

INDEX

- abandonment of sovereign territory, 49, 50–54, 69
- Abbott, Kenneth, 161
- absolute opponents, 75
- accountability, 66
- adjudication, 162, 163–64, 173–79
- Aeroporto Belbek LLC and Mr. Igor Valerievich Kolomoisky v. The Russian Federation*, 87
- Afghanistan Sigint Coalition (AFSC), 140
- Agenda 21 (1992), 169
- Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, 172–73
- Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), 160, 162, 179–83
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 13
- Al Jedda* case, 67
- Al Warraq v. Indonesia*, 91–92
- Albania, 60–61, 91
- Albright, Madeline, 14, 19, 36
- Algeria, 141
- Al-Nashiri v. Poland*, 61–63, 66
- Al-Saadoon and Mufdhi v. United Kingdom*, 65, 199
- Al-Skeini and Others v. United Kingdom*, 64, 65, 201
- Amnesty International, 124
- anticipatory measures, 104, 115–19
- AQAP terrorist targets, 147
- arbitral awards, 95–98
- arbitrations. *See* investment treaty arbitrations (ITAs)
- Argentina, 78, 80–81, 87, 96, 99
- asylum seekers, 113, 118, 198, 203, 212
- Australia, 84, 86, 99, 137, 202
- Australian High Court, 203
- Austria, 141
- Austro-German Customs Union Case* (Austria vs. Germany), 38
- Bahaddar v. the Netherlands*, 114
- Bank Century, 91–92
- Bankovic* case, 201
- Battle of the Sexes, 33
- Becchetti, Francesco, 91
- Behrami* case, 66
- Belgium, 141
- Belgium-Luxembourg Economic Union, 80–81
- Bevin, Ernest, 139
- bilateral investment treaties (BITs)
 - 2004 model US BIT, 85
 - expansion of, 2
 - model, 101
 - network of, 70
 - renegotiation of, 83–84
 - termination of, 78, 80–81
- boat migrants, 188–89, 192–94, 198–200, 201, 202, 204, 205
- Bolivia, 78, 80–81, 86, 90, 99
- Border Timbers v. Zimbabwe and Von Pezold v. Zimbabwe*, 89–90
- Boumedienne v. Bush*, 51
- Bowker, D., 50
- Bozbey v. Turkmenistan*, 93
- Brazil, 80–81, 86

- Brexit, 8
 British Government Code and Cipher School, 138
 British Indian Ocean Territory, 55
 British Indian Ocean Territory Order of 1965, 55
 Brussel Court, 4
 Bulgaria, 82, 86
 Bundesnachrichtendienst, 142–45
 Bush, George W., administration of, 42, 50, 139, 151
- Canada, 80–81, 83, 85–86, 137, 178
Caratube v. Kazakhstan (Caratube I), 90–91
Caratube v. Kazakhstan (Caratube II), 90–91
 carrier sanctions, 12–13, 18
categoriaal beschermingsbeleid, 118
 Cat's Eye secret prison (Thailand), 59–60
 Central Intelligence Agency (CIA), 148
 rendition program, 11
 secret prisons, 47, 59, 61–63, 64, 69
 Chagos Agalega Ltd., 56–57
 Chagos Archipelago, 49, 54–55
Changing Structure of International Law, The (Friedmann), 1
Chevron v. Ecuador (Chevron I), 95
Chevron v. Ecuador (Chevron II), 95
 Chicken Game, 33
 Chile, 80–81
 China, 80–81, 82, 85–86
 China-Lao PDR BIT, 94–95
Churchill Mining and Planet Mining v. Indonesia, 92
 Clapper, James, 147
 climate change, 175, 177
 Climategate, 184
 Clinton, Hillary, 132
Codex Alimentarius Commission, 183, 184–85
 Colombia, 86
 Colonial Boundaries Act 1895, 55
 Commissioner of BIOT, 56, 58
 compliance
 behavioural, 217
 costs of, 75
 in environmental regimes, 173–79
 with international law, 34
 measurement of, 33, 113
 non-compliance, 96
 semi-compliance, 41, 212
 short-term, 123–24
 compliers, 75
 Comprehensive Economic and Trade Agreement (CETA), 85–86
Concept of Law, The (Hart), 162
 conceptual orientation, 209–10
 Conference of the Parties, 172
 constitutive rules, 38
 constructivism, 104
 Convention on Biological Diversity (CBD), 13
 Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries, 172–73
 Convention on International Trade in Endangered Species (CITES), 172
 Convention on the Conservation and Management of Fisheries Resources in the South East Atlantic Ocean, 172–73
 Convention on the Conservation of Antarctic Marine Living Resources, 172–73
 Convention on the High Seas (1958), 190
 Cook, Robert, 14
Corfu Channel Case (United Kingdom/Albania), 28, 60–61, 167, 168, 174
 counterterrorism, 151
 Court of Justice of the EU (CJEU), 7, 104, 105–10, 116–17, 122
 critical legal studies, 28–29, 36
 Croatia, 141
 Cuba, 51, 53, 80–81
Customs Union case, 38
 Czech Republic, 81, 82, 84, 86, 99, 141
- Danish Supreme Court, 8
 De Renzis, Mauro, 91
 Deeks, Ashley, 153

