

Index

- Aarhus Convention (1998), 289
 Abduction, international criminal law and, 250
 Abyssinia. *See* Ethiopia
 Accountability, responsibility distinguished, 136, 137, 151
Achille Lauro affair, 214
 Acquisition of territory
 arbitration and, 83–4
 by cession, 83
 ‘critical date’ of discovery, 82
 by discovery, 81
 by lease, 83
 natural changes and, 84
 occupatio, 82
 prescriptio, 82
 Roman law and, 81
Actio popularis, 175
 Act of state doctrine, 332
 Ad hoc criminal tribunals, 240
 Adjudication
 arbitration distinguished, 155
 in ICJ (*See* International Court of Justice (ICJ))
 UN Charter and, 155
 Administrative agencies, 343
 Administrative Commission of the River Uruguay (CARU), 281
 Admissibility of complaints in ICJ, 168, 179
 Advisory opinions in ICJ, 176–7
 Afghanistan
 NATO involvement in, 228
 Soviet invasion of, 187
 UN involvement in, 228
 Africa. *See also specific country*
 colonialism in, 8
 exclusive economic zones (EEZs) in, 259
 France in, 9
 ICC, disproportionate focus of, 241
 African Court of Human and People’s Rights, 123, 158
 African Union
 Bamako Convention and, 284
 collective security and, 189
 Aggression, crime of, 238, 243
 Agreed Measures for the Conservation of Antarctic Flora and Fauna (1964), 290
 Air law
 generally, 253
 air carrier liability, 271
 Air Defense Identification Zones (ADIZ), 273
 bilateral agreements, 272
 civil aircraft, protection of, 272
 historical background, 270
 intrusions into airspace, 273
 safety and, 271
 terrorism and, 272
 treaties, 271
 Air pollution, environmental protection and, 283
 Air Services Transit Agreement (1944), 178
 Albania
 ICJ jurisdiction and, 167
 use of force and, 204, 206
 Alexy, Robert, 124
 Algeria, mediation and, 154
 Allott, Philip, 71
 Al Qaeda, 73, 215
 Álvarez-Machain, Humberto, 250
 Amenophis IV (Egypt), 43
 American Anthropological Association, 119
 American Convention on Statehood (1933) (Montevideo Convention), 74, 75, 76, 77
 Amnesty International, 72
 Andean Court of Justice, 158
 Angola, sanctions against UNITA, 194
 Annan, Kofi, 228
 Antarctica
 environmental protection and, 290
 as Special Conservation Area, 290
 treaty regime, 59, 85, 290
 Antarctic Treaty (1959), 290
 Antarctic Treaty Consultative Meeting, 290
 Anticipatory self-defence, 207
 Antitrust law, 104, 309
 Aquifers, environmental protection and, 289
 Arbitration
 acquisition of territory and, 83–4
 adjudication distinguished, 155
 arbiters, 155
 awards, 157
 Bering Sea arbitration, 279

- Arbitration (*cont.*)
 governing law, 155
 historical background, 155
 Lake Lanoux arbitration, 280
 UN Charter and, 155
- Arendt, Hannah, 131, 150, 250
- Argentina
 abduction in, 250
 environmental protection and, 281
 human rights violations in, 121
 investment protection and, 306
 pulp mills and, 280–2, 306
 UK, territorial dispute with, 83
- Aristotle, 344
- Armed conflict, law of. *See* International humanitarian law
- Armenian genocide, 125, 242
- Article, 38 of ICJ Statute
 general principles of law and, 35, 75
 as source of international law, 23, 25–6
- Articles on State Responsibility (ILC)
 generally, 137, 138
 any state invoking law of responsibility, 144
 circumstances precluding wrongfulness, 142
 countermeasures and, 183, 185
 criminal responsibility of states, 145
 intentionally wrongful acts, 139
 international organizations and, 147
 reparations and, 143, 144
- Ashburton, Lord, 207
- Asian Development Bank, 298
- Asian Infrastructure Investment Bank (AIIB), 298
- Asquith, Lord, 36
- Assange, Julian, 114
- Asser, Tobias, 219
- Association of Southeast Asian Nations (ASEAN), 123
- Assumptions underlying international law, 3–4
- Atlantic Charter, 173
- Attribution, law of responsibility and, 138, 147
- Austin, John, 10, 180
- Australia
 Christmas Island and, 97
 ICJ standing and, 175
 indigenous peoples in, 95
- Austria, German occupation of, 173
- Badinter, Robert, 80
- Badinter Commission, 80–1, 157
- Bahamas, continental shelf case in ICJ, 34
- Bahrain, territorial dispute with Qatar, 154, 155, 162
- Bamako Convention (1991), 284
- Bangladesh
 labour standards in, 134
 secession of, 85
- Banjul Charter of Human and People's Rights (1981), 123
- Banking industry, 310
- Basdevant, Jules, 159
- Basel Committee on Banking Supervision, 1898, 37, 40, 91, 310, 338
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (1989), 283–9
- Bastid, Suzanne, 159
- Begin, Menachem, 108
- Belgium
 colonialism and, 8
 concurrent jurisdiction in, 107
 nationality of complaints and, 171
 Netherlands, border dispute with, 10
 secession of, 85
 universal jurisdiction in, 103
- Bemba, Jean-Pierre, 238, 239
- Benefits principle, 297
- Benvenisti, Eyal, 230
- Berlin Conference (1885), 117
- Berlin treaty regime, 59
- Bernadotte, Folke, 108
- Biafra, recognition of, 77
- Bilateral investment treaties (BITs), 304
- Bilateral treaties, 27, 61
- Binding nature of international law, 12, 41
- bin Laden, Osama, 209
- Biodiversity in high seas, 261
- Biodiversity beyond national jurisdictions, 2023
 Convention, 256
- Biological weapons, 226
- Biological Weapons Convention (1972), 226
- 'Biopiracy', 96
- Bir Tawil, 83
- Bismarck, Otto von, 67
- Blum, Gabriella, 209
- Bogota Declaration, 275
- Bosnia and Herzegovina
 arms embargo against, 64
 Mostar, EU administration of, 73
 Srebrenica massacre, 127, 191, 193, 242
- Boundary disputes. *See also specific country*
 maritime delimitation (*See* Maritime delimitation)
 territory and, 74
- Bradford, Anu, 309
- Bretton Woods Conference (1944), 298
- British Petroleum, 256
- Brussels Conference (1890), 117
- Brussels Convention (1968), 296
- Brussels Convention relating to Intervention on the High Seas in Cases of Oil Pollution Damage (1969), 285
- 'Brussels effect', 309, 336
- Buergenthal, Thomas, 330
- 'Bunkering' and, 262
- Bureaucratic inertia, 10
- Burma. *See* Myanmar
- Bush, George H. W., 103
- Calley, William, 237
- Cambodia, Extraordinary Chambers in the Courts of, 150, 240
- Cameroon, maritime delimitation cases, 266
- Canada
 environmental protection and, 280
 ICJ jurisdiction and, 166
 India Act of 1876, 128
 International Space Station and, 275
 Kyoto Protocol and, 284
 maritime delimitation cases, 268
 nationality of complaints and, 171
- Cannizzaro, Enzo, 224

- Capacity to enter into international relations criterion of statehood, 76
- Capital punishment
 extradition and, 249
 interim measures of protection in ICJ and, 171, 172
- Cassese, Antonio, 223
- Castro, Fidel, 304, 333
- Central African Republic (CAR), Security Council action regarding, 188
- Central American Court of Justice (CJAC), 157
- Cession, acquisition of territory by, 83
- Chamberlain, Neville, 78
- Charlesworth, Hilary, 14
- Charter of United Nations
 advisory opinions and, 175
 aggression, lack of definition, 189
 civil wars and, 213
 collective security and, 186, 206
 crime of aggression and, 243
 dispute settlement and, 153, 155
 drugs trade and, 109
 human rights and, 119
 ICJ and, 163, 165
 judicial review and, 178
 maintenance of peace and security and, 108
 Security Council and, 197
 threat of force, prohibition on, 204
 treaty law and, 58, 60
 use of force and, 62, 202, 204
 war, prohibition of, 201
- Chemical weapons, 226
- Chemical Weapons Convention (1993), 50, 219, 226
- Cheng, Bin, 273
- Chicago Convention on International Civil Aviation (1944), 271, 272
- China
 Asian Infrastructure Investment Bank and, 298
 drugs trade and, 247
 Hong Kong, lease of, 83
 ICC and, 237, 241
 Japanese invasion of, 173
 maritime delimitation cases, 267
 South Sudan, recognition of, 79–80
 Tibet, control over, 83, 187, 230
- China (Ancient), rules of warfare in, 219
- Chinkin, Christine, 14
- Churchill, Winston, 173, 236
- CITES Convention (1973), 283
- City-states, 73
- Civil wars, 213, 223
- CJEU. *See* Court of Justice of the European Union (CJEU)
- Clausewitz, Carl von, 201
- Climate change
 collective security and, 189
 environmental protection, 286–9
 Intergovernmental Panel on Climate Change, 291
 Kyoto Protocol and, 284
 Paris Agreement and, 284
- Coastline, maritime delimitation and, 267
- Code of Conduct for Responsible Fisheries (1995), 256
- Collective security
 generally, 12
 aggression and, 189
 climate change and, 189
 discretion of Security Council, 189
 effect of UN authorization, 189
 HIV/AIDS and, 189
 measures involving use of force, 186
 measures not involving use of force, 186
 provisional measures, 186
 refugees and, 189
 regional organizations and, 189
 threats to peace, 188
 time limitations on UN authorization, 189
 triggering of collective action, 189–91
- Colombia, ICC and, 241
- Colonialism
 international law and, 6–8
 statehood and, 76
 state succession and, 87, 88
- Command responsibility, 245
- Commission on Sustainable Development, 291
- Committee on Economic, Social and Cultural Rights, 123, 126
- Committee on the Peaceful Uses of Outer Space (COPUOS), 275
- Compensation
 in ICJ, 173
 law of responsibility and, 143
 in PCIJ, 173
- Competition law, 104, 309
- Complementarity, 238
- Comprehensive version of international law, 6
- The Concept of Law* (Hart), 180
- Conciliation, 155
- Concurrent jurisdiction, 105
- Conflict of laws, 295–6
- Congo, Democratic Republic of (DRC)
 ICJ judgment on reparations, 173
 use of force and, 206
- Congo crisis, 193
- Consent
 consent-based system, international law as, 23, 25, 41
 to jurisdiction, 161
 law of responsibility, consent precluding wrongfulness, 142
- Consequentialist approach to ethics in international law, 342
- Constitutionalization of international law, 338–9
- Constructivist approach to international law, 17, 339, 340
- Contiguous zones, 259
- Continental shelf
 generally, 254
 equidistance rule and, 265
 exclusive economic zones (EEZs) compared, 261
 historical background, 261
 ICJ cases, 34–5, 47, 50, 162, 173
 obligation of non-interference, 261
 sovereign rights in, 261
 width of, 261
- Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1971) (Drugs Convention), 247, 248
- Convention against the Recruitment, Use, Financing and Training of Mercenaries (proposed), 229
- Convention against the Taking of Hostages (1979), 214

