

Index

- Abacha, Sani, 14
 absolute rights, 53–54
 absolutism, 32
 Accord on Fire and Building Safety in Bangladesh, 339
 accountability mechanisms
 certification, by consumers, 179
 by civil society organizations, 182–183
 consumers as, 178–180
 conscious consumption, 178–179
 Marine Stewardship Council, 179
 transparency of, 179–180
 for corporate social responsibility, 5
 investors, 180–181
 environmental, social and governance criteria, 180, 182
 Principles for Responsible Investment, 180
 in ISO 26000, 220
 labels as, by consumers, 179
 in nation-states, legislative measures for, 241–258
 in OECD Guidelines for Multinational Enterprises, 208–209
 dispute settlement mechanisms, 208–209
 National Contact Points in, 208–209
 soft, 178–183
 by civil society organizations, 182–183
 theoretical approach to, 171–172
 in UN Global Compact, 215–216
 Communication on Progress, 216
 dialogue facilitation mechanisms, 216
 learning platforms, 215–216
 local networks in, 215–216
 under UN Guiding Principles, 196–197
 active complicity, in indirect human rights violations, 70–71
 direct complicity, 71
 indirect complicity, 71
actus reus, 73
 adjudicative jurisdiction, 230
 Africa. *See also* Nigeria
 Côte d'Ivoire
 human rights violations in, 69–70
 toxic waste dumping in, 89–90
 regional human rights conventions in, 61
 South Africa, during apartheid era, 12–13
 Sullivan Principles as response to, 12–13
 African Commission on Human and Peoples' Rights, 51–52
 African Court of Human and Peoples' Rights, 51–52, 61
 Malabo Protocol, 52
 agribusiness sector, corporate human rights responsibilities in. *See* food, beverage and agribusiness sector
 aiding and abetting, 268–269
 Alien Tort Claims Act (ATCA), US, 12, 20–21, 269–274
 direct company violations, 270–271
 under state action, 271
 indirect company violations, 271
 international law and, 270
 Jesner v. Arab Bank, 274
 jus cogens norms, 270
 Kiobel v. Royal Dutch Petroleum Co., 272–273
 main features of, 269–272
 Ruggie on, 273
 under law of nations, 270
 Alliance for Bangladesh Worker Safety, 339
 Annan, Kofi, 16–17
 anti-corruption principles, in UN Global Compact, 212
 Arab Charter of Human Rights, 61–62
 Arab States
 kafala system in, 95
 regional human rights conventions in, 61–62
 Araya v. *Nevsun Resources*, 282–285
 arbitration. *See* international arbitration
 artisanal mining (ASM), 319
 in Democratic Republic of the Congo, 321
 ASEAN. *See* Association of South-East Asian Nations
 ASM. *See* artisanal mining
 Association of South-East Asian Nations (ASEAN), 62
 ATCA. *See* Alien Tort Claims Act
 audits, for human rights due diligence, 163
 Australian Modern Slavery Act (2019), 154, 240, 242–244
 autonomy, human rights and, 40
 internal autonomy of the state, 43

414 Index

- Bangladesh
 Accord on Fire and Building Safety in Bangladesh, 339
 Alliance for Bangladesh Worker Safety, 339
 banking and finance sector, corporate human rights responsibilities in, 322–328
 best practices, 327–328
 impact investing, 327–328
 through screening strategies, 327
 challenges in, 323–326
 Dakota Access Pipeline, financing of, 325
 human rights initiatives, 324–327
 in lending practices, 324
 sector-specific standards, 324–327
 Equator Principles, 324–326
 IFC Performance Standards, 326
 Principles for Responsible Investment, 180, 326–327
 Thun Group of Banks, 323
 Barrick Gold mining company, 158
 Beitz, Charles, 42
 beneficial complicity, 71
 Bentham, Jeremy, 28–29
 beverage sector, corporate human rights responsibilities in. *See* food, beverage and agribusiness sector
 Bhopal gas disaster, 22–23
 BHR. *See* business and human rights
 BHRR. *See* Business and Human Rights Resource Centre
 bias and discrimination in information and communication technology sector, 331
 against women, 356–357
 Bilateral Investment Treaties (BITs), 298
 Bill of Rights in England, 27
 US, 27–28
 binding treaty on business and human rights, 305–313
 arguments against/for, 310–312
 elements of, 306–310
 enforcement mechanisms, 308–310
 at domestic level, 308–309
 at international level, 309
 future outlook for, 312–313
 in Global South, 313
 Ruggie on, 312–313
 sanctions under, 308–310
 scope of, 306–308
 World Court of Human Rights, 309–310
 BITs. *See* Bilateral Investment Treaties
 BlackRock, new human rights approach at, 181
 blue-washing, 216–217
 Brandeis, Louis, 107–108
 Brenkert, George, 133
 Brussels I Regulation (2001), 264
 Burke, Edmund, 29
 business and human rights (BHR). *See also* binding treaty on business and human rights; corporate social responsibility; ethical obligations of businesses; nation-states; *specific countries*; *specific topics*
 as academic discipline, xvii–xviii, 21–23
 climate change and, 352–356
 Carbon Major companies, 353
 in Global South, 352
 human rights due diligence processes, 355–356
 legal cases and, 353–354
 under French Duty of Vigilance Law, 354
 corporate social responsibility as distinct from, 4
 definition and scope of, 1
 evolution of, xvii
 IKEA and, 37
 maturation of movement, from 2011–present, 19–21
 at domestic level, 20–21
 at global level, 19–20
 National Action Plans, 20
 UN Working Group, 19–20
 methodological approach to, 6–7
 from 1945–1995, 11–15
 in apartheid-era South Africa, 12–13
 Nuremberg trials, 11–12
 OECD Guidelines, 15
 for oil extraction in Nigeria, 13–15
 Sullivan Principles, 12–13
 under Alien Tort Claims Act (U.S.), 12, 20–21
 from 1995–2005, 15–17
 multi-stakeholder initiatives, 15–16
 UN Commission on Human Rights, 16–17
 UN Draft Norms for, 16–17, 77
 under UN Global Compact, 16
 overview of, 364–367
 in post-conflict contexts, 358–362
 Ruggie and, 2, 17
 Starbucks and, 37
 Teaching Business and Human Rights Forum, xvii
 in transitional justice contexts, 358–362
 from 2005–2011, 18–19
 phases of, 18–19
 under UN Framework, 16–18
 under UN Global Compact, 18–19
 UN Forum on Business and Human Rights, xvii
 UN Sustainable Development Goals, 348–352
 Business and Human Rights Resource Centre (BHRR), 15

