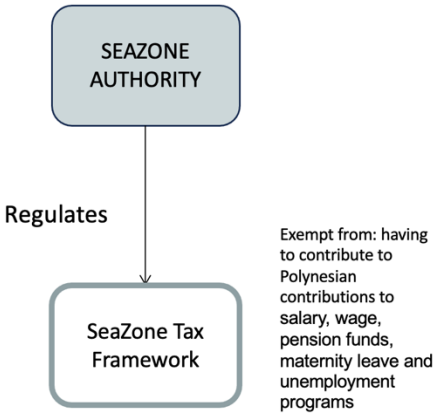


Figure 7. Autonomous SeaZone tax framework after untangling

Lallemant-Moe (2017a) also mentioned an existing regulatory framework for Free Zones that could make things easier for the SeaZone. He argued that the Polynesian Assembly could apply the existing Free Zone

framework and add more lenient labor regulations. Likewise, the legal study outlined that the SeaZone could have what Free Zones currently have plus more streamlined customs regulations (CDD, Art 286). Lallemant-Moe explained that because it is Polynesia, not France, who approves Free Zones (CCD: Art 2), it would have been easy to find autonomy within the nested framework, and untangling the regulations in that nested structure. Graphic 6 shows how the SeaZone Authority nested within the existing free Zone regime.

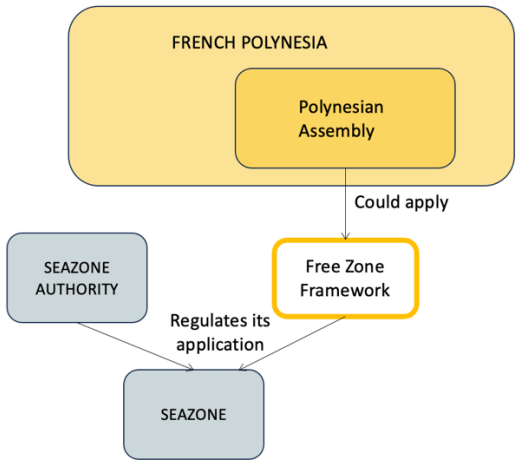


Figure 8. A simple application of an existing Free Zone framework

One aspect where Polynesia already had helpful legal precedent involved floating infrastructure. That the island floated was key. After all, without a floating component, the Project would essentially resemble conventional land-based zones (Steinberg et al., 2012:1543). As Stopnitzky et al. (2011) argued, without a distinct regulatory framework, there's little incentive to position a seastead within territorial waters. Thankfully for the project, French Polynesia is known for beautiful overwater bungalows, and it already has specific regulations governing floating dwellings. Legally speaking, these include structures or vessels designed for habitation, such as houseboats (Vice-président, 1983, Art. 2). Initially, floating dwellings in Polynesia were prohibited in 1983 (Vice-président, 1983). However, permissions were granted in islands like Bora Bora in 1985 (CM, 1985c), so long as owners were environmentally responsible and preserved the flora and fauna. In July 1994, French Polynesia issued an order claiming that establishing floating dwellings would entail a temporary occupation of public domain, and violators were subjected to fines. Later, the legal Bora Bora were extended to the Touamotu archipelago in 1987 and then to others.

This regulatory change hinted at the possibility of crafting governmental orders, permitting structures like the Floating Island, which are similar to villas on stilts. The ideal framework is pictured in the figure below.

