

## Index

- academy, the, 1, 10, 66, 71–2, 79, 95, 111, 132, 149, 305, 317–18
- action
- collective, 337
  - economic models of, 311
  - entrepreneurial, 13
  - intentional, 330
  - political, 33
  - social, 110
- actors(s), 76. *See also* agent
- civil society, 274
  - corporate, 274
  - everyday transnational, 369
  - political, 38
  - private and public, 94
  - work of individual legal, 67
- administration, colonial, 64, 107, 165
- aesthetics, 110, 112
- Africa, 10, 33, 84, 195, 201, 208, 210–11, 215–17, 219, 224, 226, 362, 366
- colonial partition of, 222
  - decolonisation and independence of, 208
- Agamben, Giorgio, 41, 143
- agency, 7, 12, 14, 25, 31–2, 40, 312
- authorial, 330
  - collective, 11
  - corporate, 278
  - creative, 312
  - individual, 13
  - linguistic, 38
  - moral, 321
  - political, 25
  - social, 310
- agent(s), 25, 324
- of the international community, lawyers as, 307
- aggression, 106
- Alexandrowicz, Charles, 104, 114–15
- Allgemeine Staatslehre*, 159
- limits of, 137
- Althusser, Louis, 116
- Álvarez, Alejandro, 51, 70, 85
- America, *see* United States of America
- American Declaration of Independence, 213
- Americas, 213
- Amerindians, 233–5, 237, 240, 250–1
- as barbarians (Vitoria), 241
  - as enemies if hospitality denied (Vitoria), 242
  - as *personae miserabiles*, 233
  - original Spanish betrayal of the, 242
  - property and expropriation of the, 305, 307
- anachronism, 5, 73, 78, 100, 102, 105–6, 115, 118, 120, 125, 275
- Anand, R.P., 85
- Anghie, Antony, 62, 69, 77, 79, 81, 84, 89, 103, 118, 207
- Ankersmit, Frank, 100, 111
- Anschütz, Gerhard, 136–8
- Anthropocene, the, 74
- anthropology, 42, 85, 142–3, 149–50, 309, 347
- in dialogue with history, 38
- antiquarianism, 45, 115
- anti-slavery, 265
- Aquinas, Thomas, 65, 348
- arbitration, 103
- archaeology, 20, 91
- archival records, 305
- Arendt, Hannah, 101, 106, 120–1, 144
- Aristotle, 328, 341, 345–6, 351, 355
- Armitage, David, 100, 194, 210, 213
- Asia, 85–6, 201, 264
- asylum, 73

- Austin, John, 23  
 Australia, 257, 370  
 Austria, 331  
 authoritarianism, 92  
 authority, 1, 4, 9–10, 32, 35, 39, 49, 56, 58, 64, 74, 76, 81, 86, 88–9, 93, 106, 117, 134, 155, 169, 173, 179–80, 185, 195, 204, 248, 254, 261, 268, 271–2, 274, 277, 279–81  
   as the basis of political community (Schmitt), 180  
   as without gender, 356  
   context as, 71  
   creation of new forms of, 321  
   current theories of, 275  
   exercise of state, 168  
   exercised by an occupier, 169  
   institutional, 60  
   international, 151  
   law as a language of, 68  
   of international lawyers, 72  
   of the past over the present, 49  
   public nature of state, 180  
   social, cultural and intellectual, 25  
   sovereign, 89, 91  
   variety of co-existing sorts of, 213  
 author(s), 72, 78–9  
 authorship, 6  
   as action, 4  
   of history, 112  
 autonomy, 35  
  
 Badiou, Alain, 114–15  
 Baldus de Ubaldis, 107, 352  
 Balkans, 120  
 Bandung conference (1955), 52  
 Barkawi, Tarak, 207  
 Barthes, Roland, 330  
 Bassiouni, Cherif, 118  
 beggars, 246  
*Begriffsgeschichte*, 67, *see* concepts, history of  
 behaviour  
   animal, 320  
   human, 65, 356, 360  
 Belgium, 61, 163, 167–8  
 Benjamin, Walter, 125, 143  
 Bentham, Jeremy, 196, 202–5  
 Benton, Lauren, 11, 48, 214, 232, 285  
 Berlin, 136, 144, 146, 158  
 Berlin Conference, 78  
 Berlin Final Act (1885), 58  
 Bhabha, Homi, 40  
  
 biology, 14, 356  
 Bloch, Marc, 102, 105, 116, 123  
 Bluntschli, Johann Kaspar, 177  
 Bodin, Jean, 49, 67, 149, 184, 346, 351  
 borders, 11, 73, 107, 152, 216  
 Braudel, Fernand, 19, 39, 47  
 breastfeeding, 14  
 Bretton Woods system, 83  
 Brierly, James Leslie, 260  
 Britain, 63, 196–7, 199, 202, 208, 263, 267, 270, 273  
 Burke, Edmund, 197, 202, 207  
 Burkina Faso, 59  
  
