

## INDEX

- African Charter on Human and Peoples' Rights, 32  
 Aisyiyah (Indonesia), 213  
 Akamba tribe (Kenya), 55  
 Alston, Philip, 116  
 American Anthropological Association (AAA), 26–7  
 American Declaration on the Rights and Duties of Man, 25  
 Anghie, Antony, 32  
 An-Na'im, Abdullahi Ahmed, 33, 49, 56–8, 85, 160, 287  
 Anshor, Maria Ulfar, 240–1  
 Arab Charter on Human Rights, 33  
 ASEAN Human Rights Declaration, 31, 169  
 Asian values debate, 17, 29–32, 48  
 Assyaukanie, Luthfi, 266  
 Australia, 276, 282  
 Austria, 95
- Bali, 55  
 Bangkok Declaration, 30  
 Benin, 95, 97  
 Brazil, 151  
 Brems, Eva, 17, 32, 44  
 Burundi, 45–6, 100, 102
- Cairo Declaration on Human Rights in Islam, 33  
 Canada, 282  
 Cassin, René, 122  
 CAT (Convention against Torture), 74, 83, 134–5  
 CAT Committee (Committee against Torture), 70, 82, 87, 134–5
- CEDAW, *see* Convention on the Elimination of All Forms of Discrimination against Women  
 CEDAW Committee, *see* Committee on the Elimination of All Forms of Discrimination against Women  
 Centre for the Development of Pesantren and Society (P3M) (Indonesia), 193–4, 229, 242  
 CERD Committee (on the Elimination of Racial Discrimination), 74, 82, 133–4  
 CERD (Convention on the Elimination of All Forms of Racial Discrimination), 74  
 Chang, PC, 25  
 children and children's rights, 2, 84–5, 128, 254  
 cities, 283–4  
 Clapham, Andrew, 122, 129  
 Colombia, 105  
 colonialism and Western bias, 30–2, 57, 241–6, 273  
 Committee against Torture (CAT Committee), 70, 82, 87, 134–5  
 Committee on Economic, Social and Cultural Rights (ESCR Committee)  
 comments and statements on cultural appropriateness, 39–40  
 health and healthcare, 174–5, 177–8, 189  
 NSAs, 129–33, 150  
 privatisation, 146  
 State discretion, 68, 70

- Concluding Observations, 99–103, 108–10, 280  
 methods of treaty implementation, 72–3  
 Reporting Guidelines, 91–2, *see also* Harmonised Guidelines, *see also* International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee)  
 comments and statements on health and healthcare, 175, 180, 184, 188–9, 198–200, 255–9  
 NSAs, 135, 148–50  
 Concluding Observations, 99, 103–10  
 methods of treaty implementation, 75–6, 84–8  
 Reporting Guidelines, 92–3, *see also* Harmonised Guidelines, *see also* Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Committee on the Elimination of Racial Discrimination (CERD Committee), 74, *see also* Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- Committee on the Rights of the Child (CRC Committee)  
 comments and statements on health and healthcare, 255–6  
 NSAs, 138–41, 149–50, 155  
 methods of treaty implementation, 73–6, 83–8, *see also* Convention on the Rights of the Child (CRC)
- compliance gap, 6, 64–5  
 Convention against Torture (CAT), 74, 82, 134–5  
 Convention for the Protection of All Persons from Enforced Disappearance, 37  
 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)  
 cultural modification, 109  
 equality, 71–2  
 health and healthcare, 175, 178  
 methods of implementation, 7, 84  
 NSAs, 135  
 reporting, 92  
 reservations, 18, 33, *see also* Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD), 74, 82, 133–4  
 Convention on the Rights of Persons with Disabilities, 37  
 Convention on the Rights of the Child (CRC), 64, 68, 83, 138–41, 173, 178, *see also* Committee on the Rights of the Child (CRC Committee)
- corporations, 119–20, 132, 150, *see also* private sector providers; social enterprises
- Covenants, *see* International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR)
- CRC (Convention on the Rights of the Child), 64, 68, 83, 138–41, 173, 178  
 CRC Committee, *see* Committee on the Rights of the Child
- cultural relativism, 29–35  
 culturally sensitive approaches to human rights implementation and state law, 44–8, 60, *see also* vernacularisation  
 effectiveness, 58–61  
 home-grown solutions, 48–53  
 in reproductive health, 175–7  
 need and scope for, 42–4

