

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

- Ackerman, Bruce, 170
 Adorno, Theodor W., 293
afectados, 349, 352–3, 357, 360–3
 Afonso, Henrique, 184–5
 African Union (AU), 6–7
 African Union Convention on
 Preventing and Combating
 Corruption, 324–5
 Agnoli, Johannes, 304–5
 Ahlers, Conrad, 326
 Allianz Group, 232–6
 AMG. *See* Medicinal Products Act
 anarchy, management of
 global law as, 199–200
 UNGP and, 200–1
 Annan, Kofi, 72
 anti-essentialism, 267–8
 Assange, Julian, 255, 257–8, 272, 326
 asymmetric judicialisation, 37
 AU. *See* African Union
 Augstein, Rudolf, 326
 authoritarian statism, 313–14, 317–18
 authority. *See* public authority
 auto-constitutional regimes, 264
 autonomy, 178–83
 of indigenous women, 186
 autopoiesis, 359

 Basel Convention, 78–9
BASF v. Dong Case, 139–40
 Al-Bashir, Omar, 6–7
 Basic Law, in Germany, 118, 123–4
 Bauer, Fritz, 338–9
 Bäumlin, Richard, 330
 Benjamin, Walter, 364
 Berne Convention for the Protection of
 Literary and Artistic Works, 64–5

 Böckenförde, Ernst-Wolfgang, 331
 bodily integrity, 178–83
 Bonapartism, 312–13
 bourgeois class, 302–3, 305
 bourgeois democracy, decline
 of, 314
 bourgeois law, 292–5
 critique of, 295–6
 false materialism of, 294–5
 Habermas on, 292
 positivism of, 292–4
 subjective rights in, 292
 as untrue, 295
 Brazil
 constitutional law in, 182–90
 Federal Constitution of, 188
 Suruwahá people in, 183–6
 transconstitutionalism in, 182–90
 Brazilian National Indian Foundation,
 183–4
 Brunkhorst, Hauke, 304

 Canotilho, J. J. Gomes, 170
 capitalism
 democracy and, 311
 in materialist theory, 306–16
 capitalist socialization, 310
 CBD. *See* Convention on Biological
 Diversity
 CESC. *See* Committee on Economic,
 Social and Cultural Rights
Chevron Corp. v. Ecuador. *See also* Lago
 Agrio case
 afectados, 349, 352–3, 357, 360–3
 Entsetzung of law, 364–8
 as investment law case, 347–51
 choice, 178–83

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

373

- CITES. *See* Convention on International Trade in Endangered Species
- Civil Law Convention on Corruption, 324–5
- civil society
 NfR and, 231–2, 240–2
 UNGP and, 215–16
- collective institutions
 horizontal constitutional rights and, 144–8
 responsibility of, 146
 third party effect and, 145
- collective interplay management, 95–9
- collective responsibility, 146
- commercial law, 258
- Committee on Economic, Social and Cultural Rights (CESCR), 243
- communicative action theory, 187
- compensatory judicialisation, 37–41
- conceptual regime interactions, 70–4
- conflict of laws, 120. *See also* horizontal constitutional rights
 duty of protection and, 158–60
 private law principles and, 142
 reformulation of, 155
 third party effects and, 142–4, 154–8
- constituted powers. *See* *pouvoir constitué*
- Constitution of Europe, 170–1
- Constitution of the International Community, 170–1
- constitutional law
 in Brazil, 182–90
 globalisation of, 170
- constitutional pluralism, 126–7, 180–1
- constitutional quality, 31–3
 criteria for, 33
 pouvoir constitué and, 32–4
- constitutional scripts, 31
- constitutionalism. *See also* global constitutionalism
 in EU, 260
 hegemonic regimes and, 271
 international organisations, 8–9
 legal order and, 8–9
 multilevel, 170
 plebeian, 276
 unilateral, 182–3
- WTO and, 260
- constitutionalization, 22–6
 compensatory judicialisation and, 37–41
 definitions of, 23–4
 legal regimes and, 24–5
 purposeful, 28
 UN and, 25
 UN Security Council and, 25–6
 WTO and, 25
- constitutions
 academic expansion of term, 170–6
 citizenry power of, 32
 Constitution of Europe, 170–1
 Constitution of the International Community, 170–1
 culturalist conceptions of, 172
 defined, 172–3
 economic, 266
 global civil, 170–1
 historical-universal concept, 171–2
 modern, 173–4
 transconstitutionalism and, 170–6
- contestation
 in global constitutionalism, 29–31, 35–7
 regime collisions and, 35–7
- Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR), 2–3
- Convention on Biological Diversity (CBD), 93–4
- Convention on International Trade in Endangered Species (CITES), 61, 66–9
- Copyright Act (Germany), 334
- Cormack, Bradin, 356
- corporate social reporting, 228. *See also* non-financial reporting
- Corporate Social Responsibility (CSR), 229–30
- corporate social responsibility reporting, 228. *See also* non-financial reporting
- corporations, human rights obligations of, 244
- corporatism, legal pluralism and, 115
- cosmopolitan legal pluralism, 119