 Cambridge, 19, 358  
 Cameroon, 217, 223  
 Camus, Albert, 100  
 Canada, 257, 300  
 capital, 322  
   legal construction of, 94  
   transnational, 86  
 capitalism, 74, 78, 85, 91, 98, 123, 288, 305, 315, 326, 329, 335–6  
 Caribbean, 362  
 Carnegie Endowment for International Peace, 144  
 Cassin, René, 218  
 Castoriadis, Cornelius, 325  
 Catholicism, 132–3  
 change, 14, 211, 226  
 change, conceptual, 309  
   ‘market-led’ account of, 311  
   as linguistic innovation (Skinner), 13  
   economistic rendering of, 312  
   ‘historicist’ understandings of, 311  
   models for, expressing ideological commitments, 310  
   political, 43  
   role of leadership in bringing about, 330  
 change, cultural, 19  
   economic, 323, 327  
   as revolutionary (Knight), 326  
   historical, 13  
   ideological, 314  
   scientific, 317  
   social, as creating new categories of people (Hacking), 322  
   technical, 310  
 charity, 247, 249  
 Charles V, Holy Roman Emperor, 237  
 Charlesworth, Hilary, 87, 114–15, 368–9, 371

- child-birth, 14, 342
- children, 320, 322, 343, 362
- Chile, 51, 70, 72, 85, 90
- Chimni, B.S., 70
- China, 12, 27–8, 90, 197, 199, 201, 272, 365, 373
- Chitty, Joseph, 198–9, 204–5
- Christianity, 85–7, 109, 134, 198, 240, 243, 367.
  - See also* Catholicism, Protestantism
- Cicero, Marcus Tullius, 84
- citizens, 14, 247, 341, 375
- citizenship, 177, 372–4
- city (*civitas*)
  - as a trans-temporal legal category, 44
  - generic, 98
  - ocean-floating, 288
- civil service, international, 263–4, 274
- civilisation, 111
  - as westernization, 215
  - ideal of, 376
  - meaning of and how to achieve it, 215
  - through law, 104
- coercion, 76, 151
- Cold War, 87, 110, 118, 149, 156
- colonialism, 69–70, 74–5, 78, 82–4, 89, 91, 93, 103, 109, 118, 160, 165, 203, 242, 251, 307
- colonies, 35, 63, 198, 212, 359, 362, 364, 367, 370
  - administration of former German, 256
  - as catalysts of wars, 203
  - as not possessing the requisite attributes of statehood, 209
  - as opposed to the metropole, 359
  - as the chief cause of war (Bentham), 203
- colonisation, 63, 176
- Columbus, Christopher, 232
- comitas gentium*, *see* comity
- comity, 15, 372, 375, 377–8
- commerce, 12, 105, 287, 315. *See also* trade
  - as a norm of sociability between equal states, 12
  - as underlying principle of seabed mining, 301
  - defense of China's right to restrict, 199
  - development and legitimation of international system of, 239
  - equitable treatment of, 256
  - right of every state to regulate, in best interest of its people (Vattel), 199
- commissions
  - international, 181, 256
- common heritage of mankind principle, 300, 302
- commons, 295–6, 308
- communism, 218, 335
- communities,
  - administration of political, 67
  - boundaries of legal, 252
  - imagining of global, 252
  - pan-African, 210
  - religious, 210
- community, 25
  - international, 293, 301, 307
  - universal human, 211
- companies
  - powers of colonial, 64
  - private, 362
- competition
  - 'natural' processes of, 333
- concept(s), 8, 85, 107, 115, 157
  - as self-evident, 157
  - as subject to radical, unpredictable change, 309
  - genealogies of, 2
  - history of, 39, 67
  - legal, 63, 67
  - of the political (Schmitt), 139
- conceptual change, 309, 314, 337
  - in the human sciences, 325
  - innovation model of, 323, 328
  - self-referential nature of, 324
  - unpredictability of, 327
- conceptual frames, 3
- confederations, 259, 276
- conflict-of-laws cases, 364
- Congress of Vienna, 102
- conquest, 204
  - legitimation of, 70
- conquistadores, 233, 236, 242
- conscience
  - legal (*la conscience juridique*), 307
  - of mankind, 110
- constitution, 34
  - ancient, 49
  - English, 183, 366
- constitutionalism, 91, 103, 139, 180
  - global, 142
- context(s), 2, 4–6, 8, 23, 27–9, 39, 41, 45, 57, 60, 66–7, 70–1, 76, 83, 87, 101–2, 106–7, 112, 114–16, 118, 122, 133, 304, 352, 363
  - ability of international law to understand individuals in their social, 371

