

Index

ABN AMRO Group 125 Abu Ghraib 228 accountability 43, 44, 50, 54, 59, 63, 112, 151, 222 active engagement 167, 193, 195, 197, 198, 216, 217 actus reus 233 agent 66, 72, 73, 76, 77, 78, 88, 110, 121, 122, 159, 162, 164, 165, 168, 175, 176, 177, 178, 179, 180 aiding and abetting 86, 88, 94, 230, 231, 233, 234, 235, 236, 237, 238 Alien Tort Claims Act (ATCA) 33, 80, 81, 82, 83, 85, 87, 88, 92, 94, 103, 116, 228, 229, 230, 237, 238, 239 Alien Tort Statute. See Alien Tort Claims Act (ATCA) Amnesty International 225, 226 Annan, Kofi (former) United Nations Secretary-General 1, 51, 54, 108, 227 anti-personnel mines 8, 46, 49, 208 Arakis Energy Corp. 86 Aristotle 178

Backer, Larry Catá 99
BAE Systems Plc. 91, 92
BASF 124
Bharat Aluminium Co. Ltd. 89
BHP Billiton 128
Blackwater 228
board of trustees 177
Bridgestone Corporation 229
British American Tobacco 128
Burma 8, 11, 18, 19, 33, 34, 35, 38, 39, 40, 41, 44, 49, 91, 92, 95
Business and Human Rights Resource Centre 124

capitalism 12, 15, 103 Caterpillar Inc. complicity in human rights violations in Israel 65, 66 causality 161 Chesterman, Simon 12, 44 child exploitation 8, 26, 27, 48, 223 child labour 8, 10, 11, 26, 27, 35, 36, 48, 94, 100, 195, 223 China 13, 40, 86, 98, 118, 119 China National Petroleum Corporation (CNPC) 86 Cisco 118 Clapham, Andrew 14, 25, 29, 222 cluster munitions 8 Colombia paramilitaries 116 complicity as an ethical versus legal concept 67-71 beneficial complicity 57 company complicity in violations of a state 31, 57 concept under Norwegian law (medvirkning) 81-2 corporate complicity 3, 11, 14, 15, 30, 52, 72, 76, 77, 117, 222, 225, 233, 234, 235, 236, 238, 239 corporate versus individual complicity 71 - 3direct complicity 87 ethical complicity 12, 66, 69 investor complicity 31 legal complicity 66 passive complicity 32, 57 risk of future complicity 11, 27, 70, 73 silent complicity 57 consequentialism/consequentialist 47, 161, 162 contractual structures 80, 97, 106 contractualism 138, 139, 143 corporate crime 222 corporate social responsibility (CSR) 2, 3, 42, 44, 55, 79, 81, 90, 104, 107, 108, 117, 123, 225 corruption 2, 9, 25, 48, 73, 81, 101, 102, 105, 108, 180, 182, 224

273



More information

274 Index

Council on Ethics, Norwegian
Government Pension Fund – Global
human rights recommendations 10–11
mandate 7–9
cross-border investment 186
culpability 70, 74, 195
customary international law 229, 234,
236, 237, 238

Dabhol Power Corporation 226
Daewoo International Corp. 40
Danish Institute for Human Rights 113, 115, 130
Davos 54, 227
disinvestment 4, 13, 26, 28, 32, 42, 47, 59, 61, 62, 63, 103, 133, 141
dolus 232, 236
Draft Norms on the Responsibilities of Transnational Corporations and

Other Business Enterprises with Regard to Human Rights (Draft Norms) 16, 20, 24, 25 Drummond Company Inc. 116

'due diligence' and Sovereign Wealth Funds (SWFs)

and Sovereign Wealth Funds (SWFs 220

as a policy notion 209–14 in international law 214–16 John Ruggie 'protect, respect and remedy' framework 3, 210

Dutch East India Company 13, 133

nduciary duty 65, 174 natural duty 168, 170 negative duty 173 of a state 3 positive duty 113, 173

Dyncorp 71

economic liberalism 146
England 88
Enron 226
environmental, social and corporate
governance issues (ESG) 4
Equator Principles 212, 213
Ethical Guidelines, The Norwegian
Government Pension Fund –
Global
concept of contribution and complicity
in violations 29–35

in violations 29–35 criteria for establishing risk of contributing to a violation 59 human rights criteria 26–9

processing of cases 9–10 revisions to 62

European Aeronautic Defence and Space Company N.V. (EADS) 92 European Coalition on Oil in Sudan 238 European Court of Human Rights 22 extraterritoriality 201, 204, 206, 207, 220 Exxon 71

fiduciaries 157, 177, 181, 182 fiduciary responsibility 157, 175 Finmeccanica SpA 91, 92 Follesdal, Andreas 132 forced labour 8, 18, 26, 27, 33, 35, 36, 38, 39, 48, 52, 53, 92, 94, 95, 144, 223, 229, 235 Fortune Global 500, 99, 123 forum non conveniens 52 Freeport McMoRan Copper & Gold