- Denmark, 18, 80–81, 141
 detention centers, 46
 Guantanamo Bay, 11, 45, 47, 50–51, 54, 69, 130–31
 Poland, 60, 61–63, 64, 69
 Thailand, 59–60
 Detention Site Green (Thailand), 59–60
 Diego Garcia island, 45, 47, 54–59, 69
 disaggregated sovereignty, 151–52, 153–54
 disembarkation, 192
 Dispute Settlement Body (DSB), 180
domaine réservé, 106, 120
 domestic accountability, 155
 domestic supremacy, 26–27
 Dominican Republic, 80–81
 drug smuggling, 12
 dual accountability model, 155
 Dublin Regulation, 108
 Dunoff, Jeffrey, 215
 Dutch Aliens Law of 2000, 118

EC-Biotech, 180–81, 183
EC-Hormones, 163, 164, 181
 Ecuador, 78, 80–81, 86, 99
Ecuador v. US, 95
 Egypt, 82, 86, 124
Elgafaji v. Staatssecretaris van Justitie, 112, 118
El-Masri v. the Former Yugoslav Republic of Macedonia, 63–64
 Emmerson, Ben, 136
 empirical reorientation, 210–12
End of History (Fukuyama), 140–41
 Energy Charter Treaty, 3
 enforcement networks, 152
 English school, 28–29
 environmental law. *See* international environmental law
 environmental regimes, 171–73. *See also* international environmental law
 adjudication, 173–79
 compliance, 173–79
 scientific expertise in, 171–73
 standard-setting bodies, 183–86
 environmental summits, 169
 equality of arms, 88, 92

 Ethiopia, 141
 EU Charter of Fundamental Rights, 105, 109, 111
 EU Qualifications Directive, 118
 European Commission (EC), 97
 European Convention on Human Rights (ECHR), 4, 62, 103, 135
 Article 35, 113–14
 Article 37, 114
 Protocol 11 to, 106
 European Court of Human Rights (ECtHR), 3, 7, 61–63, 64, 65, 66, 103, 104, 105–10, 113, 116, 122–23, 125, 199, 201
 European new legal realism, 214, 217
 European Union, 86
 European Union (EU), 98
Everest Estate LLC and others v. The Russian Federation, 87
 exceptionalism, 42
 expertise
 beyond Judiciary's capacity, 16
 economic, 167
 in environmental regimes, 184–85
 extra-legal, 15–16, 158–59
 as legitimization and excuse, 161
 linguistic, 139
 politics of, 15
 sovereign, 171–73
 technical and scientific, 15, 152, 161, 167, 171–73, 180, 183, 184–85
 external sovereignty, 26–27
 extralegal deferral, 43, 163
 extraterritorial zones, 45
 formation of, 47–48, 69, 212
 abandonment of sovereign territory, 49, 50–54, 69
 construction, 49, 54–59, 69
 denial, 49, 59–65, 69
 irresponsibility and, 67–69
 overview, 46–49
 responsibility of state partners in, 65–67
 extraterritorialization, 47, 108

 Finland, 80–81, 82, 141
 Fischer-Locano, Andreas, 159–60
 fisheries commissions, 172–73