- human rights defenders and, 97
- business case, for corporate human rights responsibility, 118–121
- negative business case, 119–120
- positive business case, 120–122
- Cáceres, Berta, 98
- California Supply Chain Transparency Act, US (2010), 143, 244–246
- UK Modern Slavery Act influenced by, 243
- Cambridge Analytica scandal, 329–330
- Canada, duty of care liability in, 281–285
- Araya v. Nevsun Resources*, 282–285
- Choc v. Hudbay Minerals*, 283–284
- Garcia v. Tahoe Resources*, 283
- international law norms and, 282
- Carbon Major companies, 353
- CAT. *See* Committee Against Torture
- Categorical Imperative, 28
- CED. *See* Committee on Enforced Disappearances
- CEDAW. *See* Committee on the Elimination of Discrimination against Women
- CERD. *See* Committee on the Elimination of Racial Discrimination
- certification, accountability through, by consumers, 179
- CESCR. *See* Committee on Economic, Social and Cultural Rights
- child labor
- corporate human rights violations of, 80–81
 - as indirect human rights violation, 69–70
 - International Labour Organization and, 80–81
 - under Dutch Child Labor Due Diligence Law, 251–252
- Children’s Fund, UN (UNICEF). *See* United Nations
- China
- corporate human rights responsibility in, 132
 - indirect human rights violations in, 74
- Choc v. Hudbay Minerals*, 283–284
- civil law jurisdictions. *See also specific countries*
- adjudicative measures in, for human rights, 285–290
- civil society organizations, accountability mechanisms by, 182–183
- Clean Clothes Campaign, 327–340
- climate change, business and human rights and, 352–356
- in Global South, 352
 - human rights due diligence processes, 355–356
 - legal cases and, 353–354
 - under French Duty of Vigilance Law, 354
- CMW. *See* Committee on Migrant Workers
- Committee Against Torture (CAT), 48–49, 59
- Committee on Economic, Social and Cultural Rights (CESCR), 48–49
- Committee on Enforced Disappearances (CED), 48–49
- Committee on Migrant Workers (CMW), 48–49
- Committee on the Elimination of Discrimination against Women (CEDAW), 48–49, 59
- Committee on the Elimination of Racial Discrimination (CERD), 48–49
- Committee on the Rights of Persons with Disabilities (CRPD), 48–49, 60
- Committee on the Rights of the Child (CRC), 48–49, 59
- Common Law Duty of Care, UK, 274–280
- duty of care, 275–276
 - jurisdiction of, 275
 - Okpabi v. Royal Dutch Shell Plc*, 279–280
 - tort cases, 276
 - Vedanta Resources Plc v. Lungowe*, 276–279
- common law traditions. *See* domestic laws; *specific countries*
- Communication on Progress (COP), 216
- community-driven operational-level grievance mechanisms, 151
- compliance, by nation-states, for human rights responsibilities, 294
- complicity
- in indirect human rights violations, 68
 - actus reus*, 73
 - legal elements of, 72–76
 - mens rea*, 73
 - moral elements of, 72–76
 - in UN Global Compact, 213–214
- conscious consumption, 178–179
- Constitution of 1787, US, 27–28
- consumers, accountability for human rights by, 178–180
- conscious consumption, 178–179
 - Marine Stewardship Council, 179
 - transparency for, 179–180
- Convention on the Non-Applicability of Statutory Limitations of War Crimes and Crimes against Humanity, 60
- Convention on the Prevention and Punishment of the Crime of Genocide, 60
- COP. *See* Communication on Progress
- corporate criminal liability, 290–291

416 Index

- corporate culture,
 - implementation of human rights responsibility influenced by, 165–168
- corporate values and vision, 166–167
- elements of corporate culture, 166
- incentives and remuneration and, 167–168
- leadership and, 167
- recruitment strategies, 167
- corporate human rights responsibility. *See also* implementation of human rights responsibility; *specific industry sectors*
- in China, 132
- common objections to, 122–124
 - as duplication of state responsibility, 123
 - as legitimization of corporate power, 124
 - as replacement for government responsibility, 123–124
- corporate power and, 107–110
 - discursive, 109
 - legitimization of, 124
 - relational, 108
 - social science and, 110
 - structural, 108–109
- ethical imperatives of
 - businesses, 103–106
- institutional rights approach, 107
- moral rights approach, 106–107
- ethical obligations of
 - businesses, 103–106
- corporations as political actors, 105–106
- Friedman on, 105
- moral agency of corporations, 104–105
- beyond profit maximization, 103–106
- fulfillment of human rights, 138–140
 - as obligation to rescue, 138–139
 - in public functions, 139
- as legal imperative, 113–116
 - under state-centred doctrine, 114–116
- as legal obligations, 110–116
 - at international level, for legal personhood of corporations, 112–113
 - at national level, for legal personhood of corporations, 110–112
 - under international law, 112–113
- legal personhood, of corporations
 - Citizens United* case and, 111
 - at international level, 112–113
 - at national level, 110–112
- obligations in
 - active, 127
 - collaborative, 139–140
 - duty to aid the deprived, 129
 - duty to avoid depriving, 128–129
 - duty to protect from deprivation, 128–129
 - general/universal, 127
 - imperfect, 128
 - negative, 126–127
 - passive, 126–127
 - perfect, 128
 - positive, 126–127
 - for protection of human rights, 131–138
 - to rescue, 138–139
 - respect of/for human rights, 129–133
 - special, 127
 - typology of, 128–129
- pragmatic perspectives on, 116–122
 - business case for, 118–122
 - Nike case, 121
 - social license to operate, 117–118
- protection of human rights,
 - as corporate obligation, 131–138
 - conditions for, 134–135
 - direct, relational contexts for, 133–136
 - indirect, structural contexts for, 136–138
 - Social Connection Model of responsibility, 136–138
 - Ruggie on, 117
 - Santa Clara v. Southern Pacific*, 111
 - under International Bill of Human Rights, 115–116
 - under ISO 26000, 220
 - under UN Guiding Principles, 130, 133–134
 - under Universal Declaration of Human Rights, 115
- corporate human rights violations
 - against affected communities, 83–87
 - conflict contexts, 85–87
 - through displacement, 85–99
 - through land grabs, 85–99
 - Marikana Massacre, 86–87
 - against protesters, 85–87
 - by security providers, 85–87
- direct company violations, 270–271
 - under state action, 271
- within employment relations, 77–80
 - discrimination issues, 77–78
 - harassment issues, 77–78
 - monitoring issues, 78–80
 - privacy issues, 78–80
 - workplace surveillance cases, 79–80
- indirect company violations, 271
- informed consent and, 84
- relating to environment, 87–91
 - contamination of, 88–90
 - deforestation, 90–91
 - toxic waste dumping, 89–90
- supply chain workers and, 80–83
 - child labor, 80–81
 - exploitation of, 82
 - forced labor, 82–83
 - modern slavery of, 82–83
 - sweatshop labor, 82