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

374

INDEX

- Costa, Sergio, 361–2
- counter-accounting, 241
- Crawford, James, 52
- creeping managerialism, 7, 255–60
 - international law and, 260
- Criminal Law Convention on
 - Corruption, 324–5
- critique, of bourgeois law, 295–6
- Critique of Hegel's Philosophy of Right* (Marx), 273–4
- Crouch, Colin, 319–20
- CSR. *See* Corporate Social Responsibility
- cybergripping, 117
- Darwin, Charles, 177–8
- De Schutter, Olivier, 227
- decision-making mechanisms
 - within international institutions, 99–100
 - in regimes, development of, 262–3
- democracy, 274–5
 - bourgeois, 314
 - capitalism and, 311
 - in *The Eighteenth Brumaire of Louis Bonaparte*, 14, 301–6
 - inherent dangers of, 308–11
 - involution and, 304–5
 - in materialist theory, 306–16
 - materialist theory of, 301
 - National Socialism and, 309–10
 - during Weimar Republic, 309–10
- destituent power, 270–3
- Diagoras of Melos, 139
- dialectical materialism, 295
- Diekmann, Michael, 233–4
- diplomatic law, 258
- doctrine of subjective rights. *See* subjective rights
- Dong, Betty, 139–40
- double contingency model, for
 - transconstitutionalism, 181–2
- Dozinger, Stephen, 349
- DRUD. *See* Uniform Domain Name Dispute Resolution Policy
- due diligence, for human rights, 206
- duty of protection
 - conflict of laws and, 158–60
 - horizontal constitutional rights and, 158–60
 - state concepts of, 158–9
 - third party effect doctrine and, 158–60
 - trial registration and, 159–60
- economic constitutions, 266
- economic enterprises
 - as governance group, 202
 - human rights obligations of, 204–8
- economic regimes, 260
- ECtHR. *See* European Court of Human Rights
- Ecuador. *See* *Chevron Corp. v. Ecuador*; Lago Agrio case
- Edronax Case*, 139
- egalitarian parliamentarianism, 304
- Ehrlich, Eugen, 335
- The Eighteenth Brumaire of Louis Bonaparte* (Marx), 14, 301–6. *See also* Revolution of 1848
- Ellsberg, Daniel, 326
- Engels, Friedrich, 172
- Entsetzung*, of transnational law, 364–8
- environmental accounting, 228. *See also* non-financial reporting
- environmental law, policy and
 - international, 258–9
 - interplay management and, 89–90
- equality, 178–83
- Esser, Josef, 315
- ethical relativism, 189–90
- EU. *See* European Union
- European Convention on Human Rights, 121–2
- European Court of Human Rights (ECtHR), 117
 - whistleblowing guidelines, 328–9
- European Court of Justice, 2–3, 112–13
- European law, 258–9
- European Union (EU)
 - constitutionalism in, 260
 - Fiscal Compact, 299–300
 - lack of democratic legitimacy of, 117
 - NfR legislation in, 230–1

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

375

- FAO. *See* Food and Agriculture Organization
- Faroe Islands, 49–50
- WTO and, 50
- Fassbender, Bardo, 27
- FDA Amendment Acts (FDAAA), 156
- Federal Constitution of Brazil, 188
- Federal Constitutional Court, 118
- Feyerabend, Paul, 181–2
- Fiscal Compact, 299–300, 317
- Food and Agriculture Organization (FAO), 66–9, 226
- food commodities speculation
- Allianz Group and, 232–6
- NfR and, 227–8
- Oxfam Germany and, 232–4
- food prices, 226
- LIFDC, 227
- Fordism, crisis of, 312–14
- fragmentation
- constitutional, 176–82
- Entsetzung* of law and, 364–8
- of international law, 1–4, 51, 92–5, 101
- investment law and, 355–63
- legal, 176–82
- Red Queen hypothesis, 177–8
- regime collisions and, 199
- fragmented hegemony, 269–70, 319
- Fraser, Nancy, 363
- French Revolution, 273
- gap of law, 281–7
- GATT. *See* General Agreement on Tariffs and Trade
- GEF. *See* Global Environment Facility
- General Agreement on Tariffs and Trade (GATT), 260
- Germany
- Basic Law in, 118, 123–4
- Copyright Act in, 334
- Federal Constitutional Court in, 117, 122–4, 144–5
- legal orders in, 122–4
- whistleblowing guidelines in, 334
- global administrative law, 22
- global civil constitutions, 170–1
- global constitutionalism
- asymmetric judicialisation and, 37
- compensatory judicialisation and, 37–41
- contestation in, 29–31, 35–7
- defined, 28–9
- functionalist approach to, 27
- implicit logics of, 32–3
- international law as result of, 22
- neo-dualism and, 109–10
- neo-monism and, 109–10
- normative approach to, 26–7
- pluralist approach to, 27–8
- public authority and, 22
- regime collisions and, as competing paradigm, 21–2, 33–9
- state-plus actorship and, 28
- three schools of, 26–9
- Global Environment Facility (GEF), 59–60
- global law, 199–200
- Global North, transconstitutionalism in, 169, 178–86
- Global Reporting Initiative (GRI), 229, 229–30
- global society, defined, 3–4
- globalisation
- regime collisions and, 34
- Gonçalves, Guilherme Leite, 361–2
- governance groups. *See* economic enterprises; international organizations; nation-states
- Gramsci, Antonio, 267, 307
- Gray, Rob, 236
- Greenpeace International, 63
- greenwashing, 236–7
- GRI. *See* Global Reporting Initiative
- Habermas, Jürgen, 27
- on bourgeois law, 292
- communicative action theory for, 187
- Halberstam, Daniel, 27–8
- Hamilton, Alexander, 114
- Hamilton, William D., 177
- Hart, H. L. A., 116
- healthcare systems, violations of, 154
- AMG and, 154