- context(s) (cont.)
  - a politics of, 337
  - act in, 27
  - as a certain time and place, 26
  - as explanation, 29
  - as interpretation, 29
  - as power, 87
  - as the imaginary frame for debates, 76
  - choice of, 77
  - concrete, 111
  - consequences of making new, 72
  - contest over, 45
  - different meanings of, in feminism, history and law, 379
  - European legal, 50
  - global, 79, 244
  - historical, 69
  - intellectual or religious tradition as, 77
  - international historical, 70
  - legal, 107
  - life choices and lived experiences as, 77
  - linguistic, 97, 107
  - meaning in, 3, 27–8, 30, 37, 40, 45
  - nation as, 77
  - private-law, 358
  - profession as, 77
  - re-narrating of, 75
  - Skinnerian, 358
  - transnational, of inter-personal relationships, 371
  - uses of, 72
  - Western, 39
- contextualism, 3, 5, 24, 27–8, 36–7, 107, 275, 309, 311, 314, 357
  - as both political decision and indeterminate method, 106
- contextualization, 75
  - historical, 88
  - social, 79
- contingency,
  - false, 307
  - historical, 43, 46
- contract, 305, 363, 365–6
  - freedom of, 333
  - social, 227
- contracts
  - international, 64
  - law of, 362
  - transnational law of, 307
- corporation(s), 11, 33, 93, 304, 326
  - history of business, 68
  - increased freedom for in seabed mining, 302
  - transnational, 293
- courtesy, 377
  - feminine, 15
- courts, 358
  - British, 373
  - English, 370
  - French military, 173
  - international, 53
  - metropolitan, 364
  - military, 174
  - modern, 82
  - recognition of judgments of foreign, 359
  - Scottish, 370
- creativity, 254, 317–18, 323, 328–9, 337
  - as a property of ‘community structure’ (Kuhn), 330
  - concept of (Kuhn), 317
  - historiographical, 4, 47
  - in science, 329
  - reciprocal relationship between destruction and, 328
  - scientific, 319
  - theorists, 317, 330
- credit
  - legal construction of, 94
- crisis, 115
  - as a juridical moment of decision, 114
- Cuba, 176
- culture, 89, 98, 320
- custom(s), 203, 347
- decolonization, 10, 58–9, 69, 71, 73–4, 208–10, 212, 217, 225–7
  - history of twentieth-century, 212
  - in international history and thought, 218
  - political thought of, 210
  - role of international organisations in setting the terms of, 274
- democracy, 88, 133, 141, 158, 206, 215, 262, 334
  - European social, 89
  - liberal parliamentary, 153
- Derrida, Jacques, 26, 231–2, 247, 250
- despotism, 26
  - discourse of oriental, 200
- determinism, 108, 314
  - nineteenth-century, evolutionist, 356
- development projects, 369
- dictators, 304
- dictatorship, 111, 161, 179, 182, 185–6
- Diderot, Denis, 196, 203

- diplomacy, 7, 50, 55, 61, 63, 67, 93, 107, 109, 111, 113, 120, 266, 269, 281, 362
  - histories of women and, 357
  - history of European, 60
  - League of Nations as site of new, 262
  - multilateral, 54
  - of ancient Near East, 60
  - open/public, 255
  - secret, 253, 264, 267
- diplomatic immunity, 105, 362
- diplomat-lawyer, 49
- diplomats, 2, 73, 287
- discourse(s), 3, 8, 13, 31, 33, 39–40, 50
  - economics as a, 311
  - history of political, 30
  - human rights, 53
  - international legal, 259
  - legal, 34, 43–4
  - nineteenth-century colonial international legal, 88
  - non-state-centric, 37
  - non-Western, 37
  - political, 25–6, 32, 38, 43–4
  - politics of, 35
  - pre-modern, 37
  - Western totalizing, 79
- discovery
  - as a valid basis for title, 57
  - process of as not subject to democratic control, 337
- domicile, 15, 372–4
- Dominican(s), 240
- dominion (*dominium*), 239, 343–4
  - natural, of mother over child, 343
- droit des gens*, 193
- Droit public de l'Europe*, 64
- Dutch East India Company, 56, 83, 285
  - as both private and sovereign, 363
- econometrics, 323
- economic development, 312
- economics, 9, 12–13, 64, 86, 94
  - as a discourse, 12, 311
  - boundaries between politics and, 12
  - dominance of in modern forms of political control, 180
  - language of, 309
- economists, 337
- economy, 76
  - capitalist political, 289
  - global, 71
    - of ocean regimes, 289
    - political, 89
    - post-feudal mercantile, 87
- elite(s), 94, 304
  - conceptions of the world by, 77
  - post-colonial, 89, 212
  - shared visions of, 76
  - vocabularies of, 93
- emancipation, 11, 85–6
  - international law of, 70
    - of colonies as precondition of international peace, 204
- empire(s), 2, 9–10, 35, 48, 54, 77, 82–3, 90, 93, 104, 118, 124, 192–3, 243, 277, 366
  - 'anxiety' of, 365
  - as danger to peaceful commerce, 203
  - as incompatible with modern international law, 74
  - critique of, 16
  - crossing internal borders of the, 368
  - discriminatory attitudes of, 373
  - effects of on history of international law, 365
  - historical context of, 125
  - historical role of private law in, 361
  - history of, 196
  - informal, 11
  - interpolity of, 48
  - legacies of, 71
  - 'metropolitan turn' among historians of, 359
  - modern history of, 35
  - Spanish contribution to the practice of, 86
  - studies of gender and, 357
- Empire
  - Anglo-American commercial and maritime, 134
  - British, 257
  - Chinese, 201
  - European, 16, 36
  - French, 199
  - Moctezuma's Aztec, 237
  - Ottoman, 105, 115
  - Roman, 242
  - Spanish, 248
- enemies, 146
- England, 365–7, 369–71, 374
  - as both 'home' and 'abroad', 365
  - early-modern, 315
- Enlightenment, the, 85
- enmity
  - central place of, in politics, 146