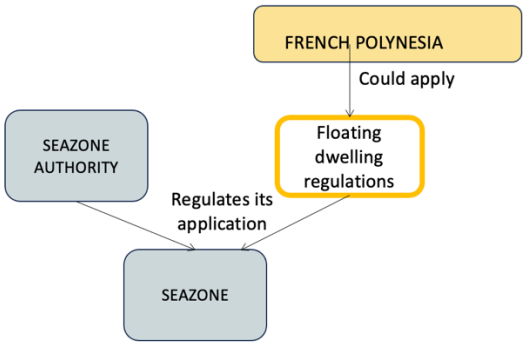


Figure 9. A simple legal framework for floating homes in French Polynesia

Lallemant-Moe (2017a), however, indicated this would not be as straightforward as it may seem. This is because, even if French Polynesia decided to allow completely floating homes, the FIP's desired location in Atimaono was not zoned for that use, and French Polynesia's Management Plan of Maritime Space does not include lagoons.[26] Moreover, French Polynesia's ocean belongs to the public domain (Loi 2004-192:Art. 47; Loi 94-631; CC, 1994; APF, 2014), the Nation ratified UNCLOS (Loi 95-1311, 1995) and private ownership of the public domain is restricted (Lallemant-Moe, 2017a). Even if the Assembly could, in principle, regulate this space and authorize leasing models in it (see: Loi 2004-192, Art, 91; CM, 2015s8: Arts. 4-5), it was not the only entity with jurisdiction over it. As the legal study noted, the location selection of the Project required approval from the commune's mayor and the Ministry overseeing finances and the public maritime domain (Loi 2004, 192, Art. 50). Also, the legal study indicated that, due to the SeaZone's environmental impact, it required endorsement from a government commission, including officials from land affairs, urban planning, and the environment department (CM, 2015; Loi 2004-192: Art. 6). In terms of specific regulations, the Environmental Code of French Polynesia would apply (Loi 2017-25; CDE, 2017; CM, 2018), and thus approval would have also been needed from entities like the Council of Ministers of FP, responsible for the Code's adherence and environmental protection. Hence, for the project developers, untangling meant negotiating with several of the entities present in Figure 10, their members, egos, policies, etc., until the SeaZone achieved a floating, autonomous framework for the specific location.

The nested institutional framework might have included not only domestic or national institutions. International treaties also needed to be navigated, including laws about common heritage spaces and the public domain, which state that these spaces cannot be owned by private parties. These international

[26] A lagoon is an often shallow body of water separated from the larger sea by a coral reef, barrier islands, or a sandbar.

considerations influencing local decisions alone demonstrate the unlikelihood of escaping existing governance systems.

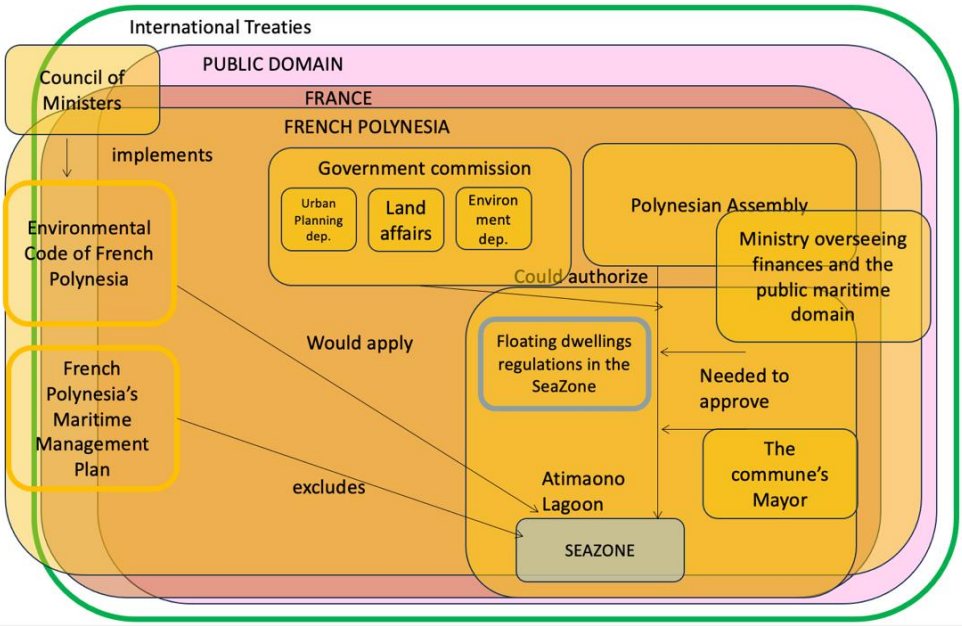


Figure 10. Framework concerning general maritime aspects of the SeaZone

That making a SeaZone is hard does not mean, however, that The Seasteading Institute's strategy of creating a SeaZone instead of seasteading was not reasonable, since building autonomous floating platforms in international waters presents its own issues. Creating seasteads in International waters is difficult, among other reasons, due to the absence of a clear definition for seasteads in international law or on the Law of the Sea (UNCLOS, 1982), which regulates international waters. Authors such as Galea (2009) and Lallemant-Moe (2017) suggest that seasteads might fall under vessels or artificial island classifications. This could be convenient given that several small Pacific island states are looking at artificial islands as a way to extend their territory in the wake of the rise in sea level. However, Lallemant-Moe (2017a, 2017b) argues that artificial islands are not a lawful remedy for nations at risk of disappearing or being submerged since artificial islands do not possess the same legal recognition as natural islands. According to the United Nations Convention of the Law of the Sea (UNCLOS, 1982: Art. 60), the creation of artificial islands doesn't change the territorial sea boundaries or impact the Exclusive Economic Zone of nations. This indicates that even if artificial ones replace natural islands, it won't safeguard the maritime jurisdictions linked to vanishing land (Lallemant-Moe, 2017a).