354 Index

- Convention against Transnational Organized Crime (2000) (Palermo Convention), 248
- Convention for the Conservation of Antarctic Seals (1972), 290
- Convention for the Safety of Life at Sea (1974) (SOLAS), 256
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988), 214
- Convention for the Unification of Certain Rules for International Carriage by Air (1999) (Montreal Convention), 271
- Convention for the Unification of Certain Rules relating to International Carriage by Air (1929) (Warsaw Convention), 271
- Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998) (Aarhus Convention), 289
- Convention on Civil Liability for Oil Pollution Damage (1969), 285
- Convention on Contracts for the International Sale of Goods (1980) (CISG), 296
- Convention on International Liability for Damage Caused by Space Objects (1972), 140
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973) (CITES Convention), 283
- Convention on Long-Range Transboundary Air Pollution (1979), 283
- Convention on the Conservation of Antarctic Marine Living Resources (1980) (CCAMLR), 290
- Convention on the Elimination of Racial Discrimination (1965), 164
- Convention on the Jurisdictional Immunities of States and their Property (not in force), 111
- Convention on the Law of the Non-Navigational Uses of International Watercourses (1997), 288
 incorporation of international law and, 325
- Convention on the Law of the Sea (1982) (UNCLOS)
 contiguous zones and, 259
 continental shelf and, 261
 customary international law and, 254
 deep seabed and, 263
 dyadic nature of, 144
 economic focus of, 255
 exclusive economic zones (EEZs) and, 260
 fisheries and, 285
 high seas and, 261–3
 marine environment and, 285
 maritime delimitation and, 265
 prompt release and, 268
 provisional measures and, 269
 ratification of, 255
- Convention on the Opening of Hostilities (1907), 173
- Convention on the Protection of Underwater Cultural Heritage (2001), 255
- Convention on the Rights of the Child (1989), 16, 121
- Convention on the Suppression of Unlawful Seizure of Aircraft (1971) (Hijacking Convention), 272
- Conventions, ICJ jurisdiction provided in, 163. *See also specific Convention*
- Corporations, global governance and, 336
- Corruption, 247, 248
- Cosmopolitan view of international law, 4
- Cosmos 954 (satellite), 274
- Costa Rica, ICJ standing and, 175
- Council of Europe
- Convention for the Suppression of Terrorism (1977), 214
- Convention on the Prevention of Terrorism (2005), 214
- Council of the International Civil Aviation Organization (ICAO), 178
- Countermeasures
 generally, 10, 145
 as form of sanctions, 180, 183–5
 non-forcible versus belligerent countermeasures, 183
 proportionality requirement, 184
 unsatisfied demand requirement, 184
 wrongful act requirement, 183, 185
- Court of Justice of the European Union (CJEU)
 competition law, extraterritorial jurisdiction and, 104, 309
 direct effect of international law in domestic courts and, 325, 327
 dualism versus monism and, 330, 331
 jurisdiction, 158
 presumption of binding force and, 41
 sanctions and, 195
 treaties and, 58, 61, 68
- Covid-19 pandemic, 339
- Craven, Matthew, 76
- Crawford, James, 137, 143, 146
- Crime of aggression, 238, 243
- Crimes against humanity
 in ICC, 238, 242
 in Nuremberg Tribunal, 236, 242
 superior orders defence, availability of, 245
- Crimes against peace, 236
- Criminal law. *See* International criminal law
- Critical perspective on international law, 14, 216
- Croatia
 genocide and, 242
 Vienna Convention on Succession of States in Respect of Treaties and, 87
- Cuba
 act of state doctrine and, 332
 expropriation by, 304, 332
- Cultural property, 221
- Customary international law
 generally, 288–9
 accepted as law (*See Opinio juris*)
 breach of, 32–4
 defined, 287
 direct effect of international law in domestic courts and, 325
 international taxation and, 297
 law of responsibility as, 137, 147
 legislative acts and, 127
 material acts and, 127
opinio juris (*See Opinio juris*)
 persistent objections and, 31–2
 regional customary law, 29
 self-defence and, 207
 statements and, 29, 32
 state practice (*See* State practice)
 state succession and, 88
 time required to create, 29

355 Index

- UNCLOS and, 254
- use of force and, 32–4, 202
- VCLT as, 26–7, 43
- ‘Custom lite’, 36
- Cyberattacks, 210
- Cyber warfare, 227
- Cyprus
 - peacekeeping in, 162, 193
 - Türkiye, extraterritorial jurisdiction and, 105
- Czechoslovakia
 - German occupation of, 173, 230
 - law of responsibility and, 143
 - Nazi rule in, recognition of, 78
 - Soviet invasion of, 187
 - state succession and, 89
 - treaty law and, 280
- Czech Republic, Vienna Convention on Succession of States in Respect of Treaties and, 87
- Danzig
 - Beamtenabkommen* Agreement, 321
 - direct effect of international law in domestic courts and, 321, 325
 - post-conflict governance in, 232
- Death penalty
 - extradition and, 249
 - interim measures of protection in ICJ and, 171, 172
- Debt relief, 313
- de Búrca, Gráinne, 330
- Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space (1963), 273
- Decolonization, 8, 86
- Deep seabed, 254, 263–5
- Deep-Sea Fisheries Guidelines (2008), 256
- Deepwater Horizon* oil rig, 256
- De facto recognition of statehood, 78
- Gaulle, Charles de, 67
- De jure recognition of statehood, 78
- Delors, Jacques, 344
- Democracy as proposed criterion of statehood, 75
- Democratic scrutiny of international law, 38
- Denmark
 - continental shelf case in ICJ, 174, 265
 - ICJ standing and, 174
- Deontological approach to ethics in international law, 340
- Deportation, international criminal law and, 250
- Desuetude, treaties and, 65
- Dewey, John, 349
- Differing versions of international law, 14
- Dignity, human rights and, 127
- Diplomatic privileges and immunities
 - generally, 113
 - diplomatic agents, 114
 - embassies and missions, 113
 - international organizations, applicability to, 114
 - nationality discrimination and, 114
 - persona non grata*, 113
 - service staff, 114
 - technical and administrative staff, 114
- Direct effect of international law in domestic courts
 - generally, 320, 321
 - CJEU and, 325, 327
 - conflict rules and, 323
 - customary international law and, 325
 - ECHR and, 324
 - ECtHR and, 324
 - in EU, 321
 - GATT and, 322
 - intention of parties and, 323
 - international organizations and, 321, 325
 - non-refoulement* and, 323
 - private causes of action versus, 324
 - treaties and, 321, 325
 - WTO and, 322, 329
- Discovery, acquisition of territory by, 81
- Dispute settlement
 - generally, 9
 - adjudication (See Adjudication)
 - arbitration (See Arbitration)
 - conciliation, 155
 - fact-finding, 154
 - in ICJ, 179
 - mediation, 154
 - negotiation, 154
 - regional organizations and, 155
 - third-party involvement, 154
 - UN Charter and, 153–6
 - WTO dispute settlement understanding (DSU), 301
- Dissolution of states, 86
- Djibouti, ICJ jurisdiction and, 168
- Domestic courts
 - generally, 317, 333
 - act of state doctrine and, 332
 - avoidance strategies, 332
 - in blanco incorporation of international law, 326
 - direct effect of international law in (See Direct effect of international law in domestic courts)
 - dualism and, 317, 318–21, 329
 - forum non conveniens* and, 333
 - hierarchy of international law in, 326
 - imprecision of terms, 317
 - incorporation of international law, 325
 - jurisdiction, denial of, 332
 - legislative versus administrative incorporation of international law, 326
 - monism and, 317, 319–21, 329
 - non-incorporated treaties, effect of, 326
 - political questions doctrine and, 332
 - reception of international law in, 318
 - rewriting domestic law to incorporate international law, 325
 - self-defence and, 318
 - ‘self-executing’ effect of international law in, 320 (See also Direct effect of international law in domestic courts)
 - supremacy of international law in, 320
- Dominican Republic, dual nationality and, 131
- Donoghue, Joan, 159
- Double criminality, 249
- Drago-Porter Convention (1907), 202
- DRC. See Congo, Democratic Republic of (DRC)
- Drones, 227
- Drugs
 - drugs trade, international criminal law and, 247
 - ‘war’ against, 233

- Drugs Convention (1971), 247, 248
 Dualism, 317, 318–21, 329–32
 Dumdum bullets, 225
 Dutch East Indies Company, 294
 Dworkin, Ronald, 124
- East African Development Bank, 298
 East Timor
 ICJ standing and, 175
 as internationalized territory, 84, 232
 peacebuilding in, 194
 peacekeeping in, 194
 UN Administration in Est Timor (UNTAET), 162
 ECHR. *See* European Convention on Human Rights (1950) (ECHR)
 Economic Cooperation and Development (OECD), 61
 Economy. *See* Global economy
 ECtHR. *See* European Court of Human Rights (ECtHR)
 EEC Treaty (1957), 327
 Effective government criterion of statehood, 75–6
 'Effects doctrine', 309
 Egypt
 peace treaties and, 216
 South Sudan, recognition of, 80
 Suez crisis and, 162, 187
 Eichmann, Adolf, 150, 250
 El Salvador, self-defence and, 210
 Empires, international law and, 4–5
 Energy
 ECT, 307
 GATT, 307
 global economy generally, and, 306
 OECD and, 306
 OPEC, 306
 ownership, 306
 transportation of, 307
 Energy Charter Treaty (1991) (ECT), 305, 307
 England. *See also* United Kingdom
 colonialism and, 8
 customary law and, 30, 31
 maritime power of, 7
 Environmental Modification (ENMOD) Convention (1977), 221
 Environmental protection
 generally, 277, 294
 air pollution, 283
 Antarctica and, 290
 aquifers, 289
 biodiversity beyond national jurisdictions, 2023
 Convention, 256
 climate change, 284
 compliance procedures, 292–3
 fisheries, 287
 global economy and, 294
 global governance and, 336
 groundwater, 289
 hazardous wastes, 283
 historical background, 278
 'holistic' nature of agreements, 278
 institutionalization of, 291–2
 international humanitarian law and, 221
 international organizations and, 91
 marine environment, 285
 nuclear weapons and, 280
 ozone layer, 284
 persistent organic pollutants (POPs), 284
 proceduralization of, 291–2
 pulp mills and, 281
 riparian rights and, 279
 rivers, 288
 seals, 279, 290
 'soft law' and, 308
 state attribution for environmental harm, lack of, 277
 surface waters, 288
 sustainable development and, 279
 treaty law and, 280
 whaling, 287
 Equatorial Guinea, maritime delimitation cases, 268
Erga omnes obligations
 in ICJ, 145, 175
 law of responsibility and, 145
 Eritrea
 arbitration with Ethiopia, 155
 colonialism and, 86
 Ethics in international law
 generally, 213–15
 conflicting rules, situations with, 342
 consequentialist approach, 342
 deontological approach, 340
 discretion and, 342
 honesty and, 345, 346
 lack of rules, situations with, 340
 over-inclusive and under-inclusive rules, situations with, 342
 rules-based approach, 340
 virtue ethics, 344, 346
 Ethiopia
 arbitration with Eritrea, 155
 ICJ standing and, 175
 Italian invasion of, 173
 Ethnic minorities, protection of, 117
 European Convention on Extradition (1957), 61, 248
 European Convention on Human Rights (1950) (ECHR)
 generally, 121
 adoption of, 120
 direct effect of international law in domestic courts and, 324
 extraterritorial jurisdiction and, 105
 international humanitarian law and, 229
 interpretations of, 123
 jurisdiction under, 117, 161
 law of responsibility and, 147
 as 'living instrument', 122
 Paris Agreement and, 284
 protocols to, 122
 refugees and, 132
 reservations, 51, 53
 rights under, 122
 stateless persons and, 132
 suspension of rights, 122
 torture and, 121
 European Convention on Nationality (1997), 89
 European Convention on State Immunity (not in force), 111
 European Court of Human Rights (ECtHR)
 generally, 122
 balancing of rights in, 125