- against vulnerable groups, 91–100
 human rights defenders, 95–100
 Indigenous communities, 92–94
 migrant workers, 94–97
 in Qatar, 96–97
- corporate power
 corporate human rights responsibility and, 107–110
 discursive power, 109
 as legitimization of power, 124
 relational power, 108
 as social science, 110
 structural power, 108–109
 historical development of, 107–108
 revenues as measurement of, 108
- corporate social responsibility (CSR), 2–5
 as academic discipline, 21
 business and human rights as distinct from, 4
 challenges to traditional thinking about, 2–4
 as private responsibility, 3–5
 historical development of, 2–3
 human rights perspective on, 4–5
 moral relativism issues, 5
 as private responsibility, 4–5
 for public accountability, 5
 internationalization of, 3
 “Corporation Nation,” 108
 corporations. *See also specific topics*
 moral agency of, 104–105
 Côte d’Ivoire, 69–70
 toxic waste dumping in, 89–90
 CPRD. *See* Committee on the Rights of Persons with Disabilities
 CRC. *See* Committee on the Rights of the Child
 CSR. *See* corporate social responsibility
 cultural relativism, 32
- Dakota Access Pipeline, financing of, 325
 Danish Institute for Human Rights (DIHR), 236
 Declaration of Independence, US, 27–28
 Declaration of Rights, in France, 28–29
 Declaration on Fundamental Principles and Rights and Work (ILO), 194
 deforestation, 90–91
 Democratic Republic of the Congo (DRC), 190
 artisanal mining in, 321
 Dodd-Frank Act and, 249–250
 EU Conflict Minerals Regulation, 250–251
 Derber, Charles, 108
 descriptive relativism, 32
 descriptive universalism, 34
 dialogue facilitation mechanisms, of UN Global Compact, 216
 dignity, as element of human rights, 38
 DIHR. *See* Danish Institute for Human Rights
 direct company violations, under Alien Tort Claims Act, 270–271
 through state action, 271
 direct complicity, 71
 direct parent liability, 267
 direct protection of human rights, as corporate obligation, 133–136
 direct violations, of human rights, 66–67
 disclosure legislation, 240–254.
See also specific legislation
 discrimination issues, 77–78
 discursive corporate power, 109
 dispute settlement mechanisms, in OECD Guidelines for Multinational Enterprises, 208–209
 Dodd-Frank Act. *See* Wall Street Reform and Consumer Protection Act
 dogmatism, absolutism and, 32
- domestic laws. *See also specific countries; specific laws*
 human rights due diligence under, 143–144
 in France, 143
 in UK, 143
 in US, 143
 DRC. *See* Democratic Republic of the Congo
 Drucker, Peter, 108
 Dutch Child Labor Due Diligence Law, Netherlands (2019), 251–252
 duty of care liability
 in Canada, 281–285
Araya v. Newsun Resources, 282–285
Choc v. Hudbay Minerals, 283–284
Garcia v. Tahoe Resources, 283
 international law norms and, 282
 nation-states human rights measures
 adjudicative measures, 267–268
 under UK Common Law Duty of Care, 275–276
 Duty of Vigilance law, France, 143, 254–258
 cases under, 257
 climate change under, 354
 enforcement mechanisms in, 255–256
 legal scope of, 255
 remedy mechanisms, 256
 duty to aid the deprived, 129
 duty to avoid depriving, 128–129
 duty to protect from deprivation, 128–129
- ECHR. *See* European Convention on Human Rights
 EITI. *See* Extractive Industries Transparency Initiative
 employment
 corporate human rights violations with, 77–80
 discrimination issues, 77–78

418 Index

- employment (cont.)
 harassment issues, 77–78
 monitoring issues, 78–80
 privacy issues, 78–80
 workplace surveillance cases, 79–80
 in information and communication technology sector, 331–332
 enforcement jurisdiction, 230
 enforcement mechanisms
 in binding treaty on business and human rights, 308–310
 at domestic level, 308–309
 at international level, 309
 in French Duty of Vigilance Law, 255–256
 in UN Guiding Principles, critical assessment of, 201–202
 England. *See also* United Kingdom
 Bill of Rights in, 27
 human rights in, 27
 enterprise liability, 267–296
 environmental, social and governance (ESG) criteria, 180, 182
 environmental issues
 corporate human rights violations relating to, 87–91
 contamination of environment, 88–90
 deforestation, 90–91
 toxic waste dumping, 89–90
 gender perspectives on, 357
 in UN Global Compact guidelines, 212, 214–215
 equality, human rights and, 31
 Equator Principles, for banking and finance sector, 324–326
 ESG criteria. *See* environmental, social and governance criteria
 ethical imperatives of business, 103–106
 institutional rights approach, 107
 moral rights approach, 106–107
 ethical obligations of business, 103–106
 corporations as political actors, 105–106
 Friedman on, 105
 moral agency of corporations, 104–105
 as political actors, 105–106
 beyond profit maximization, 103–106
 corporate moral agency, 104–105
 ethical relativism, 33
 ethics, human rights due diligence and, 164
 EU Conflict Minerals Regulation, 250–251
 EU Non-Financial Reporting Directive, 246–247
 goals and scope of, 247
 Europe. *See also specific countries; specific legislation; specific topics*
 regional human rights conventions in, 60–61
 European Convention on Human Rights (ECHR), 50, 60–61
 European Court of Human Rights, 50, 60–61
 export credit and investment guarantees, 238–240
 Extractive Industries Transparency Initiative (EITI), 320
 extractive sector, corporate human rights responsibilities in, 317–322. *See also specific companies*
 artisanal mining, 319
 in Democratic Republic of the Congo, 321
 best practices, 320–321
 challenges with, 318–319
 human rights initiatives in, 319–320
 Extractive Industries Transparency Initiative, 320
 Kimberly Process, 319–320
 OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, 319
 Responsible Mining Initiative, 319–320
 issues within, 318–319
 sector-specific standards, 319–320
 International Code of Conduct for Private Security Service Providers, 320
 Voluntary Principles on Security and Human Rights, 320
 under UN Declaration on the Rights of Indigenous Peoples, 318–319
 extraterritorial regulation, 187
 by nation-states, human rights obligations of, 229–233
 adjudicative jurisdiction, 230
 direct extraterritorial jurisdiction, 231
 domestic measures with, 230–231
 enforcement jurisdiction, 230
 prescriptive jurisdiction, 230
 under international law, 229–230, 232–233
 Fair Labor Association (FLA), 339–340
 Fair Wear Foundation, 327–340
 Fairtrade International standards, 344–345
 “fake news,” 330–331
 “fast fashion,” 336
 finance sector. *See* banking and finance sector
 FLA. *See* Fair Labor Association
 Flick, 11–12
 food, beverage and agribusiness sector, corporate human rights responsibilities in, 341–346
 best practices, 345–346