That being said, according to UNCLOS, coastal states can sanction artificial island construction within their Exclusive Economic Zone (UNCLOS, 1984: Art 56) and designate safety zones around them, restricting other state vessels (UNCLOS, 1984: Art 60). While these islands can possess a degree of autonomy, the state retains overarching jurisdiction, including over issues like immigration and safety (UNCLOS:Art. 56 and 1984:Art. 60). This state control opposes seasteading's autonomy objectives. However, the main issue continues to be a lack of artificial island classification in international waters, something Mutabdzija and Borders (2011a:24) previously noted.

Galea (2009:19) suggests that while artificial islands often correlate with permanent structures, floating platforms may have more temporary characteristics (Galea, 2009:53). She further clarifies that the UNCLOS explicitly excludes artificial islands from 'natural islands,' placing them in a unique international legal category. Lallemant-Moe (2017a), referencing Pancracio (2016), emphasizes that permanency in international waters can be deemed as an illegal occupation. Likewise, the Law of the Sea (UNCLOS, 1984: Art. 80, 87) restricts the installation of such islands in international waters by private entities. Lallemant-Moe (2017a) notes that states cannot claim sovereignty over these islands in international waters due to the common heritage principle (UNCLOS, Art. 89). This means that French Polynesia could not back the team seeking to create floating islands in the public domain, under that definition.

But what if these islands could be considered ships? The distinction between ships and vessels remains ambiguous, particularly in relation to seasteads (Bell, 2017b; Lallemant-Moe, 2017). Mutabdzija and Borders (2011a:23) highlight this ambiguity, citing the United States Code (title 47), which broadly defines a ship or vessel as any watercraft, excluding aircraft, used or potentially used for water transportation, regardless of its buoyancy status. Another section, Title 18, characterizes a ship as any watercraft not fixed to the seabed. However, Lallemant-Moe (2017a; b) emphasizes that ships are inherently designed for navigation. Ships also operate under a country's flag per UNCLOS (1982: Art. 91). Thus, the classification of this type of project presents its issues. If seasteads are considered ships or vessels, they must bear a flag from a recognized state, defining their nationality and establishing their adherence to that state's regulations and the international maritime law–which could, indeed, maybe be under an SEZ framework. But the implications of being classified as a ship mean that, for example, customs agents can, at any time, board people’s residences (CC, 2013). The Zone could have also used a Flag of Convenience.

The idea of a 'flag of convenience' arises from the practice of registering ships under the flag of a country with lenient regulations, often unrelated to the ship's actual operations or ownership. While this allows for operational advantages, such as reduced regulatory burdens or lower costs, Lallemant-Moe (2017) and Bell (2017) argue that using this approach might yield a different autonomy. After all, even a

Flag of Convenience for a floating project would be subject to some level of oversight and regulation by the flag state. This requirement stems from the principle in the Law of the Sea that calls for a genuine link between a ship and the state under whose flag it sails. Back in 2012, this issue influenced The Seasteading Institute's reconsideration of its approach to establishing seasteads in international waters and led to the strategy of creating Maritime special economic zones or SeaZones. This tension demonstrates that regardless of whether the floating platform exists in the high seas or closer to coasts, existing institutions and regulations apply. The task of Startup Society entrepreneurs is to try to untangle and navigate them instead.

A similar untangling, albeit more local, needed to happen for the project's terrestrial area or Anchor Zone. As noted by Bell (2017b), Anchor Areas or Zones would be integral parts of floating Zones. They would serve physical and legal transition areas from land to water and from the host nation's rules to SeaZone Authority's. As shown by the Project's marketing materials and location scan, the Project's Anchor Zone would have been the land of the Atimaono lagoon, in the Atimaono commune, in the Teva I Uta municipality. This would have led to a physical and legal nested structure: Teva I Uta is nested in Tahiti, which is in French Polynesia, where France has jurisdiction, which is part of the European Union, which oversees treaties France signs, many of which apply in Polynesia. Figure 11 merges physical and legal jurisdictions and territories to show this Matryoshka-like institutional and regulatory structure.