357 Index

- direct effect of international law in domestic courts and, 324
- extradition, capital punishment and, 249
- extraterritorial jurisdiction and, 105
- Grand Chamber, 121
- international humanitarian law and, 229
- interpretations of ECHR, 123
- jurisdiction of, 117, 158
- Kosovo and, 117
- law of responsibility in, 147
- stateless persons and, 132
- superior orders defence in, 245
- treaties and, 53
- European Free Trade Area (EFTA) Court, 158
- European Social Charter, 120
- European Space Agency (ESA), 275
- European Union. *See also specific country*
 - air law in, 272
 - arbitration and, 157
 - citizenship and, 131
 - collective security and, 189
 - Commission, 344
 - competition law, extraterritorial jurisdiction and, 104, 309
 - direct effect of international law in, 321, 327
 - dualism versus monism in, 330, 331
 - international humanitarian law and, 228
 - Joint Comprehensive Plan of Action (JCPOA) and, 227
 - Kosovo, EULEX mission in, 232
 - law of responsibility and, 138
 - Mostar, administration of, 73
 - presumption of binding force and, 41
 - recognition of statehood and, 80
 - sanctions and, 195
 - UK leaving, 66
- Eutelsat (satellite company), 275
- Evans, Malcolm D., 262
- Exclusive economic zones (EEZs)
 - continental shelf compared, 261
 - equidistance rule and, 265
 - historical background, 254, 259
 - landlocked countries and, 260
 - natural resource rights in, 260
 - sovereign rights in, 260
- Exhaustion of local remedies requirement in ICJ, 168, 169–70
- Expropriation, 304
- Extradition
 - aut dedere aut judicare* and, 250
 - capital punishment and, 249
 - concurrent jurisdiction and, 107
 - genocide and, 249
 - military offence exception, 249
 - political activity exception, 249
 - terrorism and, 249
 - treaties, 249
- Extraordinary Chambers in the Courts of Cambodia, 149, 240
- Extraterritorial jurisdiction
 - acts committed by other states, 105
 - antitrust/competition law and, 104, 309
 - human rights and, 105
 - military forces and, 105
 - NATO and, 105
- Fact-finding, 154
- Failed states, 85
- Falklands War, 83
- Feminist perspective on international law, 14
- Financial Action Task Force (FATF), 310
- Finland
 - PCIJ, advisory opinions in, 175
 - universal jurisdiction in, 103
- Fisheries, 255, 256–287
- Fishing vessels, 30–1
- Fiume, post-conflict governance of, 232
- Flag-state jurisdiction, 261
- Food and Agricultural Organization (FAO), 22, 256
- Foreign occupation, 230
- Former Yugoslav Republic of Macedonia extraterritorial jurisdiction and, 105
 - NATO and, 92
- Forum non conveniens*, 333
- Forum prorogatum*, 167–8
- Framework Convention on Climate Change (1992), 284
- France
 - in Africa, 9
 - colonialism and, 8
 - countermeasures and, 184
 - customary law and, 30, 31
 - Foreign Legion, 229
 - ICC and, 237
 - ICJ jurisdiction and, 166, 168
 - Kosovo, recognition of, 80
 - Lake Lanoux arbitration, 280
 - law of responsibility and, 147
 - Louisiana Purchase, 83
 - Srebrenica massacre and, 191
 - Suez crisis and, 162, 187
 - suspension of rights under ECHR, 122
 - Treasury Department, 313
 - UN Security Council and, 91
- Franck, Tom, 207
- Franz-Ferdinand, Archduke of Austria, 213
- Gaja, Giorgio, 146
- General Agreement on Tariffs and Trade (GATT). *See also* World Trade Organization (WTO)
 - generally, 90
 - complaints under, 140
 - creation of, 300
 - direct effect of international law in domestic courts and, 322
 - law of responsibility and, 140
 - most-favoured-nation (MFN) treatment, 300
 - national treatment, 300
 - shortcomings of, 300
- General Agreement on Trade in Services (GATS), 301
- General Assembly of United Nations
 - advisory opinions and, 175
 - crime of aggression and, 189, 243
 - ICJ and, 158
 - peacekeeping (*See* Peacekeeping)
 - as plenary organ, 91, 93
 - Sovereign Debt Restructuring Processes, 313
 - space law and, 273, 275
 - Uniting for Peace, 162
- General Conventions on the Privileges and Immunities of the UN (1946), 114, 177

- General principles of law as source of international law, 35–6, 75
- Geneva Conventions (1949)
 Additional Protocols (1977), 219, 221, 223, 225
 civilians, protection of, 220
 Common Article 1, 226
 Common Article 2, 226
 Common Article 3, 223, 226
 conduct of war and, 201
 foreign occupation and, 231
 military commissions and, 233
 non-international armed conflicts and, 223
 prisoners of war, protection of, 221
 UN and, 228
 victims, protection of, 219, 220
 war crimes under, 243
- Genocide
 Armenian genocide, 125, 242
dolus specialis and, 242
 extradition and, 249
 in ICC, 238
 in ICJ, 127, 242
 in ICTY, 242
 interim measures of protection in ICJ and, 172
jus cogens and, 340
 Myanmar, alleged genocide in, 127
 in Rwanda, 92, 103, 191, 242
 Srebrenica massacre, 127, 191, 193, 242
 superior orders defence, availability of, 245
- Genocide Convention (1948), 51, 104, 127, 163, 242, 249, 340
- Georgia
 ICC and, 241
 ICJ jurisdiction and, 164
 Russian invasion of, 164, 205, 238
 use of force and, 205
- Germany
 Austria, occupation of, 173
 colonialism and, 8
 continental shelf case in ICJ, 175, 265
 countermeasures and, 183
 Czechoslovakia, occupation of, 173, 230
 direct effect of international law in domestic courts in, 327
 division of, 78
 Guatemala, war with, 173
 ICC and, 237
 ICJ standing and, 175
 Joint Comprehensive Plan of Action (JCPOA) and, 227
 Kosovo, recognition of, 80
 League of Nations, withdrawal from, 93
 merger of, 86
 military operations, prohibition of, 109
 nationality of complaints and, 170–1
 South Sudan, recognition of, 80
 state succession and, 89
 superior orders defence and, 245
 termination of treaties and, 68
 unification of, 86
 UN Security Council and, 91
- Global administrative law, 338
- Global economy
 generally, 8–9, 13, 294
 conflict of laws and, 295–6
- debt relief, 313
 energy and, 306–7
 environmental protection and, 294
- GATT (See General Agreement on Tariffs and Trade (GATT))
 global governance and, 314
 harmonization of law, 295–6
 health and
 international taxation (See International taxation)
 international trade (See International trade)
 investment protection (See Investment protection)
 New International Economic Order, 303, 311–12
 private international law and, 295–6
 sea law and, 294
 ‘soft law’ in, 308–11
 space law and, 294
 supply chains, 308
 unification of law, 295–6
 value chains, 308
 WTO (See World Trade Organization (WTO))
- Global Environmental Facility, 298
- Global governance
 generally, 335, 339
 basis of authority, 337
 constitutionalization of international law, 338
 corporations and, 336
 discretion in, 338
 environmental protection and, 336
 exercise of, 336
 global administrative law, 338
 global economy and, 314
 globalization and, 17–18
 honesty and, 345
 indicators, 337
 international criminal law and, 18
 international law, relation to, 335
 jurisdiction and, 115
 NGOs and, 336
 non-state actors and, 336
 religious institutions and, 336
 ‘soft law’ and, 335
 sources of international law, effect on, 38–41
 virtue ethics and, 345
- Globalization, 17–18
- Goering, Hermann, 150
- Greece
 continental shelf case in ICJ, 162
 investment protection and, 303
 NATO and, 92
- Greece (Ancient)
 international law and, 4
 rules of warfare in, 219
 treaties in, 43
- Greenpeace, 39, 72, 270, 336
- Grenada
 dual nationality and, 131
 US invasion of, 187
- Grotius, Hugo, 5–6, 7, 34, 96, 220, 253, 258, 294
- Groundwater, environmental protection and, 289
- Group rights, 127–8
- G20, 310
- Guatemala
 Germany, war with, 173
 nationality of complaints and, 170

- Gulf War
 generally, 313
 causes of, 9
 lack of peace treaty, 216
 Operation Desert Storm, 228
 Security Council action, 187, 228
 as territorial dispute, 83
 Guterres, Antonio, 94
- Hague Conference on Private International Law (1893), 295
- Hague Convention for the Suppression of Unlawful Seizure of Aircraft (1970), 214
- Hague Convention on Cultural Property (1954), 224
- Hague Convention Relative to the Opening of Hostilities (1907), 65
- Hague Peace Conference (1899), 155, 202, 219
- Hague Peace Conference (1907), 202, 219
- Hague Regulations (1907), 231
- Haiti, recognition of divorces in, 79
- Hammarskjöld, Dag, 92, 162, 193, 344
- Hansa, 73
- Hart, H. L. A., 87, 137, 180
- Havana Charter, 300
- Hazardous wastes, environmental protection and, 283
- Head of state immunity, 113
- Health
 international health bureaus, 307–8
 International Health Regulations 2005, 39, 307–8
 WHO, 39, 90, 175, 307–8
- Helsinki Rules, 288
- Henkin, Louis, 10, 12
- Henry IV, King of England, 226
- Heymann, Philip, 209
- Higgins, Rosalyn, 159
- High seas
 generally, 254
 biodiversity in, 261
 ‘bunkering’ and, 261
 conservation and management of living resources, 261
 flag-state jurisdiction, 261
 freedoms on, 261–2
 hot pursuit on, 261
 interception of vessels on, 262
 piracy on, 261, 262
- High Seas Convention (1958), 285
- Hijacking Convention (1970), 272
- Himmler, Heinrich, 150
- Hitler, Adolf, 61, 150
- HIV/AIDS
 collective security and, 189
 politics and, 339
- Holland. *See also* Netherlands
 customary law and, 30, 31
 maritime power of, 7
 New Amsterdam, cession of, 83
- Holland, T. E., 9
- Holocaust, 150, 246, 331
- Holy, 71, 96
- Honesty in international law, 345, 346
- Hot pursuit on high seas, 261
- ‘Hovering laws’, 259
- Huber, Max, 24, 75, 82, 96, 97, 155
- Hull, Cordell, 304
- Humanitarian intervention
 generally, 211–13
 debate regarding, 212
 domination by large powers, danger of, 212
 potential for abuse, 212
 responsibility to protect (R2P), 212
- Human rights
 application of, 124–7
 balancing of rights, 124
 dignity and, 127
 extraterritorial jurisdiction and, 105
 group rights, 127–30
 indigenous peoples and, 128
 individuals, centrality of, 119
 institutionalization of, 121–4
 interim measures of protection in ICJ and, 172
 international law and, 4
 labour standards and, 133
 law of responsibility and, 144
 margin of appreciation and, 125
 of migrants, 133
 nationality as, 130–1
 political judgment and, 125
 political versus socioeconomic rights, 120
 proceduralization of, 126
 protection against own government, necessity of, 119
 of refugees, 132, 134
 religious minorities and, 128
 self-determination as, 128–30 (*See also* Self-determination)
 sovereign immunity and, 111
 of stateless persons, 131–4
 ‘third-generation’ rights, 127
 UN Charter and, 119
 universal jurisdiction and, 102
- Human Rights Committee, 123
- Human Rights Watch, 39
- Hungary
 law of responsibility and, 143
 Soviet invasion of, 187
 termination of treaties and, 68
 treaty law and, 280
- Hussein, Saddam, 313
- ICC. *See* International Criminal Court (ICC)
- Iceland
 ICJ jurisdiction and, 164
 Norway, territorial dispute with, 155
 termination of treaties and, 68
- ICJ. *See* International Court of Justice (ICJ)
- ICTR. *See* International Criminal Tribunal for Rwanda (ICTR)
- ICTY. *See* International Criminal Tribunal for the former Yugoslavia (ICTY)
- ILC. *See* International Law Commission (ILC)
- IMF. *See* International Monetary Fund (IMF)
- Immunities
 generally, 98
 diplomatic privileges and immunities (*See* Diplomatic privileges and immunities)
 head of state immunity, 113
 in ICJ, 19
 sovereign immunity (*See* Sovereign immunity)