- Fisheries Jurisdiction Case (Spain/Canada)*, 174
 Five Eyes framework, 137–38, 140, 149, 152
 Foreign Affairs Directorate (FAD), 154
 Foreign Intelligence Surveillance Act of 1978, 134
Foresti v. South Africa, 84
 forum shopping, 163–64
 Fourth Amendment, 149, 150
 FRA (Sweden's sigint intelligence agency), 145
 fragmentation, 163
 France, 80–81, 140, 141
 free trade, 163–64
 free trade agreements (FTAs), 70
 Free Trade Commission (FTC), 94
 Friedmann, Wolfgang, 1, 208
 Fukuyama, Francis, 140–41
Future We Want, The, 169

 G-10 Privacy Law, 143
Gabcikovo-Nagymaros Project Case, 174
 game metaphor
 rational choice game theory, 32–34
 role of international law, 38–39
 Wittgensteinian notion of language games, 32, 34–37
 game theory, 32
Gebremedhin v. France, 109, 116
 Gehring, Thomas, 172
 General Communications
 Headquarters (UK), 136–37, 142, 146, 154
 Germany, 80–81, 82, 86, 101, 141, 143, 154
 global mass surveillance, 129–36, 157
 aims of, 133–34
 bilateralism, 140–50
 collection of metadata in, 134
 definition of, 133
 disaggregated law of, 150–53
 international law and, 135–37
 “law against law,” 129–31, 153–56
 leaked documents on, 130–31
 limitations on data use under US domestic law, 149
 of non-American citizens outside of US, 135
 NSA's bilateral partnership with, 142
 Germany, 142–45
 Israel, 148–50
 Saudi Arabia, 146–48
 Sweden, 145–46
 privacy violations, 133
 surveillance charter, 136–40
 threats and, 151
 US domestic law and, 134–35
 globalization, 6
 Goldsmith, Jack, 32, 33
 Greece, 83, 125, 141
 Grotius, Hugo, 3, 190–91
Grundgesetz, 143
 Gruszczynski, Lucasz, 181–82
 Guantanamo Bay, 47, 69
 abandonment of sovereign territory in, 50–54
 American national security policy and, 130–31
 commercialization of sovereignty in, 11
 history, 45, 51
 two identities of, 51
 US lease in, 51
 Guatemala, 80–81, 86, 97
 Gulf Cooperation Council (GCC), 147
 Gulf War of 1991, 147

 Hadley, Stephen, 151
 Hart, H. L. A., 10–13, 35, 162
 Hayden, Michael, 134
 Helfer, Laurence R., 14
 Henkin, Louis, 17
 Herman, Michael, 141
 high seas, 46, 190, 194
 high-value detainees, 62
Hirsi Jamaa and Others v. Italy, 108, 110–14, 123–24, 125–26, 198–200, 202
 Holmes, Oliver Wendell, 19
 Honduras, 80–81
Hormones case, 163
 Horn, Henrik, 181
 Hourani, Devincci, 90–91
 Howse, Robert, 181