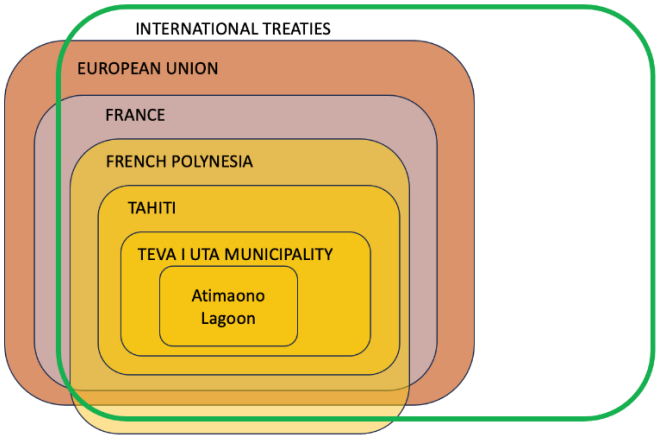


Figure 11. The SeaZone's location legal and physical nestedness

At the time of this research, Atimaono was zoned to spur Polynesia's economic development (Loi 2014-32). Former Blue Frontiers managing director Collins Chen, who founded a competing company while the Company was working on the SeaZone, argued on Polynesia's national television that the Floating Island Project aligned with Polynesia's economic objectives (TNTV, 2018). In reality, its regulations rendered

Atimaono incompatible. Atimaono's zoning was limited to leisure, golf, archaeology, tourism, and small commerce (MPF, 2018; CM, 2009a)–not residential or financial. Establishing a different zoning framework meant creating new regulations or exceptions to current ones that prohibit significant alterations to the landscape (CM, 2010: CM, 2019: 114). For this aspect, the institutions in the nested structure included all those mentioned above, plus Teva I Uta municipality's Institution for Management and Planning and the Office of Agriculture. The nested structure also included personnel; Namely, Polynesia's Vice President Teva Rotfritch, who at the time was Minister of Economy, Finances, Large Projects, and the Blue Economy (APF, 1985; CM, 2014).

And last, had the SeaZone pursued an autonomous framework for health regulations, the legal study identified that for human medications, trade, illness prevention, and cross-border threats, EU regulations would have applied (see: EU, ND). World Health Organization regulations would also have been applicable by proxy (WHO, 2017, 2019). And because of France's endorsement of various global health treaties, the SeaZone developers would have been forced to navigate UN conventions, such as the 1961 Convention on Narcotic Drugs and the 1997 Oviedo Convention. Figure 12 shows the simplified version of this nested health institutional framework the project needed to deal with, depart from, navigate, and/or untangle.

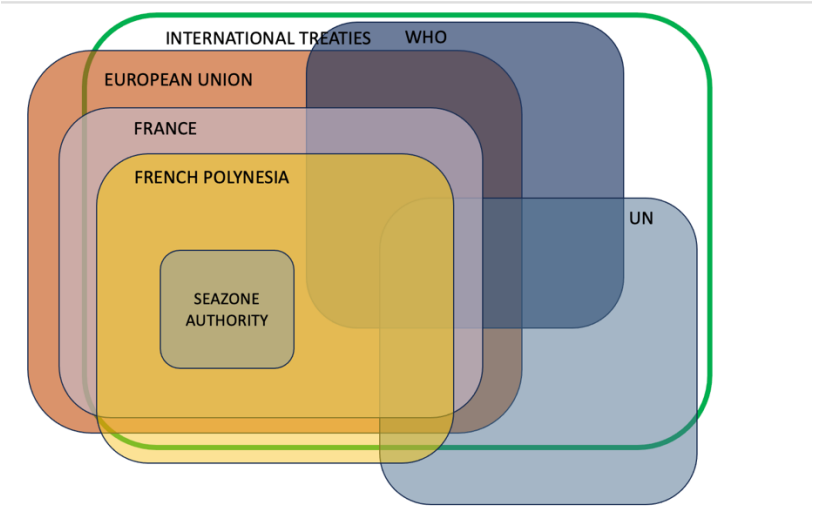


Figure 12. Existing health nested institutional framework

Through the above examples, I demonstrate that SeaZone Authority's regulatory framework for the Floating Island necessitated the endorsement of multiple institutions or required exceptions from their rules. The Zone would have also had to try to find a comfortable place of exception within larger international institutions and, most importantly, a place in harmony with local systems such as the municipality and other

local government bodies. Without this, Polynesia and even France's support would have been inconsequential.