- challenges within, 342–344
 downstream issues, 343–344
 human rights initiatives in,
 344–345
 International Food and
 Beverage Alliance, 345
 Rainforest Alliance, 345
 land grabs, 343
 Nestlé, 341–342
 sector-specific standards,
 344–345
 Fairtrade International
 standards, 344–345
 Sydney Principles, 345
 upstream issues, 342–343
 footwear sector. *See* garment
 and footwear sector
 forced labor, 82–83
 Forced Labour Convention
 (No. 29), 83
 foreign direct liability, 259–260
forum non conveniens doctrine,
 262–264
 Forum on Business and Human
 Rights. *See* United
 Nations
 foundationalist accounts, of
 human rights, 38–42
 deontological approaches,
 39–40
 rationalist approaches, 41–42
 reconciliation of approaches
 in, 45
 teleological approaches,
 38–39
Four Nigerian Farmers case,
 286–287
 France
 business and human rights
 in, 20
 Declaration of Rights in, 28–29
 Duty of Vigilance Law, 143,
 254–258
 climate change under, 354
 enforcement mechanisms
 in, 255–256
 legal scope of, 255
 remedy mechanisms, 256
 human rights due diligence
 in, 143
 free speech, in information and
 communication
 technology sector,
 challenges to, 330–331
 Friedman, Milton, 105
 frivolous litigation, 295–296
Garcia v. Tahoe Resources, 283
 garment and footwear sector,
 corporate human rights
 responsibilities in,
 335–341
 best practices, 340–341
 challenges within, 336–339
 structure of industry as,
 336
 “fast fashion,” 336
 human rights initiatives,
 339–340
 Clean Clothes Campaign,
 327–340
 Fair Labor Association,
 339–340
 Fair Wear Foundation,
 327–340
 Nike, 121, 336–339
 Rana Plaza Factory Collapse,
 337–338
 sector-specific standards,
 339–340
 Accord on Fire and
 Building Safety in
 Bangladesh, 339
 Alliance for Bangladesh
 Worker Safety, 339
 gender perspectives, on BHR,
 356–358
 discrimination and bias
 against women,
 356–357
 environmental issues, 357
 sexual abuse and harassment
 against women,
 356–357
 under UN Guiding Principles,
 357–358
 gender segregation, in Saudi
 Arabia, 37
 generations of human rights, 53
 German Supply Chain Act
 (2021), 253
 Germany
 corporate human rights
 violations in, 288
 Flick, 11–12
 I. G. Farben, 11–12
*Jabir and others v. KiK
 Textilien*, 288
 Krupp, 11–12
Lliuya v. RWE AG, 289
 Nuremberg trials, 11–12
 Gewirth, Alan, 41–42
 Global Network Initiative (GNI),
 332–334
 Global North, 218
 Global Reporting Initiative
 (GRI), 154
 Global South
 binding treaty on business
 and human rights in,
 313
 climate change in, business
 and human rights and,
 352
 information and
 communication
 technology sector in, 331
 ISO 26000 and, 218
 transnational governance in,
 172–173
 globalization
 human rights influenced by,
 2
 transnational governance
 influenced by, 174
 GNI. *See* Global Network
 Initiative
 Google, corporate human rights
 responsibility of, 132
 green-washing, 216–217
 GRI. *See* Global Reporting
 Initiative
 Griffin, James, 41
 Grotius, Hugo, 28
 Hague Rules on Business and
 Human Rights
 Arbitration, 305
 harassment issues, 77–78
 hard duties, in UN Guiding
 Principles, 201–202
 hard law, transnational
 governance under,
 176–178
 hate propaganda, 330–331
 Heede, Richard, 353
 Hobbes, Thomas, 27, 36
 home states. *See* domestic laws;
 nation-states
 HRC. *See* Human Rights Council
 HRDD. *See* human rights due
 diligence

420 Index

- HRDs. *See* human rights defenders
- human rights. *See also* human rights due diligence; human rights violations; international human rights law; international human rights systems; *specific topics*
- Asian values and, 35–36
- autonomy and, 40
- internal, of the state, 43
- challenges to traditional thinking about, 1–2
- with globalization, 2
- as state-centric, 1–2
- corporate social responsibility and, 4–5
- moral relativism issues with, 5
- definition of, 30
- elements of, 30–31
- equality, 31
- inalienability, 31
- indivisibility, 31
- universality of rights, 30
- in England, 27
- foundationalist accounts of, 38–42
- deontological approaches, 39–40
- rationalist approaches, 41–42
- reconciliation of approaches in, 45
- teleological approaches, 38–39
- generations of, 53
- history of thought of, 26–30
- criticism of human rights, 28–29
- natural law, 26–27
- natural rights, 27–29
- United Nations and, role in, 29–30
- in Western world, 27–28
- human dignity as element of, 38
- impacts on, 65–66
- institutionalism and, 44
- Kant on, 28
- legal positivism and, 25–26
- non-foundationalist accounts of, 42–45
- constructivist approach, 44–45
- political approach, 42–44
- pragmatist approach, 44–45
- realist approach, 42–44
- reconciliation of approaches in, 45
- normative agency and, 41
- normativism and, 44
- relativism of, 31–37
- cultural, 32
- descriptive, 32
- ethical, 33
- normative, 33
- universalism compared to, 32–33
- social contract and, 27–28
- state duty to protect human rights, 187–188
- types of, 53–54
- under UN Global Compact, 212–213
- Universal Declaration of Human Rights, 29–30, 35, 38, 55
- universalism of, 30–37
- absolutism and, 32
- descriptive, 34
- normative, 34–35
- relativism compared to, 32–33
- in Western world
- in history of thought, 27–28
- as Western concept, 35–37
- Westphalian international order and, 1–2
- Human Rights Council (HRC), 47–48
- Open-Ended Intergovernmental Working Group on Transnational Corporations and other Business Enterprises with Respect to Human Rights, 312–313
- UN Guiding Principles and, 18–19
- human rights defenders (HRDs)
- Business and Human Rights Resource Centre and, 97
- corporate human rights violations against, 95–100
- under UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 98–99
- human rights due diligence (HRDD), 142–145. *See also* human rights impact assessments
- in business practices, 144–145
- in climate change contexts, 355–356
- critique of, 163–165
- from ethical point of view, 164
- from legalistic point of view, 163–164
- from managerial point of view, 165
- impacts of, actual and potential, 145
- implementation of, challenges for, 159–163
- audits, 163
- collaborations in, 162–163
- community engagement, 162
- as company-specific, 160
- dedicated processes in, 160–161
- by industry, 160
- non-specific processes in, 160–161
- prioritization, 161–162
- risk assessment in, 161–162
- in small and medium-sized enterprises, 160
- supplier engagement and, 163
- in legislative measures, for human rights responsibilities, 240–241, 248–258
- negligence and, 142–143