- human rights, 163–64, 191
- human rights courts, 3
- humint asset (human source), 147
- Hungary, 141
- Hurrell, Andrew, 218
- Husayn (Abu Zubaydah) v. Poland*, 48, 60–64, 66
- Hussun and others v. Italy*, 113–14
- hybrid tactics, 81–84
- Hydro v. Albania*, 91
- ICSID Convention (Washington Convention), 79–80
 - Article 53, 96
 - direct enforceability of awards under, 96
 - termination of, 84–85
 - withdrawal from, 78
- IAs. *See* international investment agreements (IAs)
- Ilascu and Others v. Moldova and Russia*, 62, 63
- Imran v. Minister van Buitenlandse Zaken*, 117, 119
- indeterminacy, 35, 36, 40, 68–69
- India, 81, 85–86, 141
- Indonesia, 81, 86, 91–92, 99, 202, 203–04
- instrumentalism, 27, 32, 38, 40, 49, 54, 161
- intelligence sharing, 152
- Intergovernmental Panel on Climate Change (IPCC), 184–85
- internal sovereignty, 26–27
- International Centre for Settlement of Investment Disputes (ICSID), 97–98
- International Convention for the Safety of Life at Sea, 191–92
- International Convention on Maritime Search and Rescue, 191–92
- International Corporation for Assigned Names and Numbers, 15
- International Court of Justice (ICJ), 3, 18, 60–61, 137, 174
- International Covenant on Civil and Political Rights (ICCPR), 135, 136
- International Criminal Tribunal for Rwanda (ICTR), 3
- International Criminal Tribunal for the Former Yugoslavia (ICTY), 3
- international environmental law, 158–87
 - adjudication and, 163–64
 - delegation in, 163
 - development of, 159–60, 211
 - environmental regimes, 170–79
 - adjudication, 173–79
 - compliance, 173–79
 - scientific expertise in, 171–73
 - environmental summits, 169–70
 - extra-legal deferral in, 164–66
 - forum-shopping, 163–64
 - fragmentation in, 163
 - inefficiency and, 160
 - legalization in, 161–63, 167, 179–83
 - managerialism and, 159–60
 - obligation in, 163
 - overview, 158–61
 - precision in, 163
 - SPS Agreement, 184
 - standard-setting bodies, 183–86
 - state responsibility and, 167–69
 - trajectory of, 166–70
- international investment agreements (IAs), 86, 101
 - balanced, 84–85
 - legitimacy concerns in, 100
 - mandatory ISDS provisions in, 101
 - as one-sided agreements, 83–84
 - renewal of, 79
 - rights granted to foreign investors, 71, 72
 - stickiness of, 80, 99, 100
 - termination of, 79–80
 - treaty protections for foreign investors, 80
- international investment law, 41, 70–102
 - legitimacy crisis, 71
 - reasserting sovereign control over, 72–73
 - strategies and tactics by states, 73–76
 - as both principals and litigants, 74

- functions of, 75–76
- as litigants, 75
- as principals, 74–75, 76–86
- scope and intensity of, 74
- symbolic effects of, 76
- international judicial institutions, 2–3
- international law, 6–8
 - in twentieth century, 1
 - expansion of treaty law, 2
 - increasing role of international legal institutions, 4–5
 - international judicial institutions, 2–3
 - multiplication of actors/subjects, 1–2
 - political and judicial interdependence, 3–4
- challenges to
 - gaps and inefficiencies, 6
 - increasing role of international legal institutions, 4–5
 - loss of internal coherence, 6–7
 - political backlash, 7–8
- of co-existence to co-operation, 1
- decentralised structure of, 6–7
- implications of, 17–21
- interdisciplinary agenda, 217
- international relations and, 46
- political-legal practices in, 9–16
 - extralegal deferral, 15–16
- international cooperation to
 - circumvent legal obligations, 11–12
- interpretive framing, 14–15
- judicial forum shopping, 14
- jurisdiction shopping, 11
- outsourcing of governmental
 - functions to private actors, 12–13
- regime or treaty shopping, 13–14
- politics of, 36
- post-Second World War, 1
- practice of, 214–15
- search and rescue as geopolitics of, 188–207
- as social practice, 218
- sovereignty game and, 37–41
- International Law Commission (ILC), 167–69
- international legal process, 28–29
- international legal theory, 28–29, 35
- international relations (IR), 208
 - compliance and, 34
 - interdisciplinary agenda, 217
 - language game metaphor and, 35
 - linguistic turn, 35
 - practice of, 214–15
 - vs. international law, 27
- international spaces, 46
- interpretative framing, 14–15, 18, 40, 110, 123
- interterritoriality, 48
- investment protection, 163–64
- investment treaty arbitrations (ITAs), 72, 73
 - domestic judicial proceedings, 89
 - equality of arms, 88
 - renegotiation, 83
 - states as litigants in, 86–98
 - success ratios, 99–100
- investor-state dispute settlement (ISDS), 72, 84, 85, 86, 100
- Iran, 148
- Iraq, 68–69
- Iraq War of 2003, 19
- irresponsibility, 39, 41, 68–69, 210
- Island of Palmas Case (Netherlands/United States)*, 38–39, 167, 168, 174
- Israel, 141, 148–50
- Issa and Others v. Turkey*, 65, 68
- Italba Corporation v. Oriental Republic of Uruguay*, 92
- Italy, 80–81, 86, 123–24, 141, 195, 199
- Jaloud v. The Netherlands*, 65–66, 68
- Japan, 141
- Johns, Fleur, 210
- Jordan, 141
- judicial activism, 7
- judicial forum shopping, 14
- jurisdiction shopping, 11, 47, 201–04
- K and A case*, 117
- Kazakhstan, 83, 90–91, 97, 99