Inc. 61, 84, 88, 89

Gasser, Urs 12, 15, 107

gender discrimination 18, 36, 39
genocide 14, 33, 53, 85, 222, 228, 229
global basic structure 13, 148
Global Compact. See United Nations
Global Compact
globalization 144
Goal Olie-en-Gasexploratie B.V. 86
Google 13, 118, 119
governance gap 148
Graver Commission Report. See
Norwegian Government White
Paper, NOU 2003:22, on the Ethical
Guidelines of the Government
Pension Fund
Graver, Professor Hans Petter 46

Graver, Professor Hans Petter 46 Greater Nile Petroleum Operating Company Limited (GNPOC) 86, 87, 230, 231 greenwashing 75

harm principle 141
hazardous working conditions 18, 36, 144
Held, David 137
human rights
international human rights law 17, 19, 21, 23, 24, 25, 29, 109, 187, 188, 199, 205, 213, 225
Human Rights Watch 225, 226, 227
humanitarian law

India 11, 13, 40, 52, 89, 116, 133 Indonesia 89, 116

principles of 8, 48, 223, 224



More information

Index 275

institutional investor 1, 3, 13, 14, 15, 44, 156, 157, 158, 160, 161, 167, 174, 175, 177, 178, 180, 181, 182, 198, 221 intent group intention 231-3 intentional participation 162, 164-6 International Commission of Jurists 112, international crimes 14, 23, 53, 222, 229, 230, 233, 238, 239 International Criminal Court (ICC) 14, 23, 50, 51, 54, 231, 232 international criminal law 23, 53, 56, 187, 222, 225, 228, 229, 230, 234, International Criminal Tribunal for the Former Yugoslavia (ICTY) 231, 232, 234, 235, 236 International Forum of Sovereign Wealth Funds (IFSWF) 5 international humanitarian law 23, 24, 82 International Labour Organization (ILO) 46, 130, 144 international treaty 30, 117 International Working Group of Sovereign Wealth Funds 5 Iraq 228 Israel 49, 65, 66 joint criminal enterprise 231, 232

joint criminal enterprise 231, 232 joint venture 87, 89, 90, 91, 92, 93, 94, 95, 96, 119, 122, 124 Jungk, Margaret 113 jurisdiction foreign jurisdiction 126 home jurisdiction of a multinational company 51–3, 197, 204 local jurisdiction 51

know your customer 211 Krasner, Stephen 134 Kutz, Christopher 12, 13, 15, 64, 151, 158, 163, 164, 165, 179, 180 Kuwait 5

lex ferenda 21, 43
lex lata 21, 43, 200
liability
civil liability 120
conspiracy liability 231
criminal liability 14, 17, 23, 28, 32, 33, 50, 54, 102
joint liability 94, 96
joint venture 87, 94
legal liability 222, 239

limited liability 91, 96, 103, 104, 135, 136 tort liability 88 liberalism 78, 146

Madras Aluminium Company Ltd.
(MALCO) 89
Marriott International Inc. 125
Mauritius 86, 88
MBDA Missiles Systems 91, 92, 96
Mestad, Ola 12, 15, 59, 79
Microsoft Corporation 13, 118, 119
Mill, John Stuart 141
Monsanto Co.
child labour exclusion from the
Norwegian Government Pension

engagement with Norwegian Central Bank 11 multinational company 1, 14, 15, 24, 33, 44, 52, 55, 62, 63, 79, 88, 90, 97, 99, 100, 101, 102, 104, 108, 132, 133, 134, 139, 146, 225

mutual funds 61, 186 Myanmar. See Burma Myanmar Oil and Gas Enterprise (MOGE) 34, 93, 96

Netherlands, The 88, 236 New Zealand 5, 116 Nexen Inc. 125 non-governmental organizations (NGOs) 16, 20, 21, 35, 86, 109, 238

non-state actor 29, 201, 203, 207, 214 Norges Bank (Norwegian Central Bank) 7, 8, 47, 59, 61, 62

Norwegian Government Pension Fund – Global Ethics Council. See Council on Ethics,

Norwegian Government Pension Fund – Global exclusion mechanism 8, 9, 38, 42, 43,

87
Guidelines. See Ethical Guidelines,
The Norwegian Government
Pension Fund – Global
negative screening 8, 47, 48, 223
Norwegian Government White Paper,

Norwegian Government White Paper, NOU 2003:22, on the Ethical Guidelines of the Government Pension Fund (Graver Committee Report) 46, 47, 48, 56

Norwegian Ministry of Finance 7, 8, 9, 10, 11, 18, 19, 39, 42, 46, 47, 48, 49, 62, 223



More information

276 Index

Norwegian Parliament (Stortinget) 29, 45, 62 Novartis Pharmaceuticals Company 125 Nuremberg Tribunal 23, 32 Nussbaum, Martha 141 Nystuen, Gro 11, 15, 16, 49