- as ongoing process, 145–154
 - through policy measures, 238
 - policy statements for,
 - 145–147
 - functions of, 147
 - purpose of, 143
 - risk to rights-holders, 145
 - UN Guiding Principles and, 142, 144–147, 194
 - UN Protect, Respect and Remedy Framework and, 189
 - under domestic laws,
 - 143–144
 - in France, 143
 - in UK, 143
 - in US, 143
 - human rights impact
 - assessments (HRIAs), 147–159
 - human rights performance indicators, 151–153
 - data quality, 152
 - measurement challenges, 153
 - quality of approximations, 152–153
 - operational-level grievance mechanisms, 148–151
 - community-driven, 151
 - remedy mechanisms as result of, 154–158
 - Barrick Gold mining company, 158
 - independent third-party involvement in, 156–157
 - non-state-based non-judicial remedies, 150, 155
 - state-based judicial remedies, 155
 - state-based non-judicial remedies, 155
 - under UN Guiding Principles, 150
 - under UN Working Group guidance, 157
 - victim participation in, 156
 - reporting of impact/corporate responses, 153–154
 - Global Reporting Initiative, 154
 - Reporting and Assurance Framework Initiative, 154
 - structural processes of, 147–148
 - phases of, 147–148
 - human rights performance indicators, 151–153
 - data quality, 152
 - measurement challenges, 153
 - quality of approximations, 152–153
 - human rights policy statements
 - human rights due diligence and, 145–147
 - functions of, 147
 - human rights violations. *See also* corporate human rights violations; indirect human rights violations
 - definition of, 65
 - direct, 66–67
 - impacts compared to, 65–66
 - Hume, David, 29
 - I. G. Farben, 11–12
 - ICC. *See* International Criminal Court
 - ICCPR. *See* International Covenant on Civil and Political Rights
 - ICESCR. *See* International Covenant on Economic, Social and Cultural Rights
 - ICJ. *See* International Court of Justice
 - ICRC. *See* International Committee of the Red Cross
 - IFC Performance Standards. *See* International Finance Corporation Performance Standards
 - IAs. *See* International Investment Agreements
 - IKEA, 37
 - ILO. *See* International Labour Organization
 - impact investing, 327–328
 - impacts, on human rights, 65–66
 - imperialism, 292–293
 - implementation of human rights responsibility, by corporations. *See also* human rights due diligence
 - corporate culture as factor for, 165–168
 - corporate values and vision, 166–167
 - elements of, 166
 - incentives and remuneration, 167–168
 - leadership and, 167
 - recruitment strategies, 167
 - theoretical approach to, 142
 - inalienability, of human rights, 31
 - Indigenous communities
 - corporate human rights violations against, 92–94
 - under UN Declaration on the Rights of Indigenous Peoples, 93–94
 - indirect company violations, 271
 - indirect complicity, 71
 - indirect human rights violations, 67–76
 - active complicity in, 70–71
 - direct complicity, 71
 - indirect complicity, 71
 - child labor as, 69–70
 - in China, 74
 - complicity in, 68
 - actus reus*, 73
 - legal elements of, 72–76
 - mens rea*, 73
 - moral elements of, 72–76
 - in Côte d'Ivoire, 69–70
 - passive complicity in, 71
 - beneficial complicity, 71
 - silent complicity, 71–72
- indirect liability, 267–296
- indirect protection of human rights, as corporate obligation, 136–138
- indivisibility, of human rights, 31

422 Index

- information and communication
 technology sector,
 corporate human rights
 responsibilities in,
 328–335
 best practices, 334–335
 Cambridge Analytica
 scandal, 329–330
 challenges within, 329–332
 bias and discrimination
 issues, 331
 for employment issues,
 331–332
 for free speech, 330–331
 for hate propaganda,
 330–331
 for labor issues, 331–332
 privacy and surveillance
 issues, 329–330
 “fake news,” 330–331
 in Global South, 331
 human rights initiatives,
 332–334
 Global Network Initiative,
 332–334
 OECD Principles on AI,
 332–334
 Partnership on AI,
 332–334
 sector-specific standards for,
 332–334
 Yahoo!, 330
 informed consent, violations of,
 84
 institutional rights approach, to
 ethical imperatives of
 businesses, 107
 institutionalism, human rights
 and, 44
 Inter-American Commission on
 Human Rights, 50–51
 Inter-American Court on
 Human Rights, 51, 61
 international arbitration,
 302–305
 under Hague Rules on
 Business and Human
 Rights Arbitration, 305
 International Bill of Human
 Rights, 56–58
 corporate human rights
 responsibility under,
 115–116
 International Covenant for
 Civil and Political
 Rights, 53, 58
 International Covenant on
 Economic, Social and
 Cultural Rights, 53,
 58–59
 Universal Declaration of
 Human Rights, 29–30,
 35, 38, 55–57
 articles of, 57
 International Code of Conduct
 for Private Security
 Service Providers, 320
 International Committee of the
 Red Cross (ICRC),
 139–140
 International Convention for
 the Protection of All
 Persons from Enforced
 Disappearance, 60
 International Convention on the
 Elimination of All Forms
 of Racial Discrimination,
 59
 International Convention on the
 Protection of the Rights
 of All Migrant Workers
 and Members of their
 Families, 59
 International Convention on the
 Protection of the Rights
 of All Migrant Workers
 and Members of Their
 Families, 94
 International Convention on the
 Suppression and
 Punishment of the
 Crime of Apartheid, 60
 International Court of Justice
 (ICJ), 46–47
 International Covenant on Civil
 and Political Rights
 (ICCPR), 53, 58–59
 International Covenant on
 Economic, Social and
 Cultural Rights
 (ICESCR), 53, 58–59
 International Criminal Court
 (ICC), 49–50
 International Criminal
 Tribunal for Rwanda,
 49–50
 International Criminal
 Tribunal for the Former
 Yugoslavia, 49–50
 Nuremberg trials, 11–12,
 49–50
 Tokyo War Crimes Tribunal,
 49–50
 International Criminal Tribunal
 for Rwanda, 49–50
 International Criminal Tribunal
 for the Former
 Yugoslavia, 49–50
 International Finance
 Corporation (IFC)
 Performance Standards,
 326
 International Food and
 Beverage Alliance, 345
 international human rights law,
 52–62. *See also specific
 conventions; specific
 treaty bodies*
 for absolute rights, 53–54
 core treaties for, 58–60
 for generations of human
 rights, 53
 historical development of,
 52–53
 International Bill of Human
 Rights, 56–58
 International Covenant for
 Civil and Political
 Rights, 53, 58–59
 International Covenant on
 Economic, Social and
 Cultural Rights, 53,
 58–59
 Universal Declaration of
 Human Rights, 29–30,
 35, 38, 55–57
 for negative rights, 54
 for positive rights, 54
 regional human rights
 conventions, 60–62
 in Africa, 61
 in Arab states, 61–62
 in Europe, 60–61
 in North/South America,
 61
 in South-East Asian states,
 62
 for relative human rights,
 53–54