- culturally sensitive approaches to human rights implementation (cont.)  
 opportunities for promoting rights, 54–8  
 overview and rationale, 41–2  
 culture, dynamic nature and relation to human rights, 38–9, 51
- Daud Ali, Mohammed, 228  
 Declaration of Alma-Ata, 178  
 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 124  
 Declaration on the Rights and Responsibilities of Individuals, Groups, and Organs of Society, 178  
 Declaration on the Rights of Indigenous Peoples, 37  
 Denmark, 133  
 dignity, respect for, 23, 27–9  
 Donders, Yvonne, 47–8, 177  
 Donnelly, Jack, 25, 28, 44, 112–13  
 Draft Articles on Responsibility of States for Internationally Wrongful Acts, 126  
 Dzuhayatin, Siti Ruhaini, 243–4
- ESCR Committee, *see* Committee on Economic, Social and Cultural Rights  
 European Convention on Human Rights, 69–70  
 European Court of Human Rights, 69–70
- family planning, *see* reproductive health and family planning  
 Fatayat (Indonesia), 222–3, 231–2, 234, 239  
*fatwas*, 1–2, 216–20  
 female genital mutilation/cutting (FGM/C), 11, 84–5, 106, 201, 237–8, 257–8
- feminism, *see* Muslim feminists in Indonesia  
 Ford Foundation, 241, 291  
 France, 98  
 Freeman, Michael, 48–9, 52
- gender stereotyping, 104–6, 197–200  
 George, Erika, 47  
 Greece, 96, 98, 102  
 Guiding Principles on Business and Human Rights (Ruggie Principles), 120, 124–5
- Harmonised Guidelines, 90–1, 289  
 Hasmi, Eddy, 215  
 Hassan, Riffat, 201, 246, 273  
 health, right to, 168–72, 176–80, *see also* reproductive health and family planning  
 HIV/AIDS, 11, 47, 50  
 Hizbut Tahrir Indonesia, 239, 241  
 Hopgood, Stephen, 13  
 housing rights, 100–1  
 Human Rights Cities, 283  
 Human Rights Committee (HRCee)  
 comments and statements on cultural modification, 258–9  
 NSAs, 128–9  
 State discretion, 67, 69  
 Concluding Observations, 8, 75, 94–9, 108–10  
 constructive discussions, 88–9  
 legalistic approach, 87  
 methods of treaty implementation, 71–2, 75, 81  
 recommendations to Indonesia, 279–80  
 Reporting Guidelines, 92, *see also* Harmonised Guidelines, *see also* International Covenant on Civil and Political Rights  
 Human Rights Council Universal Periodic Review (UPR), 288, 290  
 Hunt, Paul, 175  
 al-Hussein, Zeid Ra'ad, 13  
 Huzaemah, Tahido Yanggo, 212, 239

