

## **INDEX**

Administering Authority, 14, 30-31, 45-46 African, Caribbean and Pacific Group of States (ACP states), 38, 171-172 Ago, Roberto, 19-21, 64, 83-84, 108-111 aid or assistance, 10, 21, 93 Albania, 212-213 allocation burden of, 194-195, 203-204 of obligations, 32, 33, 34, 36, 52, 181 of reparation, 191, 192, 200, 209, 210 analogies, 195, 196, 198 Antarctic Treaty, 69, 70, 91 Antarctica, 11, 69, 91 apportionment. See allocation arbitrary detention, 49, 131 Area, 11, 91, 103, 114, 160, 177 Asbestos case, 186 asylum seekers, 49-50, 162-163 Athens Protocol, 172, 173 attribution multiple, 9, 148, 157 of omissions, 154-157 Australia, 12, 13, 30, 45-46, 49-50, 162-163, 166-167, 191, 214, 215 Barcelona Traction case, 84, 90

Barcelona Traction case, 84, 90
Belgium v. Senegal, 91, 156
Besson, Samantha, 51–52
Biological Diversity Convention, 125
black site, 48–49, 187
Bosnia, 176
Bosnian Genocide case, 113, 116, 135–136, 176
Boutin, Bérénice, 135
Bulgaria, 177

Caspian Sea, 44 causation, 190

factual, 201, 204, 205 Central Intelligence Agency (CIA), 48, 187 Certain Computer Equipment case, 36 Certain Phosphate Lands case. See Nauru case cessation, 180-189 Channel Tunnel Fixed Link, 30, 168 Chile, 35 civil law, 111 Clarion-Clipperton Zone, 177 climate change, 52, 141, 165, 182, 188 - 189Coalition Provisional Authority (CPA), 30, 47, 137, 171 coexistence, 55 Committee Against Torture, 50 common goal, 40-42 common interests, 57, 58-59, 77, 91 common organ, 29-31, 47, 149, 168 community interests. See common interest Concession Agreement, 15, 138 concurrent causes, 202 condominium, 43-44 Condorelli, Luigi and Kress, Claus, 159 consent, 27, 36, 212, 216 Convention against Torture (CAT), 50, 91, 94 Convention on Maritime Search and Rescue, 45 cooperate obligations to cooperate, 41-42 cooperation in performing shared obligations, 104, 125, 141, 170, 171, 176, 177, 188 obligations to cooperate, 11, 93, 125, 129, 130



226

INDEX

Coquelles Terminal, 14, 41, 136, 167–170, 192, 205, 211 Corfu Channel case, 114, 212 correlation between obligations and rights, 61, 64–66 countermeasures, 62–63, 85, 87 in the general interest, 90 Crawford, James, 60, 67, 86–92, 147, 150, 153, 207 Cuba, 177 customary international law, 6, 17, 25, 60, 68 Czech Republic, 177

d'Argent, Pierre, 198
dispute settlement, 212
disputed maritime areas, 44
domestic courts, 6, 139
domestic law, 3, 101, 105, 107, 111,
192–195, 201, 208, 209
Draft Articles on Prevention of
Transboundary Harm, 115
Duarte Agostinho and others v. Portugal
and 32 other States, 52, 181, 188
due diligence. See obligations
Dutchbat, 155
duty of care, 140

East Timor case, 216 economic theory, 134 economic, social and cultural rights, 128, 129 effective control, 187 attribution, 164 jurisdiction, 1, 48, 50, 51, 127 El Salvador, 44 erga omnes. See obligations erga omnes partes. See obligations Étang de Berre case, 38, 172-173 European Convention on Human Rights (ECHR), 28, 51, 181, 188 European Court of Human Rights (ECtHR), 6, 181 European Union accession to the ECHR, 38 Court of Justice of the European Union (CJEU), 36, 137, 172, 173 declaration of competences, 37

division of competences, 29, 33–37
European Commission, 33–34, 173
exclusive competence, 33, 35
mixed agreements, 12, 28–29, 38, 137, 172, 175
shared competence, 33
Eurotunnel arbitration, 14–15, 41, 136, 138, 165, 168–170, 191, 205, 211
evidential difficulties, 194, 209
exclusive economic zone, 1, 35, 42, 44
exclusive responsibility, principle of, 7

fault, 121, 133, 154, 206, 208, 210–211 contributory, 202
First World War, 58
fish stocks, 1, 35, 42, 130, 204
Fitzmaurice, Sir Gerald, 72–77, 80, 86, 87, 88, 92, 95
France, 14–15, 30, 136–137, 167–170, 172–174, 176, 186, 191, 205, 211, 213
Frenzen, Niels, 50