360 Index

- Implied powers doctrine, 60
Inadimplenti non est adimplendum
 as form of sanctions, 181–2
 in PCIJ, 12
 Incentive to respect international law, 10
 India
 capacity to enter into international relations as colony,
 76
 ICC and, 237
 Indus Waters Treaty and, 288
 judicial review by ICJ and, 178
 nuclear weapons and, 227
 Indigenous peoples
 human rights and, 128
 as subject of international law, 95
 Individuals
 human rights, centrality to, 119 (See also Human rights)
 ICJ, role in, 344
 international criminal law, individual responsibility
 under, 244–6
 law of responsibility and, 148–9
 protection against own government, necessity of, 119
 in realist approach to international law, 343
 rules in international law and, 343
 sanctions against, 194
 as subject of international law, 72, 117–18, 134–5
 Indonesia, ICJ standing and, 175
 Indus Waters Treaty (1960), 288
 Institut de Droit International, 228
 Insurance industry, 310
 Insurrectional movements, law of responsibility and, 141
 Intelsat (satellite company), 275
 Intentionally wrongful acts (violation of obligations), law
 of responsibility and, 139–236
 Inter-American Convention on Human Rights (1969), 123
 Inter-American Court of Human Rights, 123, 158
 Inter-American Development Bank, 298
 Inter-American Tropical Tuna Commission, 236, 335
Inter arma silent leges, 218
 Interception of vessels on high seas, 262
 Intergovernmental Panel on Climate Change, 291
 Interim measures of protection in ICJ, 171–2
 Internal waters, 257–8
 International Accountancy Standards Board, 311
 International Air Transport Association (IATA), 271
 International Association of Insurance Supervisors, 310
 International Atomic Energy Agency (IAEA), 219
 International Campaign to Ban Landmines, 95
 International Centre for the Settlement of Investment
 Disputes (ICSID), 298, 303, 304, 305
 International Civil Aviation Organization (ICAO), 22, 90,
 271
 International Commission on Intervention and State
 Sovereignty (ICISS), 212
 International Committee of the Red Cross (ICRC), 219
 International Convention for the Prevention of Pollution
 from Ships (1973) (MARPOL), 256
 International Convention for the Regulation of Whaling
 (1946) (ICRW), 287, 290
 International Convention for the Suppression of Terrorist
 Bombings (1998), 214
 International Convention for the Suppression of the
 Financing of Terrorism (1999), 214
 International Court of Justice (ICJ)
 generally, 8, 95
actio popularis in, 175
 admissibility of complaints generally, 168, 179
 adjudication by, 157–61
 advisory opinions in, 176–7
 Article 38 (See Article 38 of ICJ Statute)
 automatic reservations, 166
 chambers, 160
 compensation in, 173
compromis, jurisdiction through, 162
 continental shelf cases, 34, 47, 50, 162, 173, 265–8
 conventions, jurisdiction provided in, 163
 customary international law in, 27–8, 29
 dispute settlement in, 179
 dualism versus monism and, 330
erga omnes obligations in, 145, 175
 exclusive economic zones (EEZs) and, 260
 exhaustion of local remedies requirement, 168, 169–70
 foreign occupation and, 231
forum prorogatum in, 167–8
 general jurisdiction of, 157
 general principles of law in, 36
 genocide and, 127
 Genocide Convention and, 51
 head of state immunity in, 112
 immunity in, 20
 implied powers doctrine in, 108
 interim measures of protection in, 171–2
 investment protection in, 305
 islands and, 266
 joinder of proceedings in, 175
 judges, 158–256
 judicial review by, 177–8
 on jurisdiction, 115
 jurisdiction generally, 162
 jurisdiction provided in treaties, 163
 law of responsibility and, 140, 143, 147
 Lockerbie bombing case, 272
 maritime delimitation cases, 265–8
 maritime zone cases, 31
 nationality of complaints, 168, 170–1
 Nicaraguan contras and, 32–4, 141, 165, 166, 173
 non-appearance in, non-parties, 160
 nuclear testing cases, 37, 172
 nuclear weapons cases, 179, 220, 226, 347
 opinions, 160
 optional clause jurisdiction, 165–7
 PCA and, 155
 peacekeeping, financing of, 162
 private international law and, 295
 recognition of statehood and, 80
 Rules of Court, 168
 Security Council and, 197
 self-defence and, 207, 209, 210
 self-determination and, 128
 sovereign immunity in, 111–12
 stages of proceedings, 161
 standing in, 168, 175, 178
 states as parties, 160
 subjects of international law in, 73
 third-parties and, 174–6
 time-barred claims in, 168

- transferred jurisdiction, 167
treaties and, 47, 49, 51, 62, 64, 68
UN, relationship to, 158
UN Charter, jurisdiction provided in, 163
unilateral declarations and, 37
universal nature of, 157
use of force and, 204, 205
whaling and, 287, 290
- International courts and tribunals, 153, 178. *See also specific Court or Tribunal*
- International Covenant on Civil and Political Rights (ICCPR), 53, 120, 123, 128, 323
- International Covenant on Economic, Social and Cultural Rights (ICESCR), 120, 123
- International Criminal Court (ICC)
generally, 12
Africa, disproportionate focus on, 241
Assembly of States Parties (ASP), 237
complementarity and, 238
creation of, 237
crime of aggression in, 238, 243
crimes against humanity in, 238, 242
criticism of, 241
genocide in, 238, 242
global governance and, 335, 336
individual responsibility in, 149, 244
individuals, role of, 344
investigations *proprio motu*, 238
irregular bands, responsibility of, 246
jurisdiction, 238
legality and, 238
nulla poena sine lege in, 238
nullum crimen sine lege in, 238
personal jurisdiction of, 238
presumption of innocence in, 246
referrals to, 238
state responsibility versus individual responsibility, 245
symbolic value of, 238
Trust Fund for Victims, 240
universal jurisdiction in, 104
universal nature of, 157
war crimes in, 238, 242
- International criminal law. *See also specific Court or Tribunal*
generally, 9, 235, 251
abduction, 250
ad hoc criminal tribunals, 240
aggression, crime of (See Aggression, crime of)
attempted crimes, 244
command responsibility, 245
commission of crimes, 244
crime of aggression, 238, 243
crimes against humanity (See Crimes against humanity)
criminal responsibility of states, 145
deportation, 250
double criminality, 249
drugs trade, 247
extradition (See Extradition)
genocide (See Genocide)
global governance and, 18
individual responsibility under, 244–6
irregular bands, responsibility of, 246
state responsibility versus individual responsibility, 245
superior orders defence, 245
transboundary police cooperation, 246–8, 336
truth commissions, 241
war crimes (See War crimes)
- International Criminal Tribunal for Rwanda (ICTR)
generally, 12
creation of, 237
criticism of, 246
head of state immunity in, 112
individual responsibility in, 149
- International Criminal Tribunal for the former Yugoslavia (ICTY)
generally, 12
creation of, 237
criticism of, 241, 246
genocide in, 242
head of state immunity in, 112
individual responsibility in, 149
irregular bands, responsibility of, 246
self-defence and, 210
state responsibility in, 141
state responsibility versus individual responsibility, 245
war crimes in, International Development Agency (IDA), 298
- International Finance Corporation (IFC), 298
- International Financial Reporting Standards, 311
- International health bureaus, 307–8
- International Health Regulations, 39, 307–8
- International humanitarian law
generally, 229–31
biological weapons and, 226
chemical weapons and, 226
civilians, protection of, 220
conduct of hostilities, 219
cultural property, protection of, 221
cyber warfare and, 227
distinction principle, 220
drones and, 227
dumdum bullets and, 225
environmental protection and, 221
foreign occupation and, 230
historical background, 219
international armed conflicts, 222–4
international organizations and, 228
jus ad bellum, 202, 218
mercenaries and, 229
necessity in, 219–25
non-international armed conflicts, 222–4
nuclear weapons and, 226
prisoners of war, protection of, 221
private military companies and, 229
proportionality in, 219–25
scope of, 221
sea law and, 255
unnecessary suffering, prohibition on, 220
victims, protection of, 219
- Internationalized territory, 84–5
- International Labour Organization (ILO), 18, 90, 133
- International Law Association (ILA), 148, 288
- International Law Commission (ILC)
ARIO, 147
Guide to Practice, 53, 69

- International Law Commission (ILC) (*cont.*)
 law of responsibility and, 146 (*See also* Articles on State Responsibility (ILC))
 Law of Transboundary Aquifers, 289
 state succession and, 88
 treaties and, 43, 50, 53, 69
 unilateral declarations and, 38
- International Maritime Organization (IMO), 15, 90, 175, 256
- International Military Tribunal (IMT) (Nuremberg Tribunal)
 crimes against humanity in, 236, 242
 crimes against peace in, 236
 criticism of, 246
 individual responsibility and, 149
 international nature of, 236
 jurisdiction, 236
 Kellogg–Briand Pact, influence of, 173
 legality and, 236
nullum crimen sine lege in, 236
 war crimes in, 236
- International Monetary Fund (IMF)
 generally, 8, 80, 314
 creation of, 298
 debt relief and, 91, 313
 as international organization, 90
 monetary stability and, 294, 298
 transitional justice and, 232
 weighted voting in, International Organization for Migration (IOM), 39
- International Organization of Securities Commissions (IOSCO), 310
- International organizations
 generally, 89
 administrative organs, 91
 attributed powers, 108
 attribution and, 147
 capacity versus competence, 119
 conferred powers, 108
 diplomatic privileges and immunities, applicability of, 114
 direct effect of international law in domestic courts and, 321, 325
 environmental protection and, 91
 executive organs, 91
 financial regulation and, 91
 functionalism and, 90, 107, 115
 historical background, 90
 implied powers doctrine, 108
 international humanitarian law and, 228
 invitation to admission, 92
 lawmaking by, 23
 law of responsibility and, 146–8
 ‘mission creep’, 108
 plenary organs, 91
 powers of, 116, 117–18
 right to admission, 92
 role in international law, 22, 38–9
 state succession and, 89
 as subject of international law, 71
 withdrawal from, 93
- International relations theory, 15–17
- International Seabed Authority, 261, 263, 335
- International Space Station, 275
- International straits, 259
- International taxation
 generally, 18, 297
 base erosion and profit shifting, 298
 benefits principle, 297
 customary international law and, 297
 ‘race to the bottom’, 297
 single tax principle, 297
 taxation as subject of international law, 349
- International Telecommunications Union (ITU), 275
- International Telegraphic Union (ITU), 275
- International Tin Council (ITC), 146
- International trade
 GATT (*See* General Agreement on Tariffs and Trade)
 General Agreement on Trade in Services (GATS), 301
 most-favoured-nation (MFN) treatment, 300, 302
 national treatment, 300, 302
 Trade-Related Aspects of Intellectual Property (TRIPs), 301
 WTO (*See* World Trade Organization)
- International Trade Organization, 300
- International Tribunal for the Law of the Sea (ITLOS), 41, 157, 257, 265, 267, 268, 270
- International Whaling Commission (IWC), 287
- Interpol, 246
- Investment protection
 generally, 303
 bilateral investment treaties (BITs), 304
 expropriation and, 304
 in ICJ, 305
 jurisdiction and, 305
 in PCIJ, 303
- Iran
 intervention in, 9
 Joint Comprehensive Plan of Action (JCPOA) and, 227
 nuclear weapons and, 227
 self-defence and, 207
 use of force and, 206
 US hostages held in, 140, 154
- Iran–Iraq War, 313
- Iran–US Claims Tribunal, 157
- Iraq
 Abu Ghraib prison, 230
 debt relief and, 313
 Kuwait, war with (*See* Gulf War)
 Security Council action regarding, 188
 UK troops in, extraterritorial jurisdiction and, 105
 US/UK invasion of, 189, 339
- Irgun (Zionist group), 108
- Islamic State (ISIS), 73, 215
- Islands, maritime delimitation and, 266
- Israel
 abduction and, 250
 construction of wall in occupied Palestinian territories, 145, 177, 231
 ICC and, 237
 implied powers doctrine and, 108
 occupied territories, 83, 230
 peace treaties and, 216
 US embassy in, 230
- Italy
 dualism versus monism in, 331
 Ethiopia, invasion of, 173