- enterprise, 310, 314, 319, 321–4, 326–7, 335
  - as an adaptation to uncertainty in economic life, 333
  - legitimation of capitalist, 315
  - rhetorical, 315
  - history, 68
  - theory of, 14
  - use of the language of in intellectual history, 314
- entrepreneur(s), 13–14, 312
  - as innovators, 312–13, 329
  - creativity of, 326
  - function of, 332
- environment, natural
  - exploitation of as structuring inequalities in Latin America, 240
  - protection of marine, 297, 302
  - transformed into natural resources available to commerce, 239
- equality
  - between men and women (Plato), 346
  - international order based on, 215
  - of men and women in the state of nature, 343
  - sovereign, 74
- ethics, 110, 321
  - universal, 82
  - writerly, 97
- etiquette, 377
- Eurocentrism, 46
  - in the history of international law, 85
- Europe, 1–2, 15, 27, 36, 39, 43–6, 50, 53–5, 58, 60–2, 67, 70, 74, 81, 84–90, 93–4, 104, 109, 118, 134, 141–2, 150, 152, 155, 158, 163, 166, 175, 179, 181, 193, 197–8, 200–3, 205, 207, 211, 234, 243, 246, 248, 251, 327, 351, 353, 358, 366–8, 373
  - as a representative of the universal, 85
  - mythology of, 179
  - provincializing of, 85
  - public law of, 201. *See also* *Droit public de l'Europe*
- European imperial expansion, 196. *See also* empire
- European Union, the, 74
- everyday life
  - as proper focus for international law, 369
  - as transnational, 371
  - forms of history that aim to do justice to, 371
- evolution, 30
- exception
  - state of, 186
- exile, 143
- experts/expertise 79, 255
- family, 2, 14–15, 86, 369, 372
  - as a framework within the state of nature, 349
  - gendered relations in, 14
  - localization of, 89
  - of nations, 104
  - private international law of the, 374
  - private sphere of the, 362
- family law, 362, 367
- fascism, 83
- fathers
  - as founders of states, 355
- federation(s), 11, 16, 222
  - failure of as political projects in Africa, 228
- femininity, 376
- feminism, 342, 379
- fiction, 23, 97, 122. *See also* novels
- Filmer, Robert, 344–5, 349, 352
- force. *See also* violence
  - master's right to use, 367
  - use of, 25, 275
- Ford, Lisa, 48, 214
- foreigner(s), 93
  - children born from male follow the mother, 350
  - government by as violation of natural community (Schmitt), 182
  - refusal to welcome as inherently evil (Vitoria), 242
- Foucault, Michel, 39–40, 46, 65, 81, 281, 321, 330
- France, 70, 72, 90, 103, 105, 109, 163, 176, 179, 196, 199, 202, 207–8, 263, 267, 299, 359
- Franciscans, 241
- free trade, 89, 93
- freedom, 1, 159, 215, 221, 293
  - as a delimited legal institution, 308
  - natural, 355
  - of commerce and trade, 86
  - of communication and transit, 256
  - of the seas, 13, 85, 285, 288, 293
  - state, 65
  - to beg, 248
- friend-enemy concept, 147