- sources of, 54–56
 customary law, 55
 general law principles, 56
jus cogens, 55–56
 treaty law, 55
- international human rights
 systems, 46–52. *See also*
specific conventions;
specific treaty bodies
- African Commission on
 Human and Peoples’
 Rights, 51–52
- African Court of Human and
 Peoples’ Rights, 51–52
- Malabo Protocol, 52
- European Convention on
 Human Rights, 50
- European Court of Human
 Rights, 50
- Human Rights Council,
 47–48
- Inter-American Commission
 on Human Rights, 50–51
- Inter-American Court of
 Human Rights, 51
- International Court of Justice,
 46–47
- International Criminal Court,
 49–50
- Office of the High
 Commissioner for
 Human Rights, 47–48
- treaty bodies, 48–49
- United Nations’ role in,
 46–49
- International Investment
 Agreements (IIAs),
 298–304
- Bilateral Investment Treaties,
 298
- integration of human rights
 into, 300–301
 defensive approach to, 300
 offensive approach to, 300
- investor–state dispute
 settlement mechanisms,
 299, 301–311
Urbaser v. Argentina, 303
- international investment law,
 298–305
- International Labour
 Organization (ILO), 46,
 48
- child labor violations, 80–81
- Convention on Forced Labor,
 48
- Declaration on Fundamental
 Principles and Rights at
 Work, 194
- Freedom of Association and
 Protection of the Right
 to Organize, 48
- international law
 Alien Tort Claims Act and,
 270
- corporate human rights
 responsibility under, as
 legal obligation,
 112–113
- duty of care liability and, in
 Canada, 282
- transnational governance
 under, 173
- International Responsible
 Business Conduct (IRBC)
 Agreements, 252
- International Standard
 Organization 26000 (ISO
 26000), 218–221
- accountability regimes for,
 220
- content of, 218–220
- corporate human rights
 responsibility under, 220
- critiques of, 221
- Global North and, 218
- Global South and, 218
- historical development of,
 218
- multi-stakeholder initiatives,
 221–224
- implementation strategies,
 222
- purpose of, 223
- representation imbalance
 in, 223–224
- varieties of, 222–223
- Ruggie on, 219–220
- investors, accountability
 mechanisms and,
 180–181
- environmental, social and
 governance criteria, 180,
 182
- Principles for Responsible
 Investment, 180
- investor-state dispute settlement
 (ISDS) mechanisms, 299,
 301–311
Urbaser v. Argentina, 303
- IRBC Agreements. *See*
 International
 Responsible Business
 Conduct Agreements
- ISDS mechanisms. *See* investor-
 state dispute settlement
 mechanisms
- ISO 26000. *See* International
 Standard Organization
 26000
- Italy
 corporate human rights
 violations in, 289–290
*Ododo Francis v. ENI and
 Nigerian Agip Oil
 Company (NAOC)*,
 289–290
- Jabir and others v. KiK
 Textilien*, 288
- Jesner v. Arab Bank*, 274
- Joas, Hans, 36
- jurisdiction
 of nation-states, human
 rights responsibilities of,
 261–262
- adjudicative jurisdiction,
 230
- enforcement jurisdiction,
 230
- prescriptive jurisdiction, 230
- under international law
 private international law,
 262
- public international law,
 261–262
- jus cogens* norms, 55–56
 Alien Tort Claims Act and, 270
- kafala system, in Middle
 Eastern states, 95
- Kant, Immanuel
 Categorical Imperative, 28
 on human rights, 28
- Kimberly Process, 319–320
- Kiobel v. Royal Dutch Petroleum
 Co.*, 272–273, 287–288
- Kozma, Julia, 309
- Krupp, 11–12

424 Index

- labor principles. *See also* child labor
 in information and communication technology sector, 331–332
 under UN Global Compact, 212, 214
- LaFarge, 291
- land grabs
 by agribusiness sector, 343
 as corporate human rights violation, 85–99
- law of nations, Alien Tort Claims Act under, 270
- learning platforms, of UN Global Compact, 215–216
- legal imperatives, of corporate human rights responsibility, 113–116
 under state-centered doctrine, 114–116
- legal personhood, of corporations
Citizens United case and, 111
 at international level, 112–113
 at national level, 110–112
- legal positivism, 25–26
- Leviathan* (Hobbes), 27
- Lliuya v. RWE AG*, 289
- Locke, John, 27–28, 36
 social contract and, 27–28
- Malabo Protocol, 52
- Marikana Massacre, 86–87
- Marine Stewardship Council, 179
- McIntyre, Alasdair, 29
- mens rea*, 73
- Middle Eastern States. *See* Arab States
- Midgley, Mary, 33
- migrant workers, 94–97
 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 94
 under kafala system, in Middle Eastern states, 95
- Milieudefensie v. Shell*, 286–287, 353
- Mill, John Stuart, 29
- Modern Slavery Act
 in Australia, 154, 240, 242–244
 in UK, 143, 154, 237, 240, 242–244
- California Supply Chain Transparency Act as influence on, 243
- monitoring of employees, as corporate human rights violation, 78–80
- Montesquieu, 28
- moral agency, 104–105
- moral relativism, in corporate social responsibility, 5
- moral rights approach, to ethical imperatives of businesses, 106–107
- Movement for the Survival of the Ogoni People (MOSOP), 14
- MSIs. *See* multi-stakeholder initiatives
- multinational enterprises. *See also* OECD Guidelines for Multinational Enterprises
 transnational governance of, 172–173
- multi-stakeholder initiatives (MSIs), 15–16, 221–224
 Accord on Fire and Building Safety in Bangladesh, 339
- Aliance for Bangladesh Worker Safety, 339
- Fair Labor Association, 339–340
- implementation strategies, 222
- Partnership on AI, 332–334
 purpose of, 223
- Rainforest Alliance, 345
- representation imbalance in, 223–224
- varieties of, 222–223
- National Action Plans (NAPs), 20
 as policy measures, 233–236
- National Contact Points (NCPs), 15
- under OECD Guidelines for Multinational Enterprises
 accountability regime, 208–209
 content of, 208
 critiques of, 209–211
- nation-states, human rights as responsibility of, 1–2.
See also specific countries; specific laws; specific measures
- adjudicative measures, 259–291
 attribution factors, 266–296
 choice of law, 264–266
 in civil law jurisdictions, 285–290
 for corporate criminal liability, 290–291
 duty of care, 267–268
 for foreign direct liability, 259–260
forum non conveniens doctrine, 262–264
 against parent companies, 260–261
 attribution factors, 266–269
 aiding and abetting, 268–269
 direct parent liability, 267
 enterprise liability, 267–296
 indirect liability, 267–296
- Brussels I Regulation, 264
- critiques of home-state solutions, 292–296
 compliance over engagement, 294
 frivolous litigation, 295–296
 imperialism, 292–293
 unintended consequences, 293–294
- extraterritorial obligations of, 229–233
 adjudicative jurisdiction, 230
 direct extraterritorial jurisdiction, 231
 domestic measures with extraterritorial effects, 230–231

- enforcement jurisdiction, 230
 prescriptive jurisdiction, 230
 under international law, 229–230, 232–233
 jurisdictional issues, 261–262
 adjudicative, 230
 enforcement jurisdiction, 230
 prescriptive, 230
 under private international law, 262
 under public international law, 261–262
 through legislative measures, 240–258
 accountability mechanisms in, 241–258
 corporate liability provisions in, 241, 254–258
 disclosure legislation, 240–254
 human rights due diligence obligations, 240–241, 248–258
 transparency legislation, 240–247
 for parent companies, 293
 through policy measures, 233–240
 export credit and investment guarantees, 238–240
 human rights due diligence in, 238
 National Action Plans, 233–236
 public procurement, 235–238
 Rome II Regulation, 264–265
 state duty to protect human rights, 187–188, 227–229
 obligation of means in, 228
 from third-party abuse, 228–229
 in UN Guiding Principles, 227
 in UN Protect, Respect and Remedy Framework, 227
 UN Guiding Principles and, 234–235
 natural law, human rights and, 26–27
 natural rights
 criticism of, 28–29
 human rights and, 27–29
 NCPs. *See* National Contact Points
 negative business case, for corporate human rights responsibility, 119–120
 negative human rights, 54
 negligence, human rights due diligence and, 142–143
 the Netherlands
 Dutch Child Labor Due Diligence Law, 251–252
 extraterritorial human rights cases in, 285–288
Four Nigerian Farmers and Milieudefensie v. Shell, 286–287
Kiobel v. Royal Dutch Petroleum Co., 272–273, 287–288
Milieudefensie et al v. Shell, 353
State of Netherlands v. Urgenda Foundation, 353–354
 Nigeria
 Abacha in, 14
 business and human rights in for oil extraction issues, 13–15
 Shell Oil Company, 13–15
 Ken Saro-Wiwa in, 14
 Movement for the Survival of the Ogoni People, 14
 Nike, 121, 336–339
 non-foundationalist accounts, of human rights, 42–45
 constructivist approach, 44–45
 political approach, 42–44
 pragmatist approach, 44–45
 realist approach, 42–44
 reconciliation of approaches in, 45
 non-state-based non-judicial remedies, 150, 155
 normative agency, 41
 normative relativism, 33
 normative universalism, 34–35
 normativism, 44
 North America. *See also* Canada; United States
 regional human rights conventions in, 61
 Novak, Manfred, 309
 Nuremberg trials, 11–12, 49–50
 obligations, for corporate human rights responsibility. *See* corporate human rights responsibility
Ododo Francis v. ENI and Nigerian Agip Oil Company (NAOC), 289–290
 OECD. *See* Organisation for Economic Co-operation and Development
 OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, 319
 OECD Guidelines for Multinational Enterprises (OECD), 207–211
 accountability regime, 208–209
 dispute settlement mechanisms, 208–209
 National Contact Points in, 208–209
 content of, 207–208
 National Contact Points, 208
 critiques of, 209–211
 development of, 207
 National Contact Points in accountability regime, 208–209
 in content, 208
 critiques of, 209–211
 remedy mechanisms, 209–210
 revisions of, 207
 transparency for, 210
 UN Guiding Principles and, 209
 OEIWG. *See* Open-Ended Intergovernmental Working Group on Transnational