- Kennedy, David, 5
 Keohane, Robert, 161
 Klabbers, Jan, 166
 knowledge societies, 186
 Korea, 83, 84, 141
 Koskenniemi, Martti, 32, 34, 66–67, 68, 159–60
 Kosovo, 14, 19, 36
 Kratochwil, Friedrich, 32
 Kwasniewski, Aleksander, 60
 Kyoto Protocol, 175, 177–78
 Kyrgyzstan, 96, 99
- Lander, Stephen, 139
 language game metaphor, 32, 34–37
 law against law, 153–56
 Law of the Sea, 15
 legal intertextuality, 213
 legal reasoning, 42
 legalization, 28–29
 conceptual orientation, 209–10
 empirical reorientation, 210–12
 era of, 5
 interdisciplinary agenda, 216
 in international environmental law, 161–63, 167, 179–83
 methodological reorientation, 214–16
 politicization and, 209–10
 research agenda for, 212–14
 strategies, 213–14
 Libya, 97, 199, 201, 203–04
López Burgos v. Uruguay, 65
Lustre, 140
- Macau, 94–95
 Macedonia, 141
 Maduro, Miguel (Advocate General), 113
 Malta, 195, 197
 managerialism, 159–60
 manoeuvrability, 10–13, 14, 15, 28, 38, 41–43, 104, 115, 119, 158–59, 161, 194, 200
Mare Liberum, 190–94, 205
Mare Nostrum, 124
 marine protected areas (MPAs), 58
 Maroni, Robert, 125
- mass surveillance, 133–36
 aims of, 133–34
 bilateralism, 140–50
 collection of metadata in, 134
 definition of, 133
 international law and, 136–37
 “law against law,” 129–31, 153–56
 leaked documents on, 130–31
 limitations on data use under U.S. domestic law, 149
 of non-American citizens outside of US, 135
 NSA’s bilateral partnership with, 142
 Germany, 142–45
 Israel, 148–50
 Saudi Arabia, 146–48
 Sweden, 145–46
 surveillance charter, 136–40
 US domestic law and, 134–35
 Mauritius, 55, 56, 57–58
Medvedyev and Others v. France, 65, 199
 memorandums of understanding, 41, 141, 152, 211
 Merkel, Angela, 144
 metadata, collection of, 134
 methodological reorientation, 214–16
 Mexico, 85–86, 97
Micula v. Romania, 97–98
 migrant rights, 103–28
 anticipatory measures, 115–19
 CJEU and, 105–10
 ECtHR and, 105–10
 international cooperation and, 119–23
 legal arguments, 110–15
 overview, 103–05
 peer mobilization and, 119–23
 post-judgment positioning, 123–26
 migration, 12–13, 104, 106, 108, 198, 212
 boat migrants, 192–93, 194
 cases, 114, 121, 122–23, 212
 control of, 12–13, 108, 124, 194, 195, 196–97, 198, 199, 211
 law, 110
 laws, 107
 marketization of management of, 201–04