363 Index

- extraterritorial jurisdiction and, 105
 ICJ jurisdiction and, 167
 interception of vessels on high seas and, 261
 investment protection and, 306
 Italian city-states, international law and, 4
 maritime delimitation cases, 268
 unification of, 86
- Jackson, John, 329
- Jamaica, continental shelf case in ICJ, 34
- Japan
 China, invasion of, 173
 direct effect of international law in domestic courts in, 323
 joint zones and, 268
 League of Nations, withdrawal from, 93
 marginalization from international law, 75
 maritime delimitation cases, 267
 military operations, prohibition of, 109
 North Pacific Fur Seal Convention and, 283
 nuclear weapons case in, 226
 peace treaty with US, 226
 prompt release and, 268
 UN Security Council and, 91
 use of nuclear weapons on, 226
 whaling and, 287
- Jay Treaty (1794), 155
- Jessup, Philip, 349
- Joint Comprehensive Plan of Action (JCPOA), 227
- Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (1997), 284
- Jordan, peace treaties and, 216
- Judicial review by ICJ, 177–8
- Jurisdiction
 generally, 98, 115
compromis, jurisdiction through, 162
 concurrent jurisdiction, 105
 consent to, 161
 domestic courts, denial of jurisdiction, 332
 of ECtHR, 117
 ‘effects doctrine’, 309
 extraterritorial jurisdiction (See Extraterritorial jurisdiction)
 flag-state jurisdiction, 261
forum prorogatum, 167–8
 global governance and, 115–116
 of ICC, 238
 of ICJ generally, 161 (See also International Court of Justice (ICJ))
 as inherent in states, 116
 investment protection and, 305
 nationality jurisdiction, 100
 of Nuremberg Tribunal, 236
 optional clause jurisdiction, 165–7
 passive personality jurisdiction, 99, 101
 protective jurisdiction, 100–1
 statehood criteria, parallels to, 99
 territorial jurisdiction, 99–100
 transferred jurisdiction, 167
 treaties, ICJ jurisdiction provided in, 163
 universal jurisdiction (See Universal jurisdiction)
Jus ad bellum, 202, 218
- Jus cogens*
 generally, 25
 genocide and, 340
non-refoulement as, 133
 sovereign immunity and, 112
 treaties and, 43–4, 61, 64
- Jus in bello*, 202, 218. See also International humanitarian law
- Jus post bellum*
 generally, 218, 231
 peace treaties and, 231
 post-conflict governance, 232
 transitional justice, 232
- Just war, 201
- Kadi, Yassin Abdullah, 194
- Kambanda, Jean, 112
- Katanga, Germain, 238
- Kellogg–Briand Pact (1928), 173
- Kelsen, Hans, 180, 320
- Kennedy, David, 13
- Khomeini, Ayatollah, 141
- Kiel Canal, 24
- Knop, Karen, 13–14
- Korean War, 187
- Koskenniemi, Martti, 13, 145
- Kosovo
 ECtHR and, 117
 EULEX mission in, 232
 humanitarian intervention in, 210
 IMF and, 82
 as internationalized territory, 84, 232
 Kosovo Liberation Army, 149
 Kosovo Specialist Chambers, 150
 NATO campaign in, 80, 210
 peacebuilding in, 193
 peacekeeping in, 193
 recognition of, 80
 UN Mission in Kosovo (UNMIK), 80, 194, 232
 UN troops in (*Behrami and Saramati* case), 147
 use of force and, 205
- Kuwait. See Gulf War
- Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment (1978), 285
- Kyoto Protocol (1997), 284
- Labour law
 human rights, labour standards and, 133
 ‘soft law’, labour standards and, 308
 as subject of international law, 18, 349
- Lake Lanoux arbitration, 280
- Landlocked countries, 260
 customary law and, 29
 exclusive economic zones (EEZs) and, 260
- La Sapienza University, 338
- Latin America. See also *specific country*
 exclusive economic zones (EEZs) in, 259
 Monroe Doctrine and, 206
- Lauterpacht, Hersch, 166, 236
- Law and economics approach to international law, 15–16
- ‘Lawfare’, 14–15
- Law of armed conflict. See International humanitarian law
- Law of responsibility. See Responsibility, law of

- Law of Transboundary Aquifers (ILC), 289
- League of Nations
 collective security and, 173, 185, 187
 ethnic minorities and, 117
 as international organization, 90
 mandate territories, 76, 85, 232
 PCIJ and, 157, 175
 post-conflict governance by, 232
 private international law and, 295
 sanctions and, 180
 slavery and, 117
 statehood and membership in, 74
 as subject of international law, 71
 treaties and, 27
 war and, 173
 withdrawal from, 93
- Lease, acquisition of territory by, 83
- Lebanon
 peacekeeping in, 193
 Special Tribunal for Lebanon, 149, 240
- Legal justification, 216
- Legitimacy, 10
- Leopold II, King of the Belgians, 8
- Lex mercatoria*, 39
- Lex specialis derogat lex generalis*, 58
- Liability, responsibility distinguished, 136
- Liability Convention (1971), 274
- Liberal institutionalist approach to international law,
 15–16
- Liberia, ICJ standing and, 175
- Libya
 flight ban, 188
 human rights violations in, 121
 judicial review by ICJ and, 177
 Lockerbie bombing and, 177, 272
 maritime delimitation cases, 266, 268
 sanctions against, 177
 Security Council action regarding, 188, 189
- Lieber, Francis, 220
- Lieber Code, 220
- Liechtenstein
 ICJ and, 161
 nationality of complaints and, 170
 statehood of, 74
- The Limits of International Law* (Goldsmith and Posner),
 347
- Limits to international law, 347
- Lincoln, Abraham, 220
- Lockerbie bombing, 177, 272
- Louis XIV, King of France, 110
- Lubanga, Thomas, 238, 335
- Lugano Convention (1988), 296
- Macedonia. *See* Former Yugoslav Republic of
 Macedonia
- Machiavelli, Niccolò, 15
- Al Mahdi, Ahmad Al Faqi, 238
- Malta, maritime delimitation cases, 268
- Mandate territories, 76, 85, 232
- Mare Clausum* (Selden), 7
- Mare Librum* (Grotius), 253, 258
- Margin of appreciation, ECtHR and, 125
- Marine environment, environmental protection and,
 254–7, 285
- Maritime delimitation
 generally, 265
 coastline and, 267
 equidistance rule, 265
 islands and, 266
 joint zones, 268
 natural resources and, 268
 single boundary line, 268
- Maritime graves, 59
- Maritime zones, 31–2
- Marshall, John, 322, 344
- Martens, Friedrich von, 221
- Martens Clause, 221
- Marxist perspective on international law, 14
- Max Planck Institute for Foreign Public Law and
 International Law, 338
- McNair, Arnold Duncan McNair, 1st Baron, 27
- Mediation, 154
- Memoranda of understanding (MOUs), 45, 47
- Mercenaries, 229
- Merger of states, 86
- Mexico
 abduction in, 251
 protective jurisdiction in, 101
- Microsoft, 336
- Migration
 human rights of migrants, 133
 as subject of international law, 18, 349
- Military commissions, 233
- Military forces, extraterritorial jurisdiction and, 105
- Millennium Development Goals, 282
- Milosevic, Slobodan, 112
- Mine Ban Treaty (1997), 97
- 'Mission creep', 108
- Mobile oil drilling units, 256
- Money laundering, 247, 248
- Monism, 317, 319–21, 329
- Monroe Doctrine, 206
- Montenegro, Vienna Convention on Succession of States
 in Respect of Treaties and, 87
- Montevideo Convention. *See* American Convention on
 Statehood (1933) (Montevideo Convention)
- Montreal Convention (1999), 271
- Montreal Convention for the Suppression of Unlawful Acts
 against the Safety of Civil Aviation (1971), 178, 214
- Montreal Protocol on Substances that Deplete the Ozone
 Layer (1987), 284
- Mostar, EU administration of, 73
- Most-favoured-nation (MFN) treatment, 300, 302
- Multi Fibre Agreement, 339
- Multilateral Convention to Implement Tax Treaty Related
 Measures to Prevent Base Erosion and Profit Shifting
 (2016), 61
- Multilateral Investment Guarantee Agency (MIGA), 298
- Multilateral treaties, 26
- Munich Agreement (1938), 61
- Myanmar (Burma)
 alleged genocide in, 127
 Rohingya people, treatment of, 127
- My Lai massacre, 237
- Namibia, South Africa and, 115
- National courts. *See* Domestic courts
- Nationalist theory, international law as, 4