- friendship
  - between nations, 15
- frontiers
  - intangibility of (*uti possidetis* principle), 59
- functionalism, 62–3, 260
- gender, 9, 14–16, 42, 87, 163, 247, 356–8, 360, 364, 376
  - as a category of analysis, 358
  - as relevant to the historical understanding of
    - domicile and comity, 372
  - in the history of international law, 359
  - different approaches to, 82
  - early modern understandings of, 8
  - equality, 14
  - relationship of politics and, 342
  - studies of empire and, 357
- gender relations, 359, 368
  - as signifying or structuring legal power, 357
  - as analytics, 360
  - as the paradigmatic case of national
    - differences in private law, 367
  - private-law, 364
  - re-ordering of through law and jurisdiction, 371
- genealogy, 2, 46–7, 85, 88, 124, 149, 252, 329
  - European, 206
  - Foucauldian, 40
  - Nietzschean, 40
- Gentili, Alberico, 111, 113
- Germany, 1, 10, 55, 58, 62, 108, 111–12, 114, 119, 131, 135, 142, 145–6, 148–9, 152, 160–4, 168, 172, 176–7, 179, 186, 196, 258, 267–8, 370
- Ghana, 220–1
- Gibbon, Edward, 41
- Gierke, Otto von, 259
- Ginzburg, Carlo, 113
- global, 2, 4, 21, 28, 35, 37, 70, 91, 94
  - relationship between local and, 70
- global economic system, 86
- global legal order, 73
- global order
  - non-hierarchical, 195
- global, the, 47
  - timing and spacing of, 21
- globalisation, 52, 123
  - discourses of, 252
- governance, 72, 224, 279
  - bureaucracy of international, 11
  - contemporary technocratic or managerial, 75
- forms of suitable to Europeans and non-Europeans (Schmitt), 181
- global, 74
  - of occupied territory, 171
  - strengthening of in sixteenth-century Europe, 246
- government, 11, 34, 342
  - local, 93
  - medieval forms of, 44
  - post-colonial, 223
  - theory of absolute (Bodin), 346
- governors
  - and governed, trans-historical reality of, 40
- Great Britain, 109, 152, *see* Britain
- Great Power(s), 109
- Grewe, Wilhelm, 60, 62, 104, 108–11, 114–15, 158
- Großraum* (great space), 152
  - as a concrete geographical space, 19, 21, 36, 45, 61, 65, 67, 77, 83–5, 90, 109, 111, 116–17, 152, 285, 291–2, 308. *See also* Schmitt, Carl
- Grotius, Hugo, 19, 21, 36, 61, 65, 67, 77, 79, 83, 85–6, 90, 109, 111, 116–17, 285–6, 291–2, 308
- Group of 77, 300
- guest. *See* hospitality
- Habermas, Jürgen, 135
- Hacking, Ian, 13, 310, 314, 319–25, 327, 329–30
- Hague Convention (1907), 166–9, 171
- Hague Peace Conferences, 103, 366
- Haiti, 202
- Hammarskjöld, Dag, 274
- Hegelianism, 146
- Heidegger, Martin, 135
- heroism, 7, 104, 108, 158, 368
- Heyland, Carl, 164–71, 173–4
- high seas, 289, 298
  - law of, 293
- historian(s), 1–3, 5, 8–9, 19, 26, 28–31, 33, 48, 72, 78, 88, 94–5, 101, 107, 181, 186, 212, 274, 277, 309, 311, 313–14, 329, 364
  - academic, 99
  - activist, 144
  - contextual, 84, 92
  - distinctive voice of, 20
  - feminist, 377
  - gender, 344
  - historical and political commitments of, 30
  - intellectual, 177