Occidental Petroleum Corporation 126

OECD Guidelines for Multinational
Enterprises 8
OECD Guidelines on Corporate
Governance 8
Ottawa Convention on the Prohibition of
the Use, Stockpiling, Production and
Transfer of Anti-Personnel Mines
and on Their Destruction (1997)
46, 224
ownership rights

pension funds 1, 44, 175, 186, 196
Petrochina Co. Ltd. 40
Petronas Carigali Overseas SDN BHD
86
principle of control 91
principle of distinction 8
principle of proportion 8
public international law 14, 20, 137, 187,
188, 198, 199, 201, 203, 204, 207,

210, 211, 219 purpose common purpose of group in committing a crime 231–3

exercise of 6, 7, 42, 47

Quakers 133, 155

Reagan, President Ronald 71 responsibility attitude responsibility 13, 158, 165, 178, 179, 180 causal responsibility 13, 158 corporate responsibility 3, 12, 16, 17, 21, 26, 33, 43, 79, 88, 101, 112, 117, 222 ethical responsibility 12, 57, 59, 66, 103, 104, 105 international legal responsibility of a state 187, 199, 200, 205, 214, 220 moral responsibility 71, 72, 73, 76, 147, 149, 150, 161, 162, 165, 181 role responsibility 13, 158, 168, 170, 175, 178, 179, 181, 182 responsible investment. See socially responsible investment (SRI) Rio Tinto PLC 89, 115 Robinson, Mary 112

Royal Dutch Shell Group 127
Ruggie, John. See United Nations Special
Representative of the SecretaryGeneral on Human Rights and
Transnational Corporations
and Other Business Enterprises
(Professor John Ruggie)

Santiago Principles 5 Scanlon, Thomas M. 140 Shanghai Alliance Investment Ltd. (SAIL) 119 shareholder shareholder activism 8, 154, 194 shareholder resolutions 4 shareholder responsibility 157-82 Smith, Adam 136, 145 social contract theory 13, 138, 140, 171 socially responsible investment (SRI) 13, 132, 133, 134, 149, 151, 156, 189, 190, 191, 192, 193, 195, 197, 209, 214, 220, 221 sovereign wealth funds (SWFs) and state responsibility 209 as actors in international financial markets 183-7 role of 4-6 sphere of control 12, 59, 81, 103, 105 sphere of influence 12, 17, 81, 104-6, 168, 227 State Petroleum Company (SPC) 86 state responsibility attributability (acts of non-state actors) 201, 202, 203, 204, 206, 207, 214 international law of 14, 199, 200, 203, 206, 210 Sterlite Industries Ltd. 89 stock holder 139 substantial assistance 234-5 Sudan 44, 85, 86, 87, 91, 196, 227, 238 Sudapet Ltd. 86, 87 supply chain 11, 12, 18, 36, 37, 39, 97, 98, 99, 101, 103, 110, 128, 130

Talisman Energy Inc. 84, 85, 86, 87, 88, 90, 91, 94, 226, 227, 230, 231, 235 tobacco disinvestment based on production of 8, 49, 191 Tokyo Tribunal 23 torture 8, 23, 24, 26, 27, 33, 48, 52, 116, 223, 228, 229, 235 Total S.A. 11, 18, 20, 27, 93, 95, 217 trade union 32, 36, 109 Truman, Edwin M. 6



More information

Index 277

UNEP Finance Initiative 3
Union Carbide 52, 115
United Nations Commission on Human
Rights 16, 20, 35, 120
United Nations Global Compact 1, 2, 3,
4, 8, 12, 14, 16, 20, 29, 46, 47, 51,
54, 55, 57, 105, 108, 109, 117, 124,
129, 130, 174, 223, 224, 227, 228,
238
United Nations Principles for
Responsible Investment (PRI)
3, 198

United Nations Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises (Professor John Ruggie) 1, 2, 3, 25, 99, 105, 108, 110, 111, 151, 210, 213, 223, 237

United Nations Universal Declaration on Human Rights 22, 125, 130 United States 51, 52, 53, 55, 61, 71, 80, 119, 121, 226, 228

United States Alien Tort Claims Act. See Alien Tort Claims Act (ATCA) United States Supreme Court 85, 94, 122, 230, 236, 237 Unocal Corporation 33, 34, 39, 53, 54, 91, 92, 93, 94, 95, 96, 117

Vedanta Resources Plc. corporate structure 89–90 exclusion from the Norwegian Government Pension Fund 11, 19, 27, 84 voluntary codes of conduct 4, 29, 44, 54, 219, 221

Wal-Mart Stores Inc.
allegations of human rights and labour rights violations 18, 27, 35–7, 97–101 exclusion from Norwegian
Government Pension Fund 18, 36–9, 50, 56
monitoring of supply chain 98–9
war crimes 14, 23, 33, 53, 85, 116, 222, 228, 229, 238
weapons of mass destruction 8

Weissbrodt, David 109 Whitney, Benson K., United States (former) Ambassador to Norway 61 World Economic Forum 54, 108

Yahoo! Inc. 13, 118, 119