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

376

INDEX

- hegemonic regimes, 265, 267–70
- hegemony
 - fragmented, 269–70, 319
 - Gramsci on, 307
 - Marxism and, 267–8
 - in regime collisions, 36–7
 - systems theory and, 268
- Hegemony and Socialist Strategy* (Laclau and Mouffe), 267–8
- Hernandez, Bardomiano, 361–2
- Hesse, Konrad, 330
- Hong Kong Convention, 77–9
- Hong Phu Dao, 240
- horizontal constitutional rights
 - as collective institutions, 144–8
 - communication media and, 148–54
 - contextualisation of, 154–8
 - duty of protection and, 158–60
 - in pharmaceutical clinical study cases, 139–42
 - private law principles and, 142
 - publication bias and, 139–42
 - reformulation of, 155
 - social power and, 148–51
 - state-directed, 161–3
 - third party effects and, 142–4, 154–8
 - transfer of, 154–8
 - violations of, 146
- Hormone Replacement Therapies Case*, 140
- human rights, 183
 - components of, 178–83
 - corporations and, legal obligations for, 244
 - due diligence for, 206
 - economic enterprises and, obligations of, 204–8
 - economic power and, 178–86
 - for indigenous peoples, 184–90
 - investment law and, 355–8
 - law as modern form of, 289–95
 - laws of armed conflict and, 37–9
 - in local cultural framework, 178–83
 - in nation-states, obligations of, 203–6
 - NfRs and, 232, 242–5
 - OECD framework for, 200–1
 - political power and, 178–86
 - as procedural, 290
 - regime collisions and, 200
 - subjective, 292
 - UNGP frameworks for, 200–13, 243–4
 - universalism of, 190
- human rights imperialism, 186–7
- human rights law, 258–9
 - modern law in conflict with, 358–63
- humanitarian law, 38–9
 - human rights and, 39
- ICANN. *See* Internet Corporation for Assigned Names and Numbers
- ICC. *See* International Criminal Court
- ICCCWC. *See* International Consortium on Combating Wildlife Crime
- Icelandic Modern Media Initiative (IMMI), 324
- IFCS. *See* Intergovernmental Forum on Chemical Safety
- IGOs. *See* intergovernmental organisations
- illegality, law as distinct from, 281–7
- ILO. *See* International Labour Organization
- IMF. *See* International Monetary Fund
- IMMI. *See* Icelandic Modern Media Initiative
- IMO. *See* International Maritime Organization
- indigenous customary law, 359–60
- indigenous peoples
 - autonomy of, 186
 - human rights bill for, 184–90
 - infanticide and, 188–9
 - normative orders for, 182–92
 - Suruwahá people, 183–6
 - transconstitutionalism and, 169–70, 182–90
- individual responsibility, 146
- individualism, 178–83
- institutional linkage, 4
- intellectual property rights (IPRs), 93–4
- Inter-American Convention against Corruption, 324–5
- intercultural collisions, 180
- Intergovernmental Forum on Chemical Safety (IFCS), 65