- historian(s) (cont.)
  - international legal, 69, 72
  - legal, 78, 109
  - metropolitan turn taken by, 368
  - objectivity of, 22
  - of political thought, 34, 42, 45, 106
  - relationship of with power, 40
  - presentist concerns of current, 78
  - revisionist, 85
- historicism, 14, 160, 309–12
- histories
  - as acts of creation or ideological gestures, 119
  - as having literary virtues, 100
  - contextual, 69, 84, 90–1, 93
  - conventional, 73
  - corrective, 123
  - of law, 105
  - post-colonial, 357
  - revisionist, 87, 91
  - written and authorised by international tribunals, 113
- historiography, 3, 6–7, 13, 29, 31, 33–4, 38–9, 41, 43–7, 56, 99, 123, 195, 276, 342, 361
  - global, 48
  - governing metaphors of, 46
  - twenty-first century, 46
- history, 3–8, 16, 19–20, 34, 36, 52, 66, 72, 75, 84, 97–9, 102–3, 108, 142, 149, 151, 208, 280, 355, 379
  - anachronistic approach to, 106
  - and international law, 70, 74, 105, 131
  - arguments from, 50
  - as authored, 112
  - as classism, 113
  - as a history of ‘dead effects’ (Benjamin), 125
  - as a history of Great Men and their activities, 107
  - as animated by natural law, 81
  - as a tirade against the past, 123
  - as endowed with a purpose, 102
  - as framing action in time, 79
  - as having fictive power, 100
  - as History, 80
  - as interpretation not fact, 80
  - as linear chronicle, 103
  - as method, 104
  - as part of academic international law, 54
  - as proof for the legality of international law, 73
  - as source of precedents, 105
  - as narrative art or story-telling, 30
  - as ‘usable’ in legal projects, 106
  - as what is seen by the historian, 7
  - as what we remember, 6
  - as writing, 21, 30, 116
  - conceptual, 67, 280
  - cultural, 23
  - European imperial as central aspect of
    - international law, 62
  - feminist intellectual, 357
  - global, 47
  - in relation to philosophy, 21
  - in relation to the present, 34, 41
  - intellectual, 13, 21–2, 24, 28, 37, 40, 102
  - international, 106
  - international legal, 102, 107–9, 113, *see* law, international, history/histories of
  - law as a practice of, 60
  - law’s uses of, 4
  - legacies of imperial, 206
  - legal, 8, 34
  - misunderstanding of, 78
  - natural laws of, 52
  - of history (Pocock), 44
  - of the church and its law, 43
  - orality of, 6
  - philosophy of, 115, 309, 334
  - political, 19
  - politics of, 6
  - popular, 99
  - progressive march of, 91
  - realities of, 108
  - search for a ‘meaning’ of, 313
  - shared professional vision of, 72
  - the turn to, 309
  - translation and, 40
  - use of to challenge authority of international law, 83
  - Western, 41
  - writing of to change the world, 71–2
  - writing of as a response to crisis, 20, 24, 33, 109
- Hobbes, Thomas, 1–2, 27–8, 30, 32, 36, 65, 149, 151, 271, 341–5, 349, 351–6
- honour, 92
- hospitality (*hospitium*), 11, 16, 233–5, 237, 241–4, 246–7, 250, 252
  - right to, (*ius hospitii*), 232
- hospitals, 11
- host, 11–12



- hostages
  - both guests and hosts as, 232
  - execution of, 111
- household, 2
- Huber, Max, 56–8
- human kinds (Hacking), 319–20
- human nature, 322
  - historical narrative of the development of, 347
- humanitarian crises, 206
- humanitarianism, 120
  - universal, 139
- humanity, 1, 71, 85, 121, 141, 146, 156, 159, 171, 175, 194, 211, 215, 218, 222, 224, 227–8, 288
  - crimes against, 105, 118, 121
- Hunter, Ian, 37, 99, 111, 191
- idealism, 67, 272, 305
- ideas, history of, 23
- ideology, 26, 33–6, 75–6, 87, 90, 300, 305, 309–10
  - as a legitimating political language, 25
  - as political illusion, 33
  - concept of, 324
  - legal, 289
  - liberal capitalist, 307
  - universalist, 123
- imaginary/imaginaries, 368
- imagination, 6, 76, 93, 101, 103, 117, 347–8, 368
  - European Orientalizing, of ‘others’, 88
  - Western historical, 20
- imperialism, 71, 106, 109, 175, 181, 194, 209
  - British, 152
  - European, disclosure of, 193
  - non-territorial, 86
  - of the present (Tully), 193
  - role of hospitals in Spanish, 234
- imperium*, 89
- independence, 10, 59, 154, 175, 200–1, 204, 208–13, 219–24, 226–8, 257
  - as absence of any state power, 220
  - commercial, 200
  - historical view of African, 209
  - in eighteenth-century America, 213
  - Indian, 194
  - Kenyan, 224
  - limits of mere ‘flag’, 209
  - mid-twentieth-century arguments for, 213
  - of African countries from colonial rule as
    - imposition of western forms of political organisation, 208
  - of states, 1
  - of the League of Nations, 263
  - redefined as a positive good (Vattel), 213
  - shaping political imaginaries after, 224
  - Tanganyikan, 224
  - Ugandan, 224
  - understood as the ability to create a new and better society, not as an end in itself, 220
- India, 38, 63, 104, 194, 197, 202, 204, 257, 373
- Indies, the, 86
- indigenous inhabitants, 58
- individual(s), 1, 11, 13, 32
  - as simultaneously citizens of a state and members of a universal human community, 210
  - classical liberal ideas of the 371
  - emergence of as a state subject and a bearer of natural rights, 142
  - legal status and capacity of, 372
  - pre-social conception of the, 360
  - right to free movement of, 252
- individualism, 76, 135, 218, 335, 371
  - liberal, 152
- indoctrination, 25
- Indonesia, 213
- industrialisation, 145
- inequality, 84, 89, 95, 235, 307, 345
  - as continuous with colonialism, 75
  - construction of, 234
  - imperial relations of, 86
  - legitimation of global, 252
- inheritance, 358
  - of children of colonial marriages, in England, 371
- injury, 73
- innovating ideologists (Skinner), 316
- innovation, 9, 12–14, 38, 77, 310, 312–14, 316, 318–19, 322–3, 325–6, 330, 332–6
  - as ‘market-led’, 14
  - as a creative response to existing conditions, 314
  - as a political concept, 310
  - as a self-referential process, 325
  - as a term with a distinctive history, 310
  - as technical advancement, 310
  - as the template for understanding
    - conceptual change, 310
  - benefits of, as a public good, 336
  - concept of (Kuhn), 319
  - conceptual, as the intentional repurposing of economics of, 310, 318