- Ibhawoh, Bonny, 28, 50  
 ICCPR, *see* International Covenant on Civil and Political Rights  
 ICESCR, *see* International Covenant on Economic, Social and Cultural Rights  
 imperialism, *see* colonialism and Western bias  
 Indonesia, 164–267  
   child marriage, 2, 254  
   decentralisation of government, 187–8  
   family planning programme, 182–90  
   female genital mutilation/cutting (FGM/C), 237–8, 257–8  
   health insurance, 189  
   inheritance rights on Bali, 55  
   Islamic law and institutions, 210–15  
   legal pluralism, 267  
     compliance with international law, 250–61  
   Muslim feminists, 225–7  
     reinterpretations of Islamic texts, 227–46  
   polygamy, 238–40, 254  
   reproductive health and family planning  
     campaigns, 166–7, 251–2  
     law and policy, 180–90  
     role of Islam, 200–2, 215–25, 236–41, 246–61, 263–7  
     socio-cultural determinants, 190–205  
     significance as case study, 17–19  
 Indonesian Council of Ulama (MUI), 1, 214–16, 237, 239, 246–7  
 inheritance rights, 51, 55  
 International Conferences on Population and Development (ICPD), 169, 172  
 International Covenant on Civil and Political Rights (ICCPR)  
   cultural modification, 109, 258  
   methods of implementation, 71, 80–1  
   NSAs, 128–9  
   State discretion, 66–7, *see also* Human Rights Committee (HRCee)  
 International Covenant on Economic, Social and Cultural Rights (ICESCR)  
   methods of implementation, 72, 81  
   NSAs, 128–33  
   right to health, 168–72  
   State discretion, 68, *see also* Committee on Economic, Social and Cultural Rights (ESCR Committee)  
 International Law Commission, 67–8, 70–2  
 Iraq, 96–7, 101–2  
 Islam and Islamic law  
   compatibility with human rights law, 250–61  
   concepts of feminism and gender, 241–6  
   diversity and universal character, 290–1  
   *fatwas*, 1–2, 216–20  
   importance to human rights implementation, 270–5  
 Indonesia  
   child marriage, 2, 254  
   female genital mutilation/cutting (FGM/C), 237–8, 257–8  
   law and institutions, 210–15  
   Muslim feminists and feminist reinterpretations of Islamic texts, 225–46  
   polygamy, 238–40, 254  
   role in reproductive health and family planning, 167, 200–2, 215–25, 236–41, 246–61, 263–7  
 Islamic reservations, 33  
 overview, 16–17, 165, 206–10  
*ulama*, 156–7, *see also* Indonesian Council of Ulama (MUI)  
 Italy, 101  
 Kenya, 51, 55  
 Kisii tribe (Kenya), 51  
 Lauren, Paul Gordon, 27–8  
 Lebanon, 104  
 Lee, Kuan Yew, 30

- legal pluralism, 267  
 compatibility with international law, 250–61
- legalisation and legalism of human rights, 7–10, 76–80, 276–81
- Lenzerini, Federico, 27, 38
- Liberia, 104, 106
- Lukito, Ratno, 242
- Macedonia, 96–7
- Mahmood, Saba, 233, 235
- Marcoes-Natsir, Lies, 213, 215, 223, 230, 243
- marriage  
 child marriage, 2, 84–5, 254  
 polygamy in Indonesia, 238–40, 254
- Marshall, Katherine, 218–19, 290
- McBeth, Adam, 122, 157
- media, 83–4, 134, 139
- Menchik, Jeremy, 17–18, 233
- Merry, Sally Engle, 39, 51–2, 201, 242
- Mir-Hosseini, Ziba, 226, 228
- Morsink, Johannes, 25
- Muhammadiyah (Indonesia), 215–21, 246–7
- MUI, *see* Indonesian Council of Ulama
- Mulia, Siti Musdah, 229–30, 239, 266
- Muslim feminists in Indonesia  
 background, 225–7  
 concepts of feminism and gender, 241–6  
 reinterpretations of Islamic texts, 227–46
- Muslimat (Indonesia), 213–14, 239
- Mutua, Makau, 31, 36
- Nahdlatul Ulama (NU) (Indonesia), 194, 212–22, 237, 239, 246–7
- Nasyiatul ‘Aisiyah (Indonesia), 213
- National Congress of Female Muslim Clerics (Indonesia), 1
- National Human Rights Institutes (NHRIs), 95
- the Netherlands, 275–6, 283, 291
- New Zealand, 103
- non-governmental organisations (NGOs), 118–19, 123, 134–5
- non-state actors (NSAs), 114–63  
 and reproductive rights, 177–80  
 corporations, 119–20, 132, 150  
 in relation to social institutions, 117  
 media, 83–5, 134, 139  
 non-governmental organisations (NGOs), 118–19, 123, 134–5  
 obligations and responsibilities in declarations and instruments, 121–5, 284  
 private healthcare providers, 143–60  
 under treaties, 125–43  
 overview, 114–20  
 parents and families, 138–9  
 recognition by treaty bodies, 83–4, 102–5, 161–2, 259–63
- Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights, 119–20
- Nowak, Manfred, 147
- NSAs, *see* non-state actors
- NU, *see* Nahdlatul Ulama
- Nurmila, Nina, 227–8, 230–1, 242, 244
- Nyamu-Musembi, Celestine, 46, 48–9, 54, 56–7, 85, 236, 248
- P3M, *see* Centre for the Development of Pesantren and Society
- polygamy in Indonesia, 238–40, 254
- Portugal, 104
- poverty reduction, 58–61
- privatisation and private sector providers, 143–60, 180
- Rahima (Indonesia), 224, 234
- ratification, 4, 64, 88
- receptor approach (Zwart), 11–12, 44, 47–50
- Renteln, Alison Dundes, 53
- reproductive health and family planning, 164–267  
 impact of gendered decision-making, 191–2  
 in Indonesia  
 family planning programme, 182–90