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

377

- intergovernmental organisations (IGOs), 229
- Intergovernmental Panel on Climate Change (IPCC), 62–3
- International Atomic Energy Agency, 59
- International Consortium on Combating Wildlife Crime (ICCCWC), 61
- International Court of Justice, 258
- International Covenant on Civil and Political Rights, 112–13
- International Criminal Court (ICC), 6–7
- International Energy Agency, 100–1
- international environmental law, 258
- international institutions
 - decision-making within, 99–100
 - first-mover advantages for, 100
 - interplay management and, 95–101
- International Labour Organization (ILO), 59, 69–70, 228
- international law
 - critical systems theory and, 261–4
 - dualism in, 109
 - fragmentation of, 1–4, 51, 92–5, 101, 258–9
 - global constitutionalism and, 22
 - for human rights, 203
 - legal order in, 92–5
 - monism and, 109
 - multiple regimes and, 258
 - primary rule-making in, 264
 - private, 120
 - as reactive, 58
 - rule-systems and, 259
 - secondary rule-making in, 264
 - social systems perspective for, 92–3
 - transnational governance
 - arrangements within, 113, 125–6
 - variants in, 259–60
- International Maritime Organization (IMO), 69–70
- International Monetary Fund (IMF), 54
- International Organization for Migration, 74–5
- international organizations, as governance group, 202
- international refugee law, 258–9
- international regimes
 - formation of, 1–2
 - interlinkages between, 89
- international relations (IR), 257
- International Renewable Energy Agency, 100–1
- International Trade Centre (ITC), 60
- International Transport Workers' Federation, 63
- Internet Corporation for Assigned Names and Numbers (ICANN), 113, 125–6, 328
- Inter-Organization for the Sound Management of Chemicals (IOMC), 65–6
- interplay management
 - collective, 95–9
 - constraint of, 99–101
 - defined, 89
 - environmental law and, 89–90
 - inter-institutional orders and, 95–9, 99–101
 - legal norms and, development of, 101–3
 - lex posterior* and, 101–2
 - lex specialis* and, 101–2
 - lex superior* and, 101–2
 - MEAs and, 100–1
 - regime conflict and, 90–2
 - structural advances with, 103–5
 - substantive rules for, 102–3
 - WTO and, 100–1
- investment law, 258–9
 - Chevron Corp. v. Ecuador* and, 347–51
 - fragmentation and, 355–63
 - human rights and, 355–8
 - under human rights law, in conflict with modern law, 358–63
 - Lago Agrio case, 350–5
 - under modern law, in conflict with human rights law, 358–63
 - Monetary Gold principle and, 352, 353
 - transnational, 356
 - UNCITRAL guidelines for, 357
- involution, 304–5, 311–14

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

378

INDEX

- IOMC. *See* Inter-Organization for the Sound Management of Chemicals
- IPCC. *See* Intergovernmental Panel on Climate Change
- IPRs. *See* intellectual property rights
- IR. *See* international relations
- ITC. *See* International Trade Centre
- Jenks, Wilfred, 57
- Jessup, Philip, 57
- judicialisation
- asymmetric, 37
 - compensatory, 37–41
 - underdog regimes and, 40
- juridification, 262, 284–5
- Kannankulam, John, 318
- Kelsen, Hans, 335
- Keohane, Robert, 91
- Kjaer, Poul, 219
- Korth, Peter, 52
- Koselleck, Reinhart, 171
- Koskenniemi, Martti, 51
- Kratochwil, Friedrich, 55
- Krisch, Nico, 27–8
- Kumm, Mattias, 28
- Laclau, Ernesto, 267–8
- Ladeur, Karl-Heinz, 337
- Lago Agrio case, 350–5
- Monetary Gold principle in, 352–3
- Laski, Harold, 114
- Lassalle, Ferdinand, 172
- Latin America
- indigenous peoples in, 169–70, 182–90
 - Suruwá people in, 183–6
 - transconstitutionalism in, 182–90
 - unilateral constitutionalism in, 182–3
- Laufer, William S., 236
- law. *See also* international law; transnational law
- of armed conflict, 37–9
 - commercial, 258
 - constitutional, 170, 182–90
 - diplomatic, 258
 - environmental, 89–90, 258–9
 - European, 258–9
 - forms of, 281–2
 - gap of, 281–7
 - global, 199–200
 - global administrative, 22
 - human rights, 258–9, 358–63
 - illegality as distinct from, 281–7
 - indigenous customary, 359–60
 - international environmental, 258
 - international refugee, 258–9
 - investment, 258–9
 - juridical forms, 284–5
 - materialism of, 281, 289
 - as modern form of rights, 289–95
 - non-juridical form of, 284–5
 - non-law as distinct from, 282–6
 - paradox of, 286
 - private international, 120, 142–4
 - proceedings of, 285
 - processualization of, 289
 - revolutionary, 291
 - self-limitation of, 288–9
 - self-reflection of, 287–90
 - subsystems of, 293
 - trade, 258–9
- laws of armed conflict
- human rights and, 37–8
 - humanitarian law and, 38–9
- legal fragmentation, 176–82. *See also* fragmentation
- legal orders. *See also* normative orders
- constitutionalism and, 8–9
 - elaboration of, 121–4
 - European Convention on Human Rights and, 123–4
 - European Court of Human Rights and, 123–4
 - evolution of, 124–6
 - foundation of, 118–21
 - in Germany, 122–4
 - horizontal coordination of, 120–1
 - in international law, 92–5
 - responsivity among, 118–26
 - under RS, 121–2
 - transconstitutionalism and, 174
 - transnational governance
 - arrangements and, 113, 125–6 - UNGP and, 203