- non-refoulement* principle and, 193–94
- policies on, 106
- post-judgment positioning and, 123–26
- privatization of governmental functions in, 12–13, 108
- refugees and, 192–93
- search and rescue operations, 196–97
- Milanovic, Marko, 47
- Minister van Buitenlandse Zaken v. K and A*, 117
- Minister voor Immigratie en Asiel v. X, Y, and Z*, 111, 117–18
- Montego Bay Convention, 199
- Montréal Protocol on Substances, 174, 176
- Moravcsik, Andrew, 161
- Morgenthau, Hans, 27, 28, 208
- Morocco, 82, 86
- Mossad, 148
- Moulinie & Co. Ltd., 56–57
- MOX Plant Case*, 174
- M.S.S. v. Belgium and Greece*, 108–09, 114, 120, 125
- multilateral treaties, 2
- N.A. v. the United Kingdom*, 107, 112, 114
- National Security Agency (NSA), 154
 - Bundesnachrichtendienst, partnership with, 142–45
 - GCHQ, partnership with, 142
 - leaked documents, 133
 - partnerships with foreign governments, 142, 154
 - Germany, 142–45
 - Israel, 148–50
 - Saudi Arabia, 146–48
 - Sweden, 145–46
 - surveillance program, 134–35, 136–37
- Nationality Decrees in Tunis and Morocco* (Britain v. France), 39
- Nauru, 202
- Netherlands, 80–81, 86, 141
- networks of networks, 152
- New Haven school, 28–29
- New World Order, 151
- New Zealand, 137
- Nicaragua, 68, 80–81
- non-refoulement* principle, 107, 110, 112, 192, 193–94, 197–98
- North American Free Trade Agreement (NAFTA), 3, 14, 94
- North Atlantic Treaty Organization (NATO), 137
- North-East Atlantic Fisheries Convention, 172–73
- Northwest Atlantic Fisheries Convention, 172–73
- Norway, 86, 141
- N.S./M.E.*, 111, 112, 113, 121, 122
- Nuclear Test Cases (Australia/France; New Zealand/France)*, 173–79
- offshoring, 17, 50, 198, 203
- outsourcing, 12–13, 17, 108, 149, 154
- Pacific Solution, 202
- Pad and Others v. Turkey*, 201
- Pakistan, 101, 141
- Paposhvili v. Belgium*, 115
- Papua New Guinea, 202, 203
- Paraguay, 80–81
- Paris Agreement, 8, 158, 177
- partial exit, 78–81
- Passenger Act 1902 (United States), 18
- peer mobilization, 104, 119–23, 212
- Permanent Court of Arbitration (PCA), 3
- Permanent Court of International Justice (PCIJ), 39
- Peru, 80–81
- Pillay, Navi, 135, 136–37, 154
- Pinto de Albuquerque, Paulo, 115
- PJSC CB PrivatBank and Finance Company Finilon LLC v. The Russian Federation*, 87
- Platt Amendment, 53
- Poland, 86, 141
 - CIA detention center in, 60, 61–63, 64, 69
- political-legal strategies, 12–13, 15–16, 213–14

- politics of international law, 9–16, 36, 41, 211, 218–19
 international cooperation to
 circumvent legal obligations, 11–12
 interpretive framing, 14–15
 jurisdiction shopping in, 11, 201–04
 outsourcing and, 12–13
 politics of interpretation and, 194–97
 regime or treaty shopping, 13–14
 regime shopping in, 197–201
 search and rescue in, 188–207
 Posner, Eric, 32, 33
 post-judgment positioning, 104, 118, 123–26
 precautionary principle, 42
 principled opponents, 75, 99
 Prisoner's Dilemma, 33
Pulp Mills on the River Uruguay case, 164, 174
 Quantum collection program, 146
Quiborax S.A. and Non-Metallic Minerals S.A. v. Plurinational State of Bolivia, 90
Ramzy v. the Netherlands, 120, 121–22
Rasul v. Bush, 51
 rational choice game theory, 32–34, 100–01
 recognition rules, 38, 162
 Refugee Convention (1951), 4, 112, 193, 197–98, 203–04
 regime complexity, 13–14
 regime shopping, 13–14, 111, 112, 197–201
 regime theory, 28–29
 reluctant compliers, 75, 99
 remedial rights, 72
 Resolution 1441, 19
 responsibility, 49, 60–61, 65
 enactment of, 62
 establishment of, 20
 evading, 65, 68–69
 extralegal, 15–16
 extraterritorial, 201
 freedom and, 38–39
 in the high seas, 194
 for human rights, 66, 200
 jurisdictional, 68–69
 minimum legal, 51
 over asylum seekers, 111
 over boat migrants, 198–200
 for prison atrocities, 65
 for search and rescue, 195–97
 sovereignty and, 39, 41, 47, 49, 68–69
 state, 12–13, 19, 63–64, 108, 160, 167–69
 territorial obligations and, 67
 Responsibility to Protect paradigm, 39
 Rice, Condoleezza, 54
Right to Privacy in the Digital Age, The (Pillay), 135
 Rio + 20 (2012), 169
 risk management, 26–27, 42, 171
 Romania, 80–81, 82, 83, 86, 97–98, 141
 Ruffing, Eva, 172
 Russia, 86, 96, 99, 177
 Russia-Ukraine BIT, 87
 Safety of Life at Sea Convention (1974), 194–96, 204, 205
Salah Sheekh v. the Netherlands, 107, 114, 116
 sanitary and phytosanitary (SPS) measures, 160, 162, 179–83
Sanum Investments v. Lao PDR, 94–95
 Saudi Arabia, 141, 146–48
 search and rescue, 188–207
 accountability mechanisms, 195
 of boat migrants, 198–200
 disembarkation and, 192
 division of responsibilities in, 195–96
 international agreement on, 197
 jurisdiction shopping in, 201–04
 law and politics of, 190–94, 204–06
 law of the sea and, 196–97, 198
 obligation of states in, 196
 overview, 188–89
 politics of interpretation in, 194–97
 refugee flows and, 192–93
 regime shopping in, 197–201
 return to country of origin, 192
 third-party profit motive in, 204
 Search and Rescue Convention (1979), 194–96