- innovation (cont.)
  - ideological (Skinner), 320
  - in politics and moral life, 316
  - and change, 14, 200, 317
  - linguistic, 13
  - politics of, 335
  - scientific, 316
  - theory of (Schumpeter), 322
  - unpredictability of the products of
    - conceptual, 315
- Institut de droit international*, 372
- founders of ('men of 1873'), 363
- institutions, 9, 25, 53, 76, 82, 85, 94, 113
  - collective, based on universal human values, 140
  - international, 11, *see also* organisations, international
  - intersecting, 11
  - political, 32
  - theorization of, 11
- intentions
  - recovery of authorial, 330
- interdisciplinarity, 9, 80, 101–2, 116, 276–7, 357
- interest
  - collective, 305
  - commercial, 13
  - general, of mankind, 306
  - national, 13
  - state, 307
- international, the, 15–16
  - as a space of conceptual movement in
    - history, politics and law, 9
  - concept of, 8
  - theorization of, 9
  - whether and how the League might speak for, 12
  - community, imagined as masculine action
    - hero, 368
  - legal community, restricted to Christian
    - order, 204
  - organisations, role of in shaping normative
    - expectations of statehood, 274
  - realm, 1
  - relations, 64
  - society, 51–2, 98, 213, 215, 227–8, 378
- International Court of Justice, 49, 58, 195, 254
- International Criminal Court (ICC), 84, 120
- International Law Commission (ILC), 294
- internationalism, 119, 255, 264, 277
- internationalists, 268
- interpretation
  - as a creative act of making sense of an act, 29
- intervention, 103
  - humanitarian, 74
  - legal right of, 175
- investment
  - international, 67
  - law and practice of foreign, 64
- Iran, 111
- Iraq, 78
- Islam, 367
- ius communicandi*, 239
- ius gentium*, 11, 14, 16, 67, 86, 346–7, 349, 351, 355, *see* law of nations
- ius hospitii*, 11–12, 15, *see* hospitality, right to
- ius naturae et gentium*, 1, *see* law, of nature and of nations
- ius naturale* 346, 349, 351, *see* law, natural
- ius negotiandi*, 12, *see* trade, right to
- ius publicum Europaeum*, 62, *see* law, European public
- Jamaica, 366
- Japan, 121, 199, 268, 294, 299, 365
- Jellinek, Georg, 172, 258–9
- judge(s), 275
  - as law-makers, 138
  - admiralty, 374
- jurisdiction(s), 277
  - border between national and international, 296
  - local, 92
  - over private-law cases with a foreign
    - element, 358
  - permanent international criminal, 120
  - rules on, as giving means of re-ordering
    - gender relations and the state, 371
  - territorial, 12
- jurisprudence, 8, 34, 49–50, 103, 108, 110, 145
  - early-modern natural, 309
  - natural, 36, 45
  - political, 45
  - positivist, 185
  - Roman, 355
- jurists, 54–5, 63, 73, 77–8, 81, 83, 94, 137, 180, 185, 257–8, 268
  - eighteenth-century European, 213
  - French, 260
  - German, 136, 165, 184
  - inadequacy of in institutional matters, 136
  - international, 90