- law and policy, 180–90  
 rationale for case study, 18–19, 165  
 role of Islam, 200–2, 215–25,  
 236–41, 246–61, 263–7  
 socio-cultural determinants,  
 190–205  
 rights under international law, 170–6  
 role of NSAs, 177–80  
 research methodology, 16  
 reservations, 18, 33  
 Rinaldo, Rachel, 17  
 Robinson, Mary, 27, 287  
 Rodley, Sir Nigel, 117, 124, 155, 158  
 Russia, 107  
  
 San Marino, 96  
 Seibert-Fohr, Anja, 95  
 Senegal, 49  
 sexual orientation and gender identity,  
 96, 100  
 Slovakia, 99, 105  
 Slovenia, 104–5, 107  
 social enterprises, 282  
 social institutions  
   definition and relation to NSAs,  
   14–15, 117, *see also* Islam and  
   Islamic law; non-state actors  
   (NSAs)  
 South Africa, 11, 47, 50  
 State discretion, 5–6, 67–71, 89  
 State-centricity, 4, 120–1, 160  
 States, study recommendations, 287–8,  
 291  
 Statute of the International Court of  
 Justice, 120–1  
 Sudan, 102  
 Suriname, 95–6  
  
 Tajikistan, 101–3  
 Third World Approaches to  
 International Law (TWAAIL), 29,  
 31–2  
 Timor-Leste, 104  
 Tomuschat, Christian, 110  
 treaty bodies  
   Concluding Observations, 94  
   general approach to NSAs, 160–2,  
   259–63, 284–5  
  
 Reporting Guidelines, 90–3  
 role in implementation, 88–93  
 study recommendations, 162, 289,  
*see also* Committee on  
 Economic, Social and Cultural  
 Rights (ESCR Committee);  
 Committee on the Elimination  
 of All Forms of Discrimination  
 against Women (CEDAW  
 Committee); Committee on the  
 Elimination of Racial  
 Discrimination (CERD);  
 Committee on the Rights of the  
 Child (CRC Committee);  
 Human Rights Committee  
 (HRCee)  
 Turkmenistan, 105  
  
 UDHR, *see* Universal Declaration of  
 Human Rights  
*ulama*, 212, *see also* Indonesian Council  
 of Ulama (MUI)  
 United Arab Emirates, 104  
 United Nations Population Fund  
 (UNFPA), 261  
 United States, 25, 275, 282–3  
 Universal Declaration of Human Rights  
 (UDHR)  
   importance of, 21, 35–7  
   in relation to NSAs, 2, 121–3, 128,  
   160  
   right to health, 168, 178  
   universality and Western bias, 23–9,  
   35  
 universality, 23–37, 41, 43  
  
 vernacularisation, 51–3, 242, 273–4  
 Vienna Convention on the Law of  
 Treaties (VCLT), 69  
 Vienna Declaration, 36, 123  
  
 Wahid, Abdurrahman, 213  
 women  
   concepts of feminism and gender in  
   Islam, 241–6  
   female *ulama*, 231  
   representation in decision-making  
   positions, 98

- women (cont.)  
  violence against, 96–7, *see also*  
    Muslim feminists in Indonesia
- women's rights  
  inheritance rights and access to land,  
    51, 55  
  reproductive rights, *see* marriage;  
  reproductive health and family  
  planning, *see also* Committee  
  on the Elimination of All Forms  
  of Discrimination against  
    Women; Convention on the  
    Elimination of All Forms of  
    Discrimination against Women  
    (CEDAW)
- workers' rights, 131
- World Conference on Human Rights,  
  36, 123
- World Health Organization (WHO), 168
- Zwart, Tom (receptor approach),  
  11–12, 44, 47–50