- secondary rules, 162
- September 11 attacks (2001), 139
- Sharpston, Eleanor (Advocate General), 113, 117
- shipriders, 12
- Shirley McCarthy v. Secretary of State for the Home Department*, 111
- Sigint National Unit (ISNU, Unit 8200) (Israel), 148–49
- Sigint Seniors Europe (SSEUR), 140
- Sigint Seniors Pacific (SSPAC), 140
- signals intelligence (signit), 129, 137
- Singapore, 94–95, 141
- S.J. v. Belgium*, 109, 114, 115, 119
- Slaughter, Anne-Marie, 131–32, 151, 152–54, 155, 161
- Slovakia, 82, 83, 86
- Snidal, Duncan, 161
- Snowden, Edward, 129, 133, 149, 154
- soft law, 10–13, 14–15, 26–27, 41, 130–31, 137, 211
- South Africa, 81, 84, 86, 99
- South China Sea Arbitration*, 164, 174
- Southern Bluefin Tuna Cases*, 174
- sovereignty
 - abandonment of sovereign territory, 49
 - external, 26–27
 - formal categories of, 47
 - internal, 26–27
 - international law and, 38
 - rights of other states and, 38–39
- sovereignty games, 30–32
 - elements of, 38
 - game metaphors, 32–37
 - rational choice game theory, 32–34
 - Wittgensteinian notion of language games, 32, 34–37
 - international law and, 37–41
 - meaning in use, 40
 - moves, 31–32, 38
 - players, 31, 38
 - rules, 31, 38, 39
 - strategies in, 40
- Soviet Union, 177
- Spain, 80–81, 141
- Spanish-American War of 1898, 51
- Special Operations division, 148
- Special Rapporteur on the Right to Privacy, 136
- SPS Agreement, 160, 162, 179–83
 - Dispute Settlement Body, 180
 - legal interpretations of, 182–83
 - panels, 181–82
- standard-setting bodies (SSBs), 183–86
- Stare Kiejkuty village, Poland, 45, 47
- states
 - as both principals and litigants, 75
 - as litigants, 75, 86–98
 - criminal proceedings, 89–93
 - dual role, 94–95
 - refusing to enforce/satisfy arbitral awards, 95–98
 - as the original masters of treaty, 103
 - as principals, 74–75, 76–86
 - hybrid tactics, 81–84
 - partial exit, 78–81
 - systemic voice, 84–86
 - strategies and tactics by, 73–76
- Stockholm Action Plan for the Human Environment (1972), 169
- Stockholm Convention on Persistent Organic Pollutants, 171
- Strasbourg Court, 4, 107, 114, 115
- strategies
 - in European courts, 110–15
 - game metaphors and, 32–37
 - in international environmental law
 - engagement and avoidance, 161–63
 - extra-legal deferral, 164–66
 - forum shopping, 163–64
 - in international investment law, 73–76
 - abuse of dual role of states, 94–95
 - as both principals and litigants, 74
 - criminal proceedings, 89–93
 - functions of, 75–76
 - hybrid tactics, 81–84
 - as litigants, 75
 - non-enforcement of arbitral awards, 95–98
 - partial exit, 78–81
 - as principals, 74–75, 76–86
 - scope and intensity of, 74