426 Index

- Corporations and other Business Enterprises with Respect to Human Rights
- Office of the High Commissioner for Human Rights (OHCHR), 47–48
- Okpabi v. Royal Dutch Shell Plc*, 279–280
- Open-Ended Intergovernmental Working Group on Transnational Corporations and other Business Enterprises with Respect to Human Rights (OEIWG), 312–313
- operational-level grievance mechanisms, 148–151
- community-driven, 151
- Organisation for Economic Co-operation and Development (OECD), 15, 239–240. *See also* OECD Guidelines for Multinational Enterprises
- human rights initiatives by, for extractive sector, 319
- OECD Principles on AI, 332–334
- Partnership on AI, 332–334
- passive complicity, in indirect human rights violations, 71
- beneficial complicity, 71
- silent complicity, 71–72
- Peace of Westphalia, 172. *See also* Westphalian international order
- positive business case, for corporate human rights responsibility, 120–122
- positive human rights, 54
- positivism. *See* legal positivism
- pragmatic perspectives, on corporate human rights responsibility, 116–122
- business case for, 118–122
- Nike case, 121
- social license to operate, 117–118
- precautionary principle, 215
- prescriptive jurisdiction, 230
- Principles for Responsible Investment (PRI), in banking and finance sector, 180, 326–327
- privacy
- corporate human rights violation of, 78–80
- in information and communication technology sector, 329–330
- protection of human rights, as corporate obligation, 131–138
- conditions for, 134–135
- direct, relational contexts for, 133–136
- indirect, structural contexts for, 136–138
- Social Connection Model of responsibility, 136–138
- protest, as human right, corporate human rights violations of, 85–87
- public procurement, 235–238
- Qatar, 96–97
- RAFI. *See* Reporting and Assurance Framework Initiative
- Rainforest Alliance, 345
- Rana Plaza factory collapse, 337–338
- Rawls, John, 42
- Raz, Joseph, 42
- RBI. *See* Responsible Business Initiative
- regional human rights conventions, 60–62
- in Africa, 61
- in Arab States, 61–62
- in Europe, 60–61
- in North/South America, 61
- in South-East Asian states, 62
- relational corporate power, 108
- relativism, of human rights, 31–37
- cultural relativism, 32
- descriptive relativism, 32
- ethical relativism, 33
- normative relativism, 33
- universalism compared to, 32–33
- remedy mechanisms
- from human rights impact assessments, 154–158
- Barrick Gold mining company, 158
- independent third-party involvement in, 156–157
- non-state based non-judicial remedies, 150, 155
- state-based judicial remedies, 155
- state-based non-judicial remedies, 155
- under UN Guiding Principles, 150
- under UN Working Group guidance, 157
- victim participation in, 156
- in OECD Guidelines for Multinational Enterprises, 209–210
- under French Duty of Vigilance Law, 256
- under UN Guiding Principles access to, 195–196
- human rights impact assessments and, 150
- Reporting and Assurance Framework Initiative (RAFI), 154
- reporting mechanisms, for human rights impact assessments, 153–154
- Global Reporting Initiative, 154
- Reporting and Assurance Framework Initiative, 154
- Responsible Business Initiative (RBI), Switzerland, 258
- Responsible Mining Initiative, 319–320
- risk assessment, in human rights due diligence, 161–162
- risk to rights-holders, 145
- Rome II Regulation, 264–265
- Roosevelt, Eleanor, 46

- Ruggie, John, 2, 17, 66–67, 77, 185–204. *See also* UN Guiding Principles
 on Alien Tort Claims Act, 273
 on binding treaty on business and human rights, 312–313
 on corporate human rights responsibility, 117
 on ISO 26000, 219–220
 on transnational governance, 173
- Safety in Bangladesh, 339
- Santa Clara v. Southern Pacific*, 111
- Saro-Wiwa, Ken, 14–15
- Saudi Arabia, gender segregation in, 37
- Scheinin, Martin, 309–310
- SDGs. *See* United Nations
- Sen, Amartya, 36
- sexual abuse and harassment, against women, 356–357
- Shell Oil Company, 13–15
- Shi Tao, 330
- Shue, Henry, 128–129
- silent complicity, 71–72
- SLAPP. *See* Strategic Lawsuits Against Public Participation
- small and medium-sized enterprises (SMEs), human rights due diligence by, 160
- Social Connection Model of responsibility, 136–138
 parameters of, 136–137
- social contract, human rights as part of, 27–28
- social license to operate, 117–118
- soft accountability mechanisms, 178–183
 by civil society organizations, 182–183
- soft law, transnational governance under, 176–178
- soft responsibilities, under UN Guiding Principles, 201–202
- South Africa, business and human rights in, during apartheid era, 12–13
- Sullivan Principles as response to, 12–13
- South America. *See also specific countries*
 regional human rights conventions in, 61
- South-East Asian states. *See also specific countries*
 regional human rights conventions in, 62
- SPT. *See* Subcommittee on Prevention of Torture
- Starbucks, 37
- state duty to protect human rights, 187–188, 227–229
 obligation of means in, 228
 from third-party abuse, 228–229
 in UN Guiding Principles, 227
- UN Protect, Respect and Remedy Framework, 227
- State of the Netherlands v. Urgenda Foundation*, 353–354
- state-based judicial remedies, 155
- state-based non-judicial remedies, 155
- Strategic Lawsuits Against Public Participation (SLAPP), 295–296
- structural corporate power, 108–109
- Subcommittee on Prevention of Torture (SPT), 48–49
- Sullivan, Leon, 12–13
- Sullivan Principles, 12–13
- supply chain workers, corporate human rights violations and, 80–83
 child labor, 80–81
 exploitation of, 82
 forced labor, 82–83
 modern slavery, 82–83
 sweatshop labor, 82
- surveillance issues, in information and communication technology sector, 329–330
- sweatshop labor, 82
- Switzerland, Responsible Business Initiative, 258
- Sydney Principles, 345
- Syria, 291
- Teaching Business and Human Rights Forum, xvii
- third-party abuse, under state duty to protect human rights, protections from, 228–229
- Tokyo War Crimes Tribunal, 49–50
- toxic waste dumping, 89–90
- Trafigura, toxic waste dumping by, 89–90, 190
- transitional justice, business and human rights and, 358–362
- transnational governance
 domestic approaches to, 172–174
 in Global South, 172–173
 globalization of markets and, 174
 hard law approaches to, 176–178
 international approaches to, 172–174
 of multinational companies, 172–173
 Peace of Westphalia, 172
 polycentric approaches to, 174–175
 in post-Westphalian world, 173–174
 private approaches to, 174–176
 advantages of, 175
 public approaches to, 174–176
 Ruggie on, 173
 soft-law approaches to, 176–178
 under international law, 173
- transparency
 of consumers, as accountability mechanism, 179–180
 legislative measures for, nation-states human rights responsibilities and, 240–247