Gabčíkovo-Nagymaros case, 80 Gaja, Giorgio, 12 Gambia v. Myanmar, 91 García-Amador, Francisco, 19, 82-83 Gattini, Andrea, 20 General Agreement on Tariffs and Trade (GATT), 58, 112 genocide, 31, 90 prevention of, 102, 104, 113, 116, 135-136, 176-177 Genocide Convention, 32, 91 Germany, 140-141, 212 Gibraltar, 44 global warming. See climate change good faith obligation to negotiate, 117-122 principle of, 36 greenhouse gas emissions, 38, 41, 42, 126, 130, 132, 139, 140, 174-176, 181, 189 Guiding Principles on Shared Responsibility in International Law, 201



INDEX 227

Hohfeld, Wesley Newcomb, 61–64, 65–66 Honduras, 44 Human Rights Committee (HRC), 51, 136

Iceland, 38, 41, 176, 181 incentive, 134, 185, 206 independent responsibility, principle of, 7 India, 16, 122, 128, 181 indispensable third-party rule, 13, 16, 212 - 217broad reading, 214-215 restrictive reading, 215-217 injured state, 88, 89-92 injuries to aliens, 19, 82 injury, 189 indivisible, 201-203 multiple contributions to, 201-204 innocent passage, 40, 60, 68-69 interdependence, 55 Intergovernmental Commission, 30, 138 International Civil Aviation Organization (ICAO), 42, 130 international community, 57, 77-79, 84, 88, 90, 92 International Court of Justice jurisdiction, 213 jurisdiction of, 16 international courts access to, 212 International Covenant on Civil and Political Rights (ICCPR), 51 International Covenant on Economic, Social and Cultural Rights (ICESCR), 11, 128, 129 international crimes, 84-85, 92 international delicts, 84-85 international humanitarian law, 135

International Law Commission (ILC), 17–22, 64, 71, 82–85, 88, 90, 92, 93, 110, 115, 145, 198, 202–203, 207 International Maritime Organization (IMO), 42, 130 international organizations as duty-bearers, 26–29

institutional order, 27 legal personality, 26 rules of the organization, 27, 33 international rule of law, preservation of, 180, 188 International Seabed Authority, 177 International Tin Council case, 207 International Tribunal for the Law of the Sea (ITLOS), 35, 114, 177 internationally wrongful act elements of, 7 multiple. See shared responsibility single. See shared responsibility Interoceanmetal Joint Organization (IOM), 177 invocation, 21, 87, 88, 90-92 Iran, 149, 156 Iraq, 149 occupation of, 30, 46-48, 131, 137, 170-171, 183, 204

joint and several liability, 15, 134, 192–197, 198, 201, 203, 207, 209 Joint Development Authority, 138 joint development zones, 138 joint organ. See common organ jurisdiction concurrent, 48–52 extraterritorial, 48, 50–51 jus cogens. See peremptory norms

Kyoto Protocol, 28, 38, 42, 130, 132, 174–176

lake Étang de Berre, 137, 172–173

Large Civil Aircraft case, 36

Latin American States, 19
launching states, 132, 158, 183, 195
law of obligations, 3–5, 17, 54
law of treaties, 18, 71–81
lawmaking, 57
legal correlatives, 61–64
legal relations
bilateral, 59–60, 63, 68–69, 74, 86, 87, 105
multilateral, 59–60, 63–64, 67–68, 69–70, 75, 77, 79–81, 85, 88, 92,