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

379

- legal pluralism, 118
 - constitutional, 126–7, 180–1
 - corporatism and, 115
 - cosmopolitan, 119
 - description of, 111–13
 - empirical analysis of, 316–20
 - historical development of, 114–15
 - interpretation of, 113–16
 - modern, 115–16
 - radical, 116–18
 - in United States, 114–15
 - WTO and, 111–12
- legal regimes, 3–4
 - constitutionalization and, 24–5
- lex posterior*, 101–2
- lex specialis*, 101–2
- lex superior*, 101–2
- Low Income Food Deficit Countries (LIFDC), 227
- Luhmann, Niklas, 111, 161–2, 180, 261
 - on forms of law, 281–2
- Luxembourg, Rosa, 307–8
- Lyotard, Jean-François, 339–40
- Lysenko, Trofim, 150
- managerialism. *See* creeping managerialism
- Manning, Chelsea, 326, 339
- Marcuse, Herbert, 331
- Martin, Dirk, 319
- Marx, Karl, 14, 272–5, 301–6, 339–40
 - on bourgeois class, 302–3
 - on democracy, 274–5
 - on development of capitalist state, 314–16
 - on parliamentarianism, 303–4
- Marxism, hegemony and, 267–8
- materialism
 - capitalism and, 306–16
 - defined, 294–5
 - democracy and, 306–16
 - dialectical, 295
- materialism of law, 281, 289
- MEAs. *See* multilateral environmental agreements
- Medicinal Products Act (AMG), 154
- Menke, Christoph, 335, 364
- Michaels, Ralf, 57
- Miles, Kate, 354
- MNEs. *See* multi-national enterprises
- Monetary Gold principle, 352–3
- monism, 109
- Montreal Protocol, 81
- moral universalism, 189–90
- Morin, Jean-Frédéric, 95
- Mouffe, Chantal, 267–8
- multilateral environmental agreements (MEAs), 90, 93–4
 - interplay management and, 100–1
- multilevel constitutionalism, 170
- multi-national enterprises (MNEs), 215–17
- multiple regimes, international law and, 258
- Napoleonic Code, 302–3
- National Contact Points (NCPs), 209
 - autonomous remedial mechanisms and, 210–12
 - OECD guidelines, 210–12
- National Socialism, 309–10
- nation-states
 - as governance group, 202
 - human rights obligations of, 203–6
 - public authority and, 22
 - regimes and, 257–8
 - transconstitutionalism and, 175
 - UNGP and, 215
- NCPs. *See* National Contact Points
- neo-dualism, 109–10
- neo-monism, 109–10
- Neumann, Franz, 309, 311–12
- Nevill, Penelope, 52
- new constitutionalism, 260
- New Economic Governance, 299–300, 317
- NfR. *See* non-financial reporting
- NGOs. *See* nongovernmental organisations
- non personal constitutional rights theory, 145
- non-financial reporting (NfR)
 - civil society consensus on, 231–2, 240–2
 - corporate behaviour on human rights, 244

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

380

INDEX

- non-financial reporting (NfR) (cont.)
 - counter-accounting and, 241
 - credibility issues for, 237
 - CSR and, 229–30
 - defined, 12, 228
 - disadvantages of, 234–8
 - economic enterprise improvements
 - as result of, 234–8
 - enforcement mechanisms for, 238–45
 - EU legislation on, 230–1
 - food speculation and, 227–8, 232–4
 - greenwashing and, 236–7
 - GRI and, 229–30
 - human rights accountability and,
 - 232, 242–5
 - international initiatives for, 230
 - lack of political will and, legislation
 - for, 242
 - legal foundations for, 242–5
 - monitoring mechanisms for, 238–45
 - NGOs as influence on, 240–2
 - perspectives for, 245–6
 - potential of, 238–45
 - RAFI and, 229–30
 - regime collisions and, 228–32
 - for self-reflexion, 238–40
 - shadow reports, 241
 - sustainability reports in, 236
 - systems theory and, 238–9
- non-financial-accounting, 228. *See also* non-financial reporting
- nongovernmental organisations (NGOs), 229
 - NfRs influenced by, 240–2
 - shadow reports, 241
- non-juridical form, 284–5
- non-law, law as distinct from, 282–6
- non-state remedial mechanisms, 208
- normative orders
 - for indigenous peoples, 182–92
 - transconstitutionalism between,
 - 182–92
- Obama, Barack, 325
- Oberndorfer, Lukas, 300, 318
- OECD. *See* Organisation for Economic Cooperation and Development framework
 - Offe, Claus, 308, 310–13
 - Olivieri, Nancy, 141
 - OPCW. *See* Organisation for the Prohibition of Chemical Weapons
 - operational regime interactions,
 - 59–64
 - Organisation for Economic Cooperation and Development (OECD) framework, 200–1
 - critique of, 217–19
 - multinational corporations and, 228
 - NCPs and, 210–12
 - UNGP and, 208–13, 217–19
 - Organisation for the Prohibition of Chemical Weapons (OPCW), 59
 - Orsini, Amandine, 95
 - OSPAR. *See* Convention for the Protection of the Marine Environment of the North-East Atlantic
 - Ostrom, Elinor, 91
 - Oxfam Germany, 232–4
 - paradox of law, 286
 - Paris Convention on Industrial Property, 64–5
 - parliamentarianism, 302–3
 - egalitarian, 304
 - Marx on, 303–4
 - Pauwelyn, Joost, 57
 - Pernice, Ingolf, 170
 - Persistent Organic Pollutants (POP), 65
 - Peters, Anne, 28
 - pharmaceutical clinical study cases
 - BASF versus Dong Case*, 139–40
 - Edronax Case*, 139
 - horizontal constitutional rights and,
 - 139–42
 - Hormone Replacement Therapies Case*, 140
 - publication bias and, 139–42, 149–51
 - Pires, Lucas, 170
 - plebeian constitutionalism, 276
 - politics, in regimes, 263–4
 - polycentric governance. *See also* global law
 - self-constitutionalizing regimes and,
 - 213–15