365 Index

- Nationality
 dual nationality, 130
 as human right, 130–1
 jurisdiction based on, 100
jus sanguinis and, 130
jus soli and, 130
- Nationality of complaints in ICJ, 168, 170–1
- National treatment, 300, 302
- NATO. *See* North Atlantic Treaty Organization
- Natural law
 positive law, compromise with, 6, 13, 216
 rise of, 13
- Nauru, deep seabed and, 263
- Necessity
 in international humanitarian law, 224, 225
 law of responsibility, necessity precluding wrongfulness, 207
 nuclear weapons and, 225
 self-defence and, 207
- Negotiation, 154
- Neoliberalism, 282
- Netherlands
 Belgium, border dispute with, 10
 Constitution, 327
 continental shelf case in ICJ, 174, 265
 direct effect of international law in domestic courts in, 327
 Energy Charter Treaty and, 305
 extraterritorial jurisdiction and, 105
 ICJ standing and, 174
 Paris Agreement and, 285
 provisional measures and, 270
 Spain, territorial dispute with, 82
 Srebrenica massacre and, 191, 193
 unification of, 86
- Network governance, 39, 335
- New International Economic Order, 303, 311–12
- New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), 296
- New York University, 338
- Nicaragua
 contras, US training of, 32–4, 141, 165, 166, 173, 205, 210
 ICJ jurisdiction and, 165, 166
 ICJ standing and, 175
 self-defence and, 209, 210
 use of force and, 205
- Nicholas II (Russia), 219
- Nigeria
 Biafra and, 77
 maritime delimitation cases, 268
- 9/11 attacks, 209, 210, 211, 215, 336
- Non-appearance in ICJ, 174
- Non-governmental organizations (NGOs)
 global governance and, 336
 as subject of international law, 72, 95
- Non-intervention principle, 9
- Non-Proliferation Treaty (1968), 227
- Non-refoulement*, 133, 323
- Nordic Investment Bank, 298
- North Atlantic Treaty Organization (NATO)
 generally, 60
 Afghanistan, involvement in, 228
- collective security and, 189
- extraterritorial jurisdiction and, 105
- former Yugoslavia, involvement in, 228, 229
- humanitarian intervention by, 210
- Kosovo, campaign in, 82, 210
- membership by invitation, 92
- self-defence and, 210
- Serbia, NATO air strikes in, 160
- use of force and, 205
- North Korea
 Korean War, 187
 nuclear weapons and, 227
 peacekeeping in, 191
- North Pacific Fur Seal Convention (1911), 283
- Northwest Atlantic Fisheries Organization (NAFO), 287
- Norway
 Iceland, territorial dispute with, 155
 ICJ jurisdiction and, 166
 joint zones and, 268
 law of responsibility and, 147
 maritime delimitation and, 265
- Nuclear weapons
 advisory opinions in ICJ and, 175
 environmental protection and, 280
 ICJ cases, 179, 220, 226, 347
 international humanitarian law and, 226
 Japan, use on, 226
 necessity and, 225
 nuclear-free zones, 59
 nuclear testing cases, 37, 172
 in the Second World War, 225
 Treaty on the Prohibition of Nuclear Weapons (2017), 347
- Nulla poena sine lege*, 238
- Nullum crimen sine lege*, 236, 238
- Nuremberg Tribunal. *See* International Military Tribunal (IMT) (Nuremberg Tribunal)
- Obama, Barack, 344
- Occupatio*, acquisition of territory by, 82
- Oder Commission, 279
- Oil reserves, 9
- O'Neill, Onora, 344
- On the Law of War and Peace* (Grotius), 5, 6
- Organization of the Petroleum Exporting Countries (OPEC), 306
- Opinio juris*
 generally, 28
 in customary international law, 226
 general principles of law compared, 36
 state practice and, 30–1, 33–4
- Opium War, 247
- Optional clause jurisdiction, 165–7
- Orford, Anne, 213
- Organisation for Economic Co-operation and Development (OECD), 140, 297, 309, 336
- Organisation for the Prohibition of Chemical Weapons (OPCW), 22, 50, 219, 226
- OSPAR Convention (1992), 285
- Ottoman Empire, marginalization from international law, 75
- Outer Space Treaty (1967), 273
- Owen, Robert, 348
- Ozone layer, environmental protection and, 284

- Pakistan
 Indus Waters Treaty and, 288
 judicial review by ICJ and, 178
 nuclear weapons and, 227
- Palau, membership in UN, 97
- Palermo Convention (2000), 248
- Palestine
 ICC and, 241
 Israeli construction of wall in occupied territories, 145, 177, 231
 non-member observer status in UN, 79
 occupied territories, 83, 230
- Palestine Liberation Organization (PLO), 72, 332
- Palombella, Gianluigi, 332
- Panama
 Panama Canal, 83–4, 258
 US invasion of, 187
- Paraguay, interim measures of protection in ICJ and, 171
- Pariah states, 10
- Paris Agreement (2015), 284
- Paris Club, 313
- Paris Convention on Third Party Liability in the Field of Nuclear Energy (1960), 140
- Passive personality jurisdiction, 99, 101
- Peacebuilding, 193
- Peacekeeping
 generally, 191
 duration of, 193
 financing of, 193
 impartiality of, 193
- Peace of Augsburg (1555), 5
- Peace of Westphalia (1648), 5
- Peace treaties, 216, 231
- Pellet, Alain, 53
- Permanent Court of Arbitration (PCA), 155, 202, 270, 304
- Permanent Court of International Justice (PCIJ)
 advisory opinions in, 175
 compensation in, 173
 direct effect of international law in domestic courts and, 291, 321, 325
 general jurisdiction of, 157
 historical background, 157
inadimplenti non est adimplendum in, 12
 investment protection in, 303
 law of responsibility and, 136
 League of Nations and, 158
 nationality and, 130
 PCA and, 155
 permissive versus prohibitive nature of international law, 24–5
 sources of international law, 23
 steamship cases, 24–5
 transferred jurisdiction, 167
 treaties and, 48, 49
 universal nature of, 157
 waterways and, 24, 45
- Permissive versus prohibitive nature of international law, 24–5
- Persistent objections, 31–2
- Persistent organic pollutants (POPs), environmental protection and, 284
- Persona non grata*, 113
- Philippines
 capacity to enter into international relations as colony, 76
 ICC and, 241
 maritime delimitation cases, 267
- Pinochet, Augusto, 112
- Piracy, 101, 189, 190, 261, 262
- Poland
Beamtenabkommen Agreement and, 321
 direct effect of international law in domestic courts in, 321, 325
 extraterritorial jurisdiction and, 105
 Polish Railways Administration, 321
 riparian rights and, 279
 territorial changes in, 83
- Political agreement as necessary for international law, 347
- Political questions doctrine, 332
- Political theory, international law as, 4, 13–15, 339
- Population criterion for statehood, 74
- Portugal
 colonialism and, 8
 countermeasures and, 183
 division of territories with Spain, 7, 294
 ICJ standing and, 175
 maritime power of, 7
- Positive law
 international law as, 25
 natural law, compromise with, 6, 13, 216
 rise of, 13
- Poverty, international law and, 348
- Pragmatic theory, international law as, 4
- Pre-emptive self-defence, 207
- Prescriptio*, acquisition of territory by, 82
- Presumption of binding force, 41
- Prisoners of war, 220
- Private international law, 295–6
- Private military companies, 229
- Private versus public international law, 3, 349
- Programme on International Student Assessment (PISA), 309–12, 336
- Prohibitive versus permissive nature of international law, 24–5
- Proportionality
 countermeasures and, 184
 in international humanitarian law, 219–25
 self-defence and, 207
- Protective jurisdiction, 100–1
- Prussia, customary law and, 30, 31. *See also* Germany
- Public versus private international law, 3, 349
- Pulp mills, environmental protection and, 281
- Qatar
 Bahrain, territorial dispute with, 154, 155, 162
 judicial review by ICJ and, 178
- Rawls, John, 35
- Reagan, Ronald, 254
- Realist approach to international law, 15, 320, 339, 340, 343
- Rebus sic stantibus*, 67
- Reciprocity, 11–12
- Recognition of statehood
 generally, 72–3, 97
 constitutive theory of, 77

- declarative theory of, 77
- de facto recognition, 78
- de jure recognition, 78
- effect of, 78
- symbolic value of, 78
- UN membership and, 79
- Refugee Convention (1951), 132
- Refugees
 - collective security and, 189
 - human rights of, 132, 134
 - influx into Europe, 121
 - non-refoulement* and, 132, 133, 323
- Regional customary law, 28
- Regional organizations, dispute settlement and, 155
- Rehnquist, William, 344
- Religious institutions, global governance and, 336
- Religious minorities, human rights of, 128
- Reprisals. *See* Countermeasures
- Responsibility, law of
 - generally, 9
 - accountability distinguished, 136, 137, 151
 - acts versus omissions, 138
 - any state invoking, 144
 - Articles on State Responsibility (ILC) (*See* Articles on State Responsibility (ILC))
 - attribution and, 138, 147
 - circumstances precluding wrongfulness, 142–3
 - codification attempts, 137
 - compensation and, 143
 - consent precluding wrongfulness, 142
 - criminal responsibility of states, 145
 - as customary international law, 137, 147
 - damage requirement, 139
 - distress precluding wrongfulness, 142
 - domestic law, effect of, 139
 - dyadic nature of treaties and, 144
 - erga omnes* obligations, 145
 - force majeure* precluding wrongfulness, 142
 - human rights and, 144
 - indirect responsibility for private acts, 140
 - individuals and, 148–9
 - insurrectional movements and, 141
 - intentionally wrongful acts (violation of obligations) and, 139–40
 - international organizations and, 146–8
 - liability distinguished, 136
 - necessity precluding wrongfulness, 142
 - primary versus secondary rules and, 137
 - private acts and, 140
 - reparations, 143
 - responsibility to whom, 136
 - restitution and, 143
 - satisfaction and, 144
 - shared responsibility, 150–1
 - states and, 136
 - strict liability and, 140
 - unresolved questions, 151
- Responsibility to protect (R2P), 212
- Restitution, law of responsibility and, 143
- Retorsion, 10, 180, 182
- Rio Conference (1992), 279, 291
- Riparian rights, 279
- Rivers, environmental protection and, 288
- Roman Catholic Church, secular power of, 5
- Romania, maritime delimitation cases, 266
- Rome (Ancient)
 - acquisition of territory, Roman law and, 81
 - international law and, 4, 15
- Roosevelt, Eleanor, 119
- Roosevelt, Franklin, 119, 173
- Rule of law, 9
- Rules-based approach to ethics in international law, 340
- Rules in international law, 216, 343–5, 346
- Russia. *See also* Soviet Union
 - Alaska, cession of, 83
 - Bering Sea arbitration and, 279
 - Crimea, annexation of, 83, 88, 164, 210, 339
 - Georgia, invasion of, 164, 205, 238
 - ICC and, 237, 241
 - ICJ jurisdiction and, 164
 - International Space Station and, 275
 - Kyoto Protocol and, 284
 - North Pacific Fur Seal Convention and, 283
 - prompt release and, 268
 - provisional measures and, 270
 - South Sudan, recognition of, 80
 - state succession and, 87, 88
 - Syria, intervention in, 145
 - Ukraine and, 205
 - use of force and, 205
 - Wagner Group, 229
- Rwanda
 - genocide in, 92, 103, 191, 242, 340
 - human rights violations in, 121
 - international criminal tribunal in (*See* International Criminal Tribunal for Rwanda (ICTR))
 - Security Council inaction, 191
- Saarland, post-conflict governance of, 85, 232
- St Petersburg Declaration (1868), 219, 221, 225
- Sanctions
 - generally, 180–1
 - countermeasures as form of, 180, 183–5
 - discretion and, 342
 - inadimplenti non est adimplendum* as form of, 12, 181–2
 - individuals, against, 194–6
 - Libya, against, 177
 - perceived lack of in international law, 180–1
 - retorsion as form of, 10, 180, 182
 - social sanctions, 10
 - usefulness of, 168
- San Francisco Conference (1945), 205
- Satisfaction, law of responsibility and, 144
- Saudi Arabia, dispute settlement and, 154, 155
- Schacht, Hjalmar, 237
- Sealand (Duchy), 74
- Sea law
 - generally, 253
 - armed conflict and, 255
 - balancing of freedom and sovereignty, 253
 - contiguous zones, 259
 - continental shelf (*See* Continental shelf)
 - deep seabed, 254, 263–5
 - division of seas into zones, 254
 - exclusive economic zones (EEZs) (*See* Exclusive economic zones)
 - global economy and, 294
 - high seas (*See* High seas)