These observations about preexisting, surrounding systems that needed to be considered when creating a Zone or similar demonstrate complexity theory in a practical setting. They also provide a good understanding of the legal landscapes Startup Society entrepreneurs must navigate.

As a generalizable lesson, Startup Society entrepreneurs must be creative in finding ways of making a competitive legal framework based on the level of authority possible given the nested structure. Whether this is fully untangling or just navigating the complex governance structures can simply not be ignored.

5. Conclusion

Examples of Startup Societies that are legal and physical extraterritories, such as Special Economic Zones or Special Administrative Regions, are becoming more common worldwide. Several are on the cutting edge of what Startup Societies can be. SpaceX, for instance, is advancing in its mission of the establishment of human settlements with spatial extraterritoriality on Mars. While their legal frameworks do not exist yet, they are an undeniable future reality. And while the Floating Island did not materialize, for reasons discussed in Mezza-Garcia (2020), analyzing its legal framework and legal context is useful for special jurisdiction and Startup Societies developers and/or entrepreneurs–whether these are traditional, land based SEZs, water-based, or even in outer space.

But, as shown above, these complex systems are not created in a legal vacuum, and it is not easy to make existing legal structures less complex or to escape existing ones, when creating a new jurisdiction. To this date, legacy Systems continue to play a key role in defining the boundaries of special jurisdiction autonomy. Thus, entrepreneurs must undergo a comprehensive examination of the complexity involved in forming extraterritorial systems, and the role played by these legacy systems, such as Nation-states and even political parties, in their creation.

Extraterritoriality only amplifies the need for alignment with these traditional governance structures. Ignoring this requirement is unrealistic and often more expensive. As complexity scientists know, complexity cannot be successfully ignored. And while the scientific meaning of complexity is not a synonym for complicated, it often does make things harder. At the same time, the process of navigating regulations, untangling them, and establishing a new framework must be done delicately. If done incorrectly, it usually only increases complexity and costs and can lead a project to failure, like with the Floating Island. Even a project like the FIP, which stated its main goal was to decentralize governance (Blue Frontiers, 2018h), could not escape from centralized institutions. Although trust, local stakeholders,

colonization, history, economic, cultural, political ideology, reputation, strategy (or lack of) and historical issues were more responsible for the Floating Island's demise than the complexity (Mezza-Garcia, 2020) the important point is that no location exists in a legal vacuum, not even locations that are in an actual physical vacuum of some sort, like those in space.

Thus, by examining the unique case of a floating Special Economic Zone called Floating Island and grappling with its intended framework's nested institutions and tangled regulations, my aim was to highlight the legal scenario Startup Society entrepreneurs must navigate to establish a new jurisdiction's desired rules and, most importantly, their exemptions.

Knowing this is important because it helps to know that the autonomy of special jurisdictions is contingent upon the permissions and constraints set by the institutions that precede it in their nested structure. And therefore, navigating complexity to strive for autonomy requires a balanced and practical approach, which entails intertwining the new jurisdiction within existing structures. While ease of doing business, technological advancement, and innovative industries are what will drive Next Generation Startup Societies' growth, the legal nestedness will define what is possible.

As demonstrated in the paper, founding a startup society is like climbing a multi-story building filled with a knotted rope. A developer must scurry up and down the stairs, identifying and untying a knot on the 12 floor in order to address a knot on the 3rd. All of this must be planned while the rope is moving, the clock is ticking, and the bank is draining. While risking stating the obvious, through this paper I sought to show creating new jurisdictions is complex. And while complexity does not always mean "complicated" or "hard", in the case of new jurisdictions, it certainly does.

Only by acknowledging this complexity, its corresponding difficultness, and proceeding accordingly, can new jurisdiction entrepreneurs and developers create one successfully.

Disclaimer

The author had a small equity participation in the Floating Island, and participated in the creation of some of the documents mentioned here, such as the complementary studies done by volunteers and staff. She is also part of the founding team of the Catawba Digital Economic Zone, where she now serves as acts as Chief Operating Officer.

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