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

381

- polymorphism, 177. *See also* Red Queen hypothesis
- POP. *See* Persistent Organic Pollutants
- positivism, 292–4
- potentia*, 275–6
- potestas*, 275–6
- Poulantzas, Nicos, 307–8, 313–14
- pouvoir constitué* (constituted powers), 32–4
- private international law, 120
 - horizontal constitutional rights and, 142
 - third party effects and, 143–4
- processualization of law, 289
- proportionality, principle of, 327, 331–6, 340–2
- public authority
 - global constitutionalism and, 22
 - nation-states and, 22
- publication bias
 - causes of, 141–2
 - collective institutions and, 145
 - healthcare system violations and, 154
 - horizontal constitutional rights and, 139–42
 - pharmaceutical clinical study cases and, 139–42, 149–51
 - power technique in, 150
 - as social power, 148–51
- publication mechanisms
 - economically motivated manipulation of, 152
 - indirect impairment of, 152–3
 - for scientific research, violations of, 151–4
- pure capitalism, 316
- purposeful constitutionalization, 28
- radical legal pluralism, 116–18
- RAFI. *See* Reporting and Assurance Frameworks Initiative
- Ralph, Jay, 233
- Red Queen hypothesis, 177–8
- reflexivity, of regimes, 264, 271–2
- regime collisions
 - conceptualization of actors in, 54–5
 - conflict of laws and, 57
 - contestation and, 35–7
 - defined, 3–7
 - fragmentation and, 199
 - global constitutionalism and, as competing paradigm, 21–2, 33–9
 - globalisation and, 34
 - hegemony in, 36–7
 - human rights and, 200
 - intercultural, 180
 - NCPs, 209
 - NfR and, 228–32
 - normative conflict and, 53–4
 - retrospective focus of, 56
 - rules for, 199
 - systems theory and, 3–5, 54–5
 - transconstitutionalism and, 169–70
 - UNGP and, 200–13
- regime complexes, 4, 51
- regime interactions, 4, 52. *See also*
 - interplay management
 - bureaucratic structures and resources as influence on, 82–3
 - chemical management and, 65–6
 - CITES oversight of, 66–9
 - conflictual, 77–9, 90–2
 - expansion of agency scope as result of, 76
 - FAO oversight of, 66–9
 - forms of, 53
 - ILO oversight of, 69–70
 - IMO oversight of, 69–70
 - institutional, 53–4
 - institutional design and, 80–1
 - as interlinkages, 89
 - nature of, 53, 74–9
 - operational, 59–64
 - procedural rules and, 81–2
 - rationalization of, 74–6
 - regulatory, 64–70
 - relational approach to, 55–8
 - transactional model for, 55–7
 - typology of, 58–74
 - UNEP oversight of, 71–2
 - WTO oversight of, 71–2
- regime theory, 4
- regimes. *See also* international regimes; legal regimes
 - as analytical category, 257