- Sea law (*cont.*)
 historical background, 255
 internal waters, 257–8
 maritime delimitation (See Maritime delimitation)
 mobile oil drilling units and, 256
 prompt release, 268–70
 provisional measures, 270
 sovereignty and, 275
 territorial sea (See Territorial sea)
 UNCLOS (See Convention on the Law of the Sea (1982) (UNCLOS))
- Seals, environmental protection and, 279, 290
- Sebutinde, Julia, 159
- Secession
 self-determination and, 129
 state succession and, 85
- Second World War
 lack of peace treaty, 216
 nuclear weapons in, 225
- Securities trading, 310
- Security Council of United Nations
 abduction and, 250
 advisory opinions and, 175
 Charter and, 196–7
 collective security and, 186, 206 (See also Collective security)
 crime of aggression and, 244
 discretion of, 189, 338, 342
 dualism versus monism and, 330
 effect of authorization of action, 189
 as executive organ, 91, 94
 global governance and, 335
 ICJ and, 158, 160
 limitations on, 196–7
 maintenance of peace and security and, 108
 measures involving use of force, 186
 measures not involving use of force, 186
 provisional measures, 186
 regional organizations and, 189
 sanctions and, 194, 195, 197 (See also Sanctions)
 terrorism and, 209, 214
 threats to peace, 188
 time limitations on authorization of action, 189
 vetoes in, 91, 94, 187, 196
- Selden, John, 7
- Self-defence
 generally, 12, 216
 alliances for, 210
 anticipatory self-defence, 207
 armed attack requirement, 206
 customary international law and, 207
 cyberattacks and, 210
 domestic courts and, 318
 as ‘idiot rule’, 207
 necessity requirement, 207
 non-state actors and, 207
 pre-emptive self-defence, 207
 proportionality requirement, 207
 rescue of nationals and, 210
 specific types of threats, 207
 terrorism and, 209
 use of force distinguished, 204
- Self-determination
 as human right, 128–30
 identification of self, 129
 secession and, 129
 use of right by disadvantaged groups, 14
- Serbia
 genocide and, 242
 Kosovo and, 80
 NATO air strikes in, 160
 Srebrenica massacre and, 191
 use of force and, 205
 Vienna Convention on Succession of States in Respect of Treaties and, 87
- Shared responsibility, 150–1
- Sharon, Ariel, 103
- Sierra Leone, Special Court for, 149, 240
- Singer, Peter, 342–3
- Single tax principle, 297
- Slavery, abolition of, 6–8, 117, 127
- Slavery Convention (1926), 117, 119
- Slovakia
 termination of treaties and, 68
 Vienna Convention on Succession of States in Respect of Treaties and, 87
- Slovenia, Vienna Convention on Succession of States in Respect of Treaties and, 87
- ‘Soft law’
 generally, 22, 308
 environmental protection and, 308
 in global economy, 308–11
 global governance and, 335–9
 labour standards and, 308–9
 misleading nature of term, 137–40
- Somalia
 as failed state, 85
 piracy and, 189
- Sources doctrine, 336
- Sources of international law
 generally, 22–3
 Article 38 of ICJ Statute as, 22, 25–6
 customary international law (See Customary international law)
 general principles of law, 35–6, 75
 global governance, effect of, 38–41
 law versus non-law, 40
 presumption of binding force and, 41
 treaties as, 26–7
 unilateral declarations as, 37
- South Africa
 apartheid in, 175
 economic and social rights in, 121, 126
 Namibia and, 175
 Truth and Reconciliation Commission, 241
- South Korea
 joint zones and, 268
 Korean War, 187
 peacekeeping in, 191
- South Sudan
 colonialism and, 86
 recognition of, 79–80
 secession of, 85
- Sovereign immunity
 generally, 110
acta just imperii versus *acta jure gestionis*, 110
 domestic legislation regarding, 111
 dualism versus monism and, 331

369 Index

- historical background, 110
- human rights and, 111
- jus cogens* and, 111
- Sovereignty
 - compatibility with international law, 25
 - lack of in international law, 10
 - sea law and, 275
 - space law and, 275
 - of states, 73
 - theories of international law and, 4
 - treaties and, 45
- Soviet Union. *See also* Russia
 - Afghanistan, invasion of, 187
 - Baltic states in, 230
 - civil aircraft, downing of, 272
 - Czechoslovakia, invasion of, 187
 - dissolution of, 86
 - Genocide Convention and, 51
 - Hungary, invasion of, 187
 - PCIJ, advisory opinions in, 175
 - Russification in, 89
 - satellites, 274
 - Security Council, boycott of, 187, 191
 - state succession and, 89
 - veto in Security Council, 196
 - war crimes and, 246
- Space law
 - generally, 253, 273
 - geostationary orbit and, 274
 - global economy and, 294
 - liability in, 274
 - satellites and, 274
 - sovereignty and, 277
- Spain
 - division of territories with Portugal, 7, 294
 - Lake Lanoux arbitration, 280
 - maritime power of, 7
 - nationality of complaints and, 171
 - Netherlands, territorial dispute with, 82
- Special Court for Sierra Leone, 149, 240
- Special Tribunal for Lebanon, 149, 240
- Speer, Albert, 237
- Sputnik I (satellite), 273
- Srebrenica massacre, 127, 191, 193, 242
- Standing in ICJ, 168, 175, 178
- Stateless persons, human rights of, 131–4
- State practice
 - generally, 28
 - in customary international law, 28–9
 - general principles of law compared, 36
 - number of instances of practice required to create, 28
 - opinio juris* and, 30–1, 33–4
 - what practice required to create, 29
 - whose practice required to create, 28–9
- States
 - acquisition of territory (*See* Acquisition of territory)
 - capacity to enter into international relations as
 - criteria for statehood, 76, 86
 - democracy as proposed criterion of, 76
 - dissolution of, 86
 - effective government criterion, 75–6
 - environmental harm, lack of state attribution for, 277
 - ICJ, states as parties, 160
 - jurisdiction (*See* Jurisdiction)
 - law of responsibility and, 136
 - merger of, 86
 - population criterion, 74
 - recognition of statehood (*See* Recognition of statehood)
 - rise of, 5, 73
 - secession of, 85
 - sovereignty of, 73
 - as subjects of international law, 71
 - territory criterion, 75–6, 96
 - unification of, 86
- State succession
 - citizenship and, 88
 - colonialism and, 87, 88
 - customary international law and, 88
 - international organization membership and, 89
 - secession and, 85
 - Vienna Convention and, 87
- Steamship cases in PCIJ, 24–5
- Stockholm Conference (1972), 278–80, 283
- Stockholm Convention on Persistent Organic Pollutants (2001), 284
- Straddling Fish Stock Convention (1995), 261, 287
- Strait of Gibraltar, 259
- Strait of Hormuz, 259
- Stürchler, Nikolas, 205
- Suarez, Francisco, 5–6
- Subjects of international law
 - generally, 71–3, 97
 - checklist test, 72
 - cities as, 72
 - corporations as, 72
 - indigenous peoples as, 95
 - individuals as, 72, 117–18, 134–5
 - intergovernmental organizations as, 71
 - international organizations as, 71
 - labour law as, 18, 349
 - migration as, 18, 349
 - national liberation movements as, 72
 - NGOs as, 72, 95
 - states as, 71
 - taxation as, 349
- Sudan
 - human rights violations in, 121
 - South Sudan, recognition of, 80
- Suez Canal, 187, 193, 258
- Superior orders defence, 245
- Supply chains, 308
- Surface waters, environmental protection and, 288
- Sustainable development, 279
- Sustainable Development Goals, 282
- Switzerland
 - defence of Liechtenstein by, 74
 - ICJ and, 161
- Syria
 - Chemical Weapons Convention and, 50
 - Commission of Inquiry on the Syrian Arab Republic, 154
 - human rights violations in, 121
 - Russian intervention in, 145
 - US intervention in, 145
- Tangier, post-conflict governance of, 232
- Tanzania, merger of, 86
- Tate, Jack, 110

370 Index

- Taxation. *See* International taxation
Terra communis, 7
Terra nullius, 6–7, 95
 Territorial sea
 generally, 254, 258
 baseline, 258
 equidistance rule and, 265
 ‘hovering laws’, 259
 innocent passage through, 258
 international straits, 259
 smuggling and, 259
 width of, 258
 Territory
 acquisition of (*See* Acquisition of territory)
 as criterion for statehood, 75–6, 96
 territorial jurisdiction, 99–100
 territorial rights, 9
 territorial sea (*See* Territorial sea)
 Terrorism
 acts, focus on, 214
 air law and, 272
 Al Qaeda, 73, 215
 aut dedere, aut iudicare and, 250
 definition of, 213
 difficulty of classifying, 215
 extradition and, 249
 financing, focus on, 214
 Islamic State, 73, 215
 9/11 attacks, 209, 210, 214, 273, 336
 regional initiatives, 214
 self-defence and, 209
 state-sponsored terrorism, 215
 targeted killing of terrorists, 209
 ‘war’ against, 233
 Terrorism Financing Convention (1999), 107
 Thirty Years War, 5
 Tiouadera, Faustin-Archange, 188
 Tokyo Tribunal, 237
 Tonga, deep seabed and, 263
Torrey Canyon oil spill, 285
 Torture Convention (1984), 112
 Trade. *See* International trade
 Trade-Related Aspects of Intellectual Property (TRIPs), 301
 Transferred jurisdiction, 167
 Transitional justice, 232
 Transnational law, 349. *See also* Global governance
Transnational Law (Jessup), 349
 Transparency International, 39
 Trapp, Kimberley N., 209
 Treaties
 generally, 9
 acceptance of reservations, 51
 agreement, termination by, 65
 air law treaties, 271
 amendment of, 59–61
 Antarctic treaty regime, 59, 85, 290
 anticipatory application of, 50
 application of, 57–9
 balancing regarding reservations, 53
 bilateral treaties, 27, 61
 coercion, invalidation based on, 62
 compatibility of reservations, 51
 conclusion of, 47–50
 consent to, 45
 contractual nature of, 43
 definition of, 45
 desuetude and, 65
 differentiation within treaty regimes, 53
 direct effect of international law in domestic courts and, 321–5
 dyadic nature of, 144
 environmental protection, treaty law and, 280
 extradition treaties, 249
 foreign ministers concluding, 48
 fragmentation and, 58
 full powers, 48
 fundamental change of circumstances, 68
 heads of state concluding, 48
 hierarchical conflicts, 58
 historical method of interpretation, 55
 ICJ jurisdiction provided in, 163
 implied powers doctrine and, 60
 impossibility of performance, 67
 interim obligations, 49
 international law, requirement to be governed by, 47
 interpretation of, 54–6
 invalidity of, 61–4
 jus cogens and, 43–4, 61, 64
 lex specialis derogat lex generalis and, 58
 manifest violations, invalidation based on, 62
 memoranda of understanding (MOUs) distinguished, 45, 47
 multilateral treaties, 26
 objection to reservations, 51
 pacta sunt servanda, 43, 45
 parties bound by, 58
 peace treaties, 216, 231
 peremptory norms, invalidation for violation of, 43–4, 63, 64
 provisional application of, 50
 ratification of, 48–9
 rebus sic stantibus and, 67
 replacement of, 65
 reservations to, 50–4, 163
 revision of, 59–61
 rules of fundamental importance, invalidation based on, 63
 signature of, 48–9
 silence regarding reservations, 51
 as source of international law, 26–7
 sovereignty and, 45
 substance versus form, 43
 substantive conflicts, 58
 teleological approach to interpretation, 55
 termination of, 65–9
 territorial application, 57
 textual approach to interpretation, 54–5, 56
 time, application over, 57
 unanimity regarding reservations, 51
 unilateral termination of, 66, 69
 withdrawal from, 65
 writing requirement, 46
 Treaty of Amity (1955), 206
 Treaty of Saragossa (1529), 7
 Treaty of Tordesillas (1494), 7
 Treaty of Versailles (1919), 24, 63, 117, 148, 230, 279