428 Index

- transparency (cont.)
 in OECD Guidelines for Multinational Enterprises, 210
 under California Supply Chain Transparency Act, 143
- UDHR. *See* Universal Declaration of Human Rights
- UK. *See* United Kingdom
- UN. *See* United Nations
- UN Educational, Scientific and Cultural Organization (UNESCO). *See* United Nations
- UN Global Compact (UNGC), 211–218
 accountability regimes, 215–216
 Communication on Progress, 216
 dialogue facilitation mechanisms, 216
 learning platforms, 215–216
 local networks in, 215–216
 business and human rights under, 16
 content of, 211–215
 anti-corruption principle, 212
 complicity in, 213–214
 environmental principles, 212, 214–215
 human rights principles, 212–213
 labor principles, 212, 214
 precautionary principle, 215
 critiques of, 216–218
 blue-washing, 216–217
 green-washing, 216–217
 exclusions from, 211
 scope of, 211
- UN Guiding Principles (UNGP), on Business and Human Rights, 5, 19–20, 192–204. *See also* human rights due diligence; implementation of human rights responsibility
- accountability regimes, 196–197
 content of, 193–196
 foundational principles, 193–196
 operational principles, 193–196
- corporate human rights responsibility under, 130, 133–134
- critical assessment of, 197–204
 of enforcement mechanisms, 201–202
 of ethical principles, 200–201
 of key achievements, 198
 of principled pragmatism approach, 199–200
 of social expectations, 200–201
- Declaration on Fundamental Principles and Rights at Work, ILO, and, 194
- development of, 185
 gender and, 357–358
 hard duties of, 201–202
- HRC and, 18–19
- human rights due diligence and, 142, 144–147, 194
- for nation-states, human rights responsibilities of, 234–235
- normative foundations of, 200–201
- remedy mechanisms
 access to, 195–196
 human rights impact assessments and, 150
- soft responsibilities of, 201–202
- Sullivan Principles and, 12–13
- UN Draft Norms and, 185–186
- UN Guiding Principles on Business and Human Rights. *See* United Nations
- UN Protect, Respect and Remedy Framework, 185–192
 access to remedy, 191–192
- corporate responsibility to respect human rights, 188–190
 extraterritorial regulation, 187
 human rights due diligence and, 189
 policy coherence, 187–188
 state duty to protect human rights, 187–188
- UN Working Group. *See* United Nations
- UNESCO. *See* United Nations
- UNGC. *See* UN Global Compact; United Nations
- UNGP. *See* UN Guiding Principles
- UNICEF. *See* United Nations
- United Kingdom (UK)
 business and human rights in, 20–21
 Common Law Duty of Care, 274–280
 duty of care, 275–276
 jurisdiction of, 275
Okpabi v. Royal Dutch Shell Plc, 279–280
 tort cases, 276
Vedanta Resources Plc v. Lungowe, 276–279
- human rights due diligence in, 143
- Modern Slavery Act, 143, 154, 237, 240, 242–244
 California Supply Chain Transparency Act as influence on, 243
- United Nations (UN). *See also* UN Global Compact; UN Guiding Principles
 business and human rights Commission on Human Rights, 16–17
 Draft Norms on, 16–17, 77
 Forum on Business and Human Rights, xvii
 Prospect, Respect and Remedy Framework, 16–18
 under Global Compact, 16
 Working Group, 19–20
 Children’s Fund (UNICEF), 46

- Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 98–99
- Declaration on the Rights of Indigenous Peoples, 93–94, 318–319
- Development Program (UNDP), 46
- Draft Norms
 for business and human rights, 16–17, 77
 UN Guiding Principles and, 185–186
- Educational, Scientific and Cultural Organization (UNESCO), 46
- international human rights systems and, role in, 46–49
- International Labour Organization and, 46, 48
 child labor, 80–81
 Convention on Forced Labor, 48
 main/subsidiary organs, 46
- Sustainable Development Goals, 348–352
- Working Group
 human rights impact assessments and, 157
 National Action Plans and, 234
 remedy mechanisms through, 157
- United States (US). *See also* Alien Tort Claims Act
- Bill of Rights, 27–28
 business and human rights in, 20–21
- California Supply Chain Transparency Act, 143, 244–246
 UK Modern Slavery Act influenced by, 243
- Constitution of 1787, 27–28
- Declaration of Independence, 27–28
- Dodd-Frank Wall Street Reform and Consumer Protection Act, 143
 human rights due diligence in, 143
- Inter-American Court of Human Rights, 51, 61
- Sullivan Principles, 12–13
- Universal Declaration of Human Rights (UDHR), 29–30, 35, 38, 55
 corporate human rights responsibility under, 115
 universalism, of human rights, 30–37
 absolutism and, 32
 descriptive universalism, 34
 normative universalism, 34–35
 relativism compared to, 32–33
 responsibility of nation-states, 293
- Urbaser v. Argentina*, 303
- US. *See* United States
- Vedanta Resources Plc v. Lungowe*, 276–279
- Voluntary Principles on Security and Human Rights, 320
- Votaw, Dow, 106
- vulnerable groups, corporate
 human rights violations against, 91–100
 human rights defenders, 95–100
 Indigenous communities, 92–94
 migrant workers, 94–97
 in Qatar, 96–97
- Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), US (2010), 143, 249
 Section 1502, 249–250
- Western world, human rights in
 history of thought, 27–28
 human rights as Western concept, 35–37
- Westphalian international order, 1–2
- WHO. *See* World Health Organization
- women
 bias and discrimination against, 356–357
 sexual abuse and harassment against, 356–357
- workplace surveillance cases, 79–80
- World Court of Human Rights, 309–310
- World Health Organization (WHO), 46
- World Trade Organization (WTO), 237
- Yahoo!, 330
- Young, Iris Marion, 136–138
- Zambia, 276–279