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

382

INDEX

- regimes (cont.)
 - auto-constitutional, 264
 - codes and programmes for, 271
 - commercial law and, 258
 - constitutional quality and, 31–3
 - decision-making mechanisms in, 262–3
 - diplomatic law and, 258
 - double reflexivity of, 264
 - economic, 260
 - hegemonic, 265, 267–70
 - international environmental law and, 258
 - IR and, 257
 - judicialisation and, 40
 - juridification trend in, 262
 - maximization of rationality in, 264–7
 - overlapping, 2–4
 - politics in, 263–4
 - post-democratic nature of, 274–5
 - primary rule -making in, 264
 - secondary rule -making in, 264
 - self-constitutionalizing, 213–15
 - self-contained, 2
 - as state-centric, 257–8
 - surveillance, 257–8
 - transnational, 271–2
 - underdog, 40
- regulatory regime interactions, 64–70
 - chemical management and, 65–6
 - CITES oversight in, 66–9
 - FAO oversight in, 66–9
 - ILO oversight of, 69–70
 - IMO oversight of, 69–70
- relations of ecological dominance, 269–70
- remedial mechanisms, 207–8
 - autonomous, 211
 - non-state structures, 208
 - operational principles of, 207–8
- Reporting and Assurance Frameworks Initiative (RAFI), 229–30
- responsibility
 - collective, 146
 - individual, 146
- Revolution of 1848, in France
 - bourgeois class and, 302–3, 305
 - development of capitalist state after, 314–16
 - involution and, 304–5
 - parliamentarianism and, 303–4
 - state machinery and, 305–6
- revolutionary law, 291
- Ridder, Helmut, 145, 337
- Rome Convention, 64–5
- Rome Statute (RS)
 - legal orders under, 121–2
 - UN Security Council and, 6–7
- RS. *See* Rome Statute
- Ruggie, John G., 55, 243–4
- rule-systems, 259
- SAICM. *See* Strategic Approach to International Chemicals Management
- Sassen, Saskia, 261
- Schmitt, Carl, 114, 145, 287, 311–12
- scientific research
 - horizontal constitutional rights and, 139–42
 - publication bias and, 139–42, 149–51
 - publication mechanism violations, 151–4
 - trial registration and, 157–8
- Segato, Rita Laura, 185–7
- self-constitutionalizing regimes, 213–15
- self-contained regimes, 2
- self-limitation of law, 288–9
- self-reflection of law, 287–9
 - juridical, 289
 - processuality in, 289
 - sovereignty and, 287
- Sellers, Wilfrid, 292–3
- shadow reports, 241
- Smend, Rudolf, 330
- Snowden, Edward, 326, 339
- social accounting, 228. *See also* non-financial reporting
- social regimes, 261
- social revolution, 304, 316–20
- social theory, systems theory and, 266–7
- sovereignty, self-reflection of law and, 287
- Spivak, Gayatri, 362–3

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

383

- state-directed constitutional rights, 161–3
- state-plus actorship, 28
- Strategic Approach to International Chemicals Management (SAICM), 65
- Streeck, Wolfgang, 319–20
- structural violence, 146
- Study Group of the International Law Commission on Fragmentation, 1–2
- subjective rights, 292
 - as doctrine, 335
- Suruwahá people, 183–6
- surveillance regimes, 257–8
- sustainability reports, 236
- systems theory
 - hegemony and, 268
 - international law and, 261–4
 - NfR and, 238–9
 - regime collisions and, 3–5, 54–5
 - social theory and, 266–7
- Teubner, Gunther, 52, 54, 57, 171–2
 - on autopoiesis, 359
 - on intercultural collisions, 180
 - on legal fragmentation, 176–82
 - on second fragmentation of modern law, 358–60
 - on self-constitutionalizing regimes, 213–15
 - on self-reflection of law, 289–90
 - on whistleblower protections, 338
- Thalheimer, August, 311–12
- third party effect theory
 - collective institutions and, 145
 - communication media and, 148–54
 - duty of protection concept and, 158–60
 - four theses in, 143–4
 - health care system violations and, 154
 - horizontal constitutional rights and, 142–4
 - private international law and, 143–4
 - social power and, 148–51
 - transfer of horizontal constitutional rights and, 154–8
- Thorn hill, Chris, 171–2
- Tocqueville, Alexis DE, 114
- trade law, 258–9
- transconstitutionalism
 - in Brazil, 182–90
 - changed conception of, 270–3
 - constitutional fragmentation and, 176–82
 - constitutions and, expansion of term, 170–6
 - defined, 174–6
 - double contingency model for, 181–2
 - ethical relativism and, 189–90
 - in Global North, 169, 178–86
 - human rights imperialism and, 186–7
 - indigenous peoples and, 169–70, 182–90
 - infanticide and, 188–9
 - in Latin America, 182–90
 - legal fragmentation and, 176–82
 - legal orders and, 174
 - moral universalism and, 189–90
 - normative approach to, 176
 - between normative orders, 182–92
 - overview of, 169–70
 - regime collisions and, 169–70
 - rejection of nation-states under, 175
 - transition bridges and, 181–2
 - trans-juridicism compared to, 174
- transition bridges, 181–2
- trans-juridicism, 174
- transnational constitutional rights, 161–2
- transnational investment law, 356
- transnational law, 1
 - historical development of, 298–9
 - Outsetting* of, 364–8
- transnational normative orders, 219–20
- transnational regimes, 271–2
- trial registration
 - duty of protection and, 159–60
 - scientific research and, 157–8
- Tripartite Declaration, of ILO, 228
- Tully, James, 27–8
- Tushnet, Mark, 170