- Treaty of Washington (1871), 155
 Treaty on European Union (2007) (TEU), 66, 93
 Treaty on the Functioning of the European Union (2009) (TFEU), 58, 328
 Treaty on the Prohibition of Nuclear Weapons (2017), 347
 Triepel, Heinrich, 319, 320, 331
 Truman Declaration, 275
 Truman, Harry, 34, 261, 275
 Trump, Donald, 344
 Trusteeship, 76, 232
 Truth commissions, 241
 Tunisia, maritime delimitation cases, 266, 268
 Türkiye
 Armenian genocide and, 125
 continental shelf case in ICJ, 162, 173
 Cyprus, extraterritorial jurisdiction and, 105
 suspension of rights under ECHR, 122
- Uganda
 ICJ judgment on reparations, 173
 use of force and, 206
- Ukraine
 Crimean annexation and, 83, 88, 164, 210, 339
 ICC and, 241
 ICJ jurisdiction and, 164
 maritime delimitation cases, 266
 Russia and, 205, 229
 state succession and, 88
 use of force and, 205
 Wagner Group in, 229
- UNCLOS. *See* Convention on the Law of the Sea (1982) (UNCLOS)
- Unification of states, 86
- Unilateral declarations as source of international law, 37
- United Kingdom
 arbitration and, 155
 Argentina, territorial dispute with, 83
 Brexit, 93
 continental shelf case in ICJ, 34
 diplomatic privileges and immunities in, 114
 drugs trade and, 247
 ECHR and, 324
 ECtHR and, 324
 European Union, leaving, 66, 93
 exclusive economic zones (EEZs) in, 260
 extradition and, 249
 extraterritorial jurisdiction and, 105
 Guiding Principles on Business and Human Rights (UNGPs) and, 308
 Gurkhas, 229
 head of state immunity in, 112
 Hong Kong, lease of, 83
 Human Rights Act 1998, 324
 ICC and, 237
 ICJ jurisdiction and, 164, 165, 167
 investment protection and, 303
 Iran, intervention in, 9
 Iraq, invasion of, 105, 189
 joint zones and, 268
 Kosovo, recognition of, 80
 Libya, sanctions against, 177
 Lockerbie bombing and, 272
 North Pacific Fur Seal Convention and, 283
- Obscene Publications Act, 125
 self-defence and, 207
 slavery, abolition of, 117
 Suez crisis and, 162, 187
 termination of treaties and, 68
 UN Security Council and, 91
 use of force and, 204
 war crimes and, 246
- United Nations. *See also specific Convention*
 generally, 8, 93
 Charter (*See* Charter of United Nations)
 collective security (*See* Collective security)
 Commission of Inquiry on the Syrian Arab Republic, 154
 Commission on Human Rights (former), 124–7
 Conference on Trade and Development (UNCTAD), 308, 313
 Division for Ocean Affairs and the Law of the Sea, 258
 ECHR and, 117
 Economic and Social Council (ECOSOC), 95, 123
 Educational, Scientific and Cultural Organization (UNESCO), 79, 255
 Emergency Force (UNEF), 162
 Environmental Programme (UNEP), 91, 283
 General Assembly (*See* General Assembly of United Nations)
 Geneva Conventions and, 228
 genocide and, 340
 Guiding Principles on Business and Human Rights (UNGP), 308
 Human Rights Committee (HRC), 53
 Human Rights Council, 124, 154
 ICJ (*See* International Court of Justice)
 implied powers doctrine and, 108
 as international organization, 90
 law of responsibility and, 147
 Peacebuilding Commission, 194
 peacekeeping (*See* Peacekeeping)
 permanent members of Security Council, 94
 recognition of statehood and membership, 79
 right to admission, 92
 sanctions and, 180
 Secretary-General, 94
 Security Council (*See* Security Council of United Nations)
 self-determination and, 129
 statehood and membership in, 74
 state succession and, 88
 as subject of international law, 71
 trusteeship, 76, 232
 Trusteeship Council, 95
 UN Administration in Est Timor (UNTAET), 194
 UN Mission in Kosovo (UNMIK), 80, 194, 232
- United States
 abduction and, 251
 act of state doctrine in, 332
 Alaska, cession of, 83
 Alien Tort Claims Act (ATCA), 102
 Alien Tort Statute of, 175, 178, 326
 antitrust law, extraterritorial jurisdiction and, 104, 309
 arbitration and, 155
 Bering Sea arbitration and, 279
 capital punishment in, 171

- United States (*cont.*)
 civil war, 220, 235
 continental shelf case in ICJ, 34, 261
 countermeasures and, 184
 customary law and, 30, 31
 direct effect of international law in domestic courts in, 322, 323, 324
 Drug Enforcement Administration, 250
 Drugs Convention and, 248
 dualism versus monism in, 329–33
 environmental protection and, 280
 extradition and, 249
 Foreign Sovereign Immunities Act (FSIA), 111
 Geneva Conventions and, 233
 Grenada, invasion of, 187
 Guantanamo Bay, 83, 97, 233
 Havana Charter and, 300
 hostages held in Iran, 140, 154
 ICC and, 237, 238
 ICCPR and, 323
 ICJ jurisdiction and, 165, 166
 interim measures of protection in ICJ and, 171
 International Space Station and, 275
 investment protection and, 306
 Iran, intervention in, 9
 Iraq, invasion of, 189, 339
 Israel, US embassy in, 230
 Joint Comprehensive Plan of Action (JCPOA) and, 227
jus soli in, 130
 Kosovo, recognition of, 80
 Kyoto Protocol and, 284
 Libya, sanctions against, 177
 Lockerbie bombing and, 272
 Louisiana Purchase, 83
 maritime delimitation cases, 268
 military commissions in, 233
 nationality in, 130
 Nicaraguan contras, training of, 32–4, 141, 165, 166, 205, 209
 9/11 attacks, 209, 210, 214, 272, 336
 North Pacific Fur Seal Convention and, 283
 Office of Foreign Assets Control (OFAC), 194
 Palermo Convention and, 248
 Panama, invasion of, 187
 Panama Canal, lease of, 83
 Paris Agreement and, 285
 peace treaty with Japan, 226
 political questions doctrine in, 332
 presumption of binding force and, 41
 Sarbanes–Oxley Act, 311
 Securities and Exchange Commission (SEC), 310
 self-defence and, 207, 210, 211
 slavery, abolition of, 117
 South Sudan, recognition of, 80
 sovereign immunity in, 111
 Srebrenica massacre and, 191
 Syria, intervention in, 145
 territorial enlargement of, 83
 Torture Victims Protection Act of, 1991, 326
 transboundary police cooperation and, 246, 336
 treaties and, 62
 UNCLOS and, 254, 255
 unification of, 86
 universal jurisdiction in, 102
 use of force and, 205
 vetoes in Security Council, 196
 Vietnam War and, 187
 war crimes and, 246
 Uniting for Peace, 162
 Universal Declaration of Human Rights (1948), 94, 119, 121
 Universal jurisdiction
 generally, 99
 ‘after the fact’ exercise of, 103
 controversial nature of, 104
 human rights and, 102
 in ICC, 104
 limitations of, 103
 piracy and, 101
 prescriptive versus remedial jurisdiction, 103
 universal condemnation distinguished, 104
 Uruguay
 environmental protection and, 281
 investment protection and, 306
 pulp mills and, 281, 306
 Uruguay Round (1986), 300
 Use of force
 generally, 295
 customary international law and, 32, 202
 prohibition on, 204
 Security Council measures involving use of force, 186
 self-defence distinguished, 204
 threat of force, prohibition on, 204
 UN Charter and, 202
Utī possidetis, 81, 129
 Value chains, 308
 Vattel, Emer de, 6, 28, 219, 318
 Verdross, Alfred von, 63
 Verenigde Oost-Indische Compagnie (VOC), 7, 294
 Vienna Convention for the Protection of the Ozone Layer (1985), 284
 Vienna Convention on Consular Relations (1963), 163, 330
 Vienna Convention on Diplomatic Relations (1961), 96, 111, 113, 115
 Vienna Convention on State Succession in Respect of State Property, Debts and Archives (proposed), 88
 Vienna Convention on Succession of States in Respect of Treaties (1978), 87
 Vienna Convention on the Law of Treaties (1969) (VCLT)
 application of treaties and, 57–9
 conclusion of treaties and, 48
 contractual nature of treaties, 43
 as customary international law, 26–7, 43
 drafting of, 43–4
 interpretation of treaties and, 56
 invalidity of treaties and, 61–3
pacta sunt servanda and, 45
 provisional application of treaties and, 50
 reservations and, 50, 51, 163
 revision of treaties and, 59, 60
 signature versus ratification, 49
 substance versus form of treaties, 43
 termination of treaties and, 65–9
 writing requirement in, 46
 Vienna Convention on the Law of Treaties with or between International Organizations (1986), 43

373 Index

- Vietnam
 My Lai massacre, 237
 Vietnam War, 187
- Violation of obligations (intentionally wrongful acts), law
 of responsibility and, 139–40
- Virtue ethics in international law, 344–5, 346
- Visscher, Charles de, 29
- Vitoria, Francisco de, 5–6
- Völkerrecht und Landesrecht* (Triepel), 319
- Wagner Group, 229
- Waldheim, Kurt, 344
- Walzer, Michael, 234
- War
 debts, regarding, 202
 declaration of, 202
 Geneva Conventions and, 201
jus ad bellum, 202, 218
jus in bello, 202, 218 (See also International
 humanitarian law)
 just war, 201
 law of armed conflict (See International humanitarian
 law)
 peace treaties to terminate hostilities, 216, 231
 peace versus, 201, 218
 prohibition of, 201
- War crimes
 command responsibility, 245
 criticism of, 246
 elements of, 243
 Geneva Conventions, under, 243
 historical background, 235
 in ICC, 238, 242
 in ICTY, *mens rea* of, 243
 in Nuremberg Tribunal, 236
 politicization of, 246
- Warren, Earl, 344
- Warsaw Convention (1929), 271
- Warsaw Pact, 210
- Watercourses Convention (1997), 288
- Waterways, 24, 45
- Weber, Max, 9
- Webster, Daniel, 207
- Western Sahara dispute, 177
- Whaling, environmental protection and, 287
- Wilhelm II, Emperor (Kaiser) of Germany, 148
- Wirz, Henry, 235
- World Bank
 Articles of Agreement, 298
 competing institutions, 298
 creation of, 298
 creativity of, 298
 development and, 91, 282, 298
 ethics and, 342
 Inspection Panel, 298
 as international organization, 90
 investment protection and, 303
 transitional justice and, 232
 weighted voting in, 298
- World Court. See International Court of Justice (ICJ)
- World Customs Organization, 80
- World Economic Summit, 314
- World Health Organization (WHO), 39, 90, 175, 307–8
- World Social Forum, 314
- World Trade Organization (WTO)
 generally, 8, 294, 314
 animal welfare and, 301
 Appellate Body (AB), 158, 301
 consensus, decision-making by, 302
 creation of, 300
 direct effect of international law in domestic courts and,
 322, 329
 dispute settlement understanding (DSU), 301
 fragmentation and, 58
 global governance and, 335
 as international organization, 90
 law of responsibility and, 138, 140
 'lawfare' and, 15
 liberal institutionalist approach to international law
 and, 15
 Ministerial Conferences, 91
 other legal regimes and, 301
 politics of, 339
 presumption of binding force and, 335
 sponsorship of agreements, 302
 waivers, 302
- Xue Hanqin, 159
- Yamashita, Tomoyuki, 244
- Yemen, merger of, 86
- Yugoslavia. See also *specific country*
 arbitration and, 157
 dissolution of, 80, 86, 223
 formation of, 117
 human rights violations in, 121
 international criminal tribunal in (See International
 Criminal Tribunal for the former Yugoslavia
 (ICTY))
 termination of treaties and, 68–9