93-95, 99



228 INDEX

Legality of Nuclear Weapons Opinion, multilateral, 88-92, 100 119, 121 negative, 106-107 lex specialis, 175 of conduct, 107-116 Lithuania, 48, 187 of result, 107-116 origin of, 18 Maastricht Principles on overlapping, 39-52 Extraterritorial Obligations, positive, 106-107 50, 129 reciprocal, 73-75 Malta, 45, 51, 136 solidary, 101 marine protected area, 138 to cooperate. See cooperation maritime claims, 44, 138 occupation, 30, 46-48, 170-171 Marshall Islands cases, 15-16, 120, offshore processing, 49–50, 162 121-122, 181, 213, 215 Oil Platforms case, 149 Mediterranean Sea, 51 OSPAR Convention, 138 military operations, 135 Monetary Gold case, 212-213 pacta sunt servanda, 28, 32, 36 multilateral disputes, 211 pacta tertiis, 27, 36 pactum de contrahendo, 117-120 nature conservation, 138 pactum de negotiando, 117-120 Nauru, 12-14, 30, 45-46, 49-50, Pakistan, 122, 128, 181 162-163, 166-167, 191, 215-216Papua New Guinea, 49-50 Nauru case, 12-14, 30, 46, 166, 191, Parliament v. Council, 36, 172 Peace of Westphalia, 58 213, 214, 215-216 Netherlands, 139-140, 189 peacekeeping, 155 Neubauer et al v. Germany, 140-141 peremptory norms, 77-79, 84, 92-93, 94-95, 130 New Zealand, 12-14, 30, 45-46, 166-167, 191, 214, 215 performance Nicaragua, 44 collective approach to, 141, 170, Nigeria, 138 171, 189 non-assistance, 93 divisible structure of, 103-104, 159 non-recognition, 93 indivisible structure of, 70, 88, non-refoulement, 11, 49, 50 98-101, 133, 152 Noyes, John and Smith, Brian, 147, 150 Persian Gulf, 149 Poland, 177 nuclear disarmament, 119-122, pollution, 5, 38, 103, 113, 125, 164, 128, 181 Nuclear Non-Proliferation Treaty 172 - 174(NPT), 1, 15–16, 41, 119–122, 128 Portugal, 216 primary and secondary rules nuclear weapon states, 15, 120-122 distinction, 21, 83, 110 obiter dictum, 90 private contractors, 50 obligations bilateral, 86-88 refugees, 49-50, 155, 162-163 divided, 105 remedial function, 194, 203 due diligence, 113-115 reparation, 189-211 erga omnes, 78, 84, 90-91, 92, 100 compensation, 193-195, 209, 210 erga omnes partes, 91 restitution, 205-206 integral, 76-77 Republic of the Marshall Islands (RMI),

interdependent, 75-76

15, 120, 128, 165, 181



INDEX 229

right of recourse, 204, 206–211 right to life at sea, 51, 136 right, concept of, 61 riparian states, 144, 185 Riphagen, Willem, 84–85, 119 Russian Federation, 177

Sao Tomé and Príncipe, 138 Seabed Disputes Chamber, 114, 177 search and rescue, 44-45 Second World War, 212 Senegal, 94, 156 Serbia, 135, 176 serious breaches, 130 Shahabuddeen, Mohamed, 14 shared responsibility concept of, 5 multiple wrongful acts, 150-152, 186-189, 200-205 single harm, 5, 144 single wrongful act, 146-150, 182-186, 197-199 Simma, Bruno, 64-65, 149 Slovakia, 177 Space Liability Convention, 158, 183, 195, 210 Spain, 35 specially affected states, 74-75, 89 sponsoring states, 91, 114, 177-178 Srebrenica, 155, 176 standing. See invocation Swordfish case, 34-35 Syria, 131, 144

Tehran Hostages case, 156 temperature target, 139, 140, 188 Tigroudja, Hélène, 136 tort law, 3, 193 tortfeasor, 193–195 tortfeasors, 147, 201, 203, 209 torture, 31, 49, 50, 127, 151, 187 transboundary harm, 115
treaty
bilateral, 57–58, 59
instrument, 18, 72, 80
material breach, 72, 73, 74, 76, 77
multilateral, 25, 32, 58–60, 68, 71
termination or suspension, 73, 74, 76, 77, 80
validity, 18, 72, 78
Treaty on the Prohibition of Nuclear
Weapons, 128
trusteeship, 12, 30, 45–46, 166
Tzevelekos, Vassilis and Katselli
Proukaki, Elena, 51

UN High Commissioner for Refugees, 49 UN Trusteeship System, 45 United Kingdom, 12–16, 30–31, 45–48, 137, 166–171, 212, 214, 215 United Nations Convention on the Law of the Sea (UNCLOS), 28, 32, 35, 68, 113, 114, 125, 130, 177, 195 United States, 30, 46–49, 131, 137, 156, 170–171, 187 unjust enrichment, 3, 208 Urgenda case, 139–140, 189

Vienna Convention on Diplomatic Relations (VCDR), 39, 58, 86 Vienna Convention on the Law of Treaties (VCLT), 17, 27, 71–81

Westphalian system, 55, 56 World Heritage Convention, 138 World Trade Organization case law, 36 WTO Agreement, 28, 38

Yugoslavia, 44