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

384

INDEX

- UN. *See* United Nations
- UN Convention against Corruption, 324–5
- UN Convention on the Law of the Sea (UNCLOS), 2–3, 33
 - regime collisions and, 49–50
- UN Security Council, 6–7, 25–6
- UNAIDS. *See* United Nations Programme on HIV/AIDS
- UNCITRAL. *See* United Nations Commission on International Trade Law
- UNCLOS. *See* UN Convention on the Law of the Sea
- UNDP. *See* United Nations Development Programme
- UNEP. *See* United Nations Environment Programme
- UNESCO. *See* United Nations Educational, Scientific, and Cultural Organization
- UNGC COP. *See* United Nations Global Compact Communication on Progress
- UNGP. *See* United Nations Guiding Principles for Business and Human Rights framework
- UNHCR. *See* United Nations Office of the High Commissioner for Refugees
- UNICEF. *See* United Nations Children's Fund
- Uniform Domain Name Dispute Resolution Policy (UDRP), 113
- unilateral constitutionalism, 182–3
- United Nations (UN)
 - constitutionalization and, 25
 - international treaties registered by, 1–3
- United Nations Children's Fund (UNICEF), 59
- United Nations Commission on International Trade Law (UNCITRAL), 347–51, 357
- United Nations Development Programme (UNDP), 59
- United Nations Educational, Scientific, and Cultural Organization (UNESCO), 59
- United Nations Environment Programme (UNEP), 71–2, 105
- United Nations Global Compact Communication on Progress (UNGC COP), 230
- United Nations Guiding Principles for Business and Human Rights (UNGP) framework
 - civil society actors and, 215–16
 - critiques of framework, 217–19
 - domestic legal orders and, 203
 - human rights frameworks, 200–13, 243–4
 - MNEs and, 215–17
 - nation-states and, 215
 - NCPs, 209
 - non-state remedial mechanisms, 208
 - OECD and, 208–13, 217–19
 - purpose of, 202–3
 - regime collisions and, 200–13
 - remedial mechanisms, 207–8
 - transnational normative orders and, 219–20
- United Nations Office of the High Commissioner for Refugees (UNHCR), 59
- United Nations Office on Drugs and Crime (UNODC), 59, 61
- United Nations Population Fund (UNPF), 59
- United Nations Programme on HIV/AIDS (UNAIDS), 59, 61–4
- United Nations Relief and Works Agency, 74–5
- United States (US)
 - FDAAA in, 156
 - legal pluralism in, 114–15
 - provincialism and, 170
 - wiretapping programs, 325
- UNODC. *See* United Nations Office on Drugs and Crime
- UNPF. *See* United Nations Population Fund
- van Asselt, Harro, 102
- Van Valen, Leigh, 177
- Victor, David, 91
- Vienna Convention on the Law of Treaties, 103, 115

Cambridge University Press

978-1-107-12657-2 - Contested Regime Collisions: Norm Fragmentation in World Society

Edited by Kerstin Blome, Andreas Fischer-Lescano, Hannah Franzki, Nora Markard and Stefan Oeter

Index

[More information](#)

INDEX

385

- von Gierke, Otto, 114
- von Ossietzky, Carl, 326
- Waitz, Georg, 114
- Washington Treaty, 64–5
- WCO. *See* World Customs Organization
- Weber, Max, 172, 339–40
- Weimar Republic, 309–10
- whistleblowing, in transnational law
 - under balancing reservation, 328–31
 - ECtHR guidelines for, 328–9
 - in Germany, 334
 - goal of, 342
 - ICANN arbitration and, 328
 - legal protections for, 324–5
 - practical concordance for, 330
 - principle of proportionality and, 327, 331–6
 - public support for, 325
 - regime collisions and, 339–40
 - safeguarding of impersonal liberties and, 336–42
 - secrecy and, disclosure in conflict with, 326–7
 - security policy and, 325–7
 - Wikileaks, 326, 329
 - wiretapping programs and, 325
- WHO. *See* World Health Organization
- Wikileaks, 326, 329
- wiretapping programs, 325
- Wissel, Jens, 319
- World Bank, 54
- World Customs Organization (WCO), 61
- World Food Programme (WPF), 59, 74–5
- World Health Organization (WHO), 59, 74–5
- World Trade Organization (WTO)
 - constitutionalism and, 260
 - constitutionalization and, 25
 - Faroe Islands disputes and, 50
 - interplay management and, 100–1
 - lack of democratic legitimacy, 117
 - MEAs and, 90, 93–4
 - regime interactions and, 71–2, 89
- World Wide Fund for Nature, 63
- WPF. *See* World Food Programme
- WTO. *See* World Trade Organization
- Yawanawá people, 183–4