- strategies (*cont.*)
 symbolic effects of, 76
 systemic voice, 84–86
 in legalization, 213–14
 political-legal, 12–13, 15–16,
 191–92, 213–14, 218–19
 international cooperation to
 circumvent legal obligations,
 11–12
 interpretative framing, 14–15, 18
 judicial forum shopping, 14
 jurisdiction shopping, 11
 outsourcing of governmental
 functions, 12–13
 regime or treaty shopping, 13–14
 role of, 36–37
 in sovereignty games, 40
 treaty conflicts/rambling as, 213
 Straw, Jack, 54
Sufi and Elmi v. the United Kingdom,
 107, 112, 127
 survival clauses, 80
 Sweden, 80–81, 141, 145–46, 154
 Switzerland, 80–81

 Taiwan, 141
Tarakhel v. Switzerland, 109, 121,
 123–24
Targeted Killings case, 16
 tax breaks, 154
 terrorism, 132–33
 Terrorist Financing Targeting Center,
 147
 Teubner, Gunther, 159–60
 Thailand, 96, 99, 141
 CIA detention center in, 59–60
 third-party interventions (TPIs), 121
 threats, 151
 Tier B countries, 141
*Trail Smelter Arbitration (United
 States/Canada)*, 168
 transnational accountability, 155
 Trans-Pacific Partnership Agreement
 (TPPA), 8, 9
 treaty law, expansion of, 2
 Treaty of Amsterdam, 107
 Treaty on the Functioning of European
 Union (TFEU), 106

 treaty shopping, 111, 112, 213
 Trump, Donald, 147
 Tunisia, 124, 141, 200
 Turkey, 83, 86, 141
 Turkmenistan, 93

 UKUSA Agreement, 137, 138–39,
 151–52
 United Arab Emirates, 141
 United Kingdom, 86
 Diego Garcia's sovereign-
 jurisdictional status and, 54–59
 sanctions regime in Iraq, 68–69
 United Nations Charter, 31, 137,
 151–52
 United Nations Conference on Trade
 and Development (UNCTAD),
 101
 United Nations Convention on the Law
 of the Sea (UNCLOS), 3, 191–92
 United Nations Declaration on
 Territorial Asylum, 191
 United Nations Human Rights
 Committee (UNHRC), 93
 United Nations Human Rights Council,
 136
 United Nations Security Council, 42
 United Nations Treaty Collection, 2
 US, 80–81, 86
 2004 model US BIT, 85
 carrier sanctions, 18
 detention centers, 46
 Guantanamo Bay, 11, 45, 47,
 50–51, 54, 69, 130–31
 Poland, 60, 61–63, 64, 69
 Thailand, 59–60
 Diego Garcia military base, 47,
 54–55, 57, 69
 extraterritorial zones, 45
 lease of British Indian Ocean
 Territory to, 49, 55, 57
 mass surveillance. *See* mass
 surveillance
 NSA. *See* National Security Agency
 (NSA)
 withdrawal from TPPA, 8, 9
 US Justice Department, 52
 US Senate Intelligence Committee, 59

INDEX

251

- Uruguay, 80–81, 92
 USA Freedom Act, 135
 USA PATRIOT Act, 134
- Veitch, Scott, 68–69, 218–19
 Venezuela, 78, 80–81, 87, 96
 Vienna Convention on the Law of
 Treaties (VCLT), 137
 Vines, Vane, 140
V.M. and others v. Belgium, 113–14
- War Department, 138
 war on terror, 139
 Washington Convention. *See* ICSID
 Convention
- Whaling in the Atlantic (Australia v.
 Japan)*, 174
 Wittgenstein, Ludwig, 34
 World Health Organization (WHO), 13
 World Trade Organization (WTO), 3,
 14, 160
- X, Y, and Z, 111, 117–18
*Xhavara and fifteen v. Italy and
 Albania*, 199
- Zambrano v. Office national de l'emploi
 (ONEm)*, 111, 113, 116, 122
 Zimbabwe, 89–90, 96, 99
 zoning, 46