- liberal, 142, 152
- naturalist, 82
- nineteenth-century, 373
- of the 'New States', 194
- positivist, 82
- jus gentium*, 155, *see* law of nations
- jus publicum Europaeum*, 178, *see* law, European public
- justice, 66, 82, 183, 347, 355
  - economic, 87
  - gender, 87
  - global system of criminal, 84
  - imagined historical origins of, 347
  - international, 51
  - natural, 365
  - particular institutions canonized as, 94
  - sixteenth-century narratives of the origins of, 347
  - transitional, 73
  - universal standard of, 34
- Justinian, 346–7
- Kant, Immanuel, 1–2, 65, 105, 150
- Kelsen, Hans, 109, 113–14, 140, 258, 260, 263
- Kenya, 219, 224
- Kiribati, 302
- knowledge, 79, 320
  - expert, 76
  - new forms of, 321
  - objects of, 321
  - scientific, 50
  - varieties of prior, 75
- Kojève, Alexandre, 133
- Korea, 294
- Koselleck, Reinhart, 67, 157, 334
- Kosovo, 114, 368
- Kuhn, Thomas, 13, 310, 314, 316–19, 323, 327, 329–30, 334
- labour, 322
  - division of, 312
  - gendered parental, involved in feeding children, 352
  - improvement in the conditions of, 256
  - legal construction of, 94
- language, 7, 13, 24–6, 29–31, 34, 38–41
  - as like an ancient city (Wittgenstein), 41
  - as structuring the international world, 7
  - constitutive role of in politics, 26
  - economic, 311
  - international law as a virtuous, 303
- legal, 36
- legitimizing, 33
- of innovation, development and enterprise (Schumpeter), 314
- political, 26, 33
- shared normative, 38
- political, 41–2
- political, history of, 38
- Las Casas, 233, 236
- Latin America, 85, 198, 202, 239, 264
- Lauterpacht, Hersch, 83, 306
- law, 1–4, 6–9, 13, 16, 19, 64, 379
  - admiralty, 374
  - as a professional ethics, 91
  - as a language of authority, 68
  - as a linguistic phenomenon, 66
  - as a practice of history, 60
  - as a social phenomenon, 14, 49
  - as a story-maker, 45, 48
  - as always political, 195
  - as an act of sovereign power, 34
  - as an institutional practice, 53
  - as an instrument of policy, 35
  - as constructing its own history, 44
  - as distinctively concerned with making meaning move across time (Orford), 275
  - as natural reason, 82
  - as source of sovereign's authority, 81
  - as struggle and disagreement, 66
  - as the language used to dress up the self-interest of states, 305
  - as the normative fabric authorizing and governing sovereigns, 73
  - British imperial/colonial, 63
  - colonial, 198
  - common, 44, 64, 276, 279, 359, 372–3
  - comparative, 71
  - concept of, 280
  - constitutional, 74, 91, 109, 132–3, 136, 139, 153, 168, 261, 276
  - corporate, 90
  - criminal, 90
  - customary international, 290
  - divine, 81
  - domestic, 361
  - domestic public, 153
  - early-modern, 341
  - English marriage, 370
  - environmental, 54
  - European public (*jus publicum Europaeum*), 134

## law (cont.)

- feudal, 44
- global administrative, 142, 280
- interdisciplinary approaches to, 4
- interpretation of in political contexts, 10
- investment, 54
- liberal theories of, 141
- natural, 81
- nature of among sovereigns, 82
- non-state forms of, 47
- normative autonomy of, 73
- of international organisations, 254, 274
- of kings or commonwealths, 44
- of nature (*ius naturale*), 1 *see also* law, natural
- of occupation, 164
- of responsibility for international wrongs, 278
- of the sea, 86, 293
- of war crimes, 117
- plurality of bodies of, 14
- positivist, 13
- private, 12, 90, 93
- public, 67, 90, 93, 153
- Roman, 84, 86
- seen as providing a technical and apolitical vocabulary and set of institutions, 192
- trade, 54
- transnational, of contracts, 307
- vocabularies of, 65
- Weimar constitutional, 153
- law of Christian nations, 175
- law of nations (*ius gentium*), 174, 186, 193
  - as catalyst for need for political communities, 347
  - as universal, 196
  - as emancipatory and egalitarian in relation to extra-European states., 195
  - as not universal (Wheaton), 201
  - Britain's violation of in India and the West Indies, 197
  - dualistic approach to by jurists, 185
  - European, 200
  - history of (Schmitt), 182
  - Muslim rulers depicted as violating provisions of (Vattel), 198
  - rights to common property, trade, hospitality and citizenship under (Vitoria), 239
  - shift in the history of at the turn of the nineteenth century, 194

## law, canon, 233

## law, civil, 14, 44, 346–7

- explanation of emergence of, 341
  - origins of, 355

## law, international, 7, 69, 94, 134

- 'counter-disciplinary' explorations of, 358
  - 'imperial' and 'counter-imperial' dimensions of, 193
  - a gendered history of, 376
  - a politics of, 195
  - account of the function and possibilities, 304
  - and colonialism, 83
  - and empire, 118
  - and fascism, 83
  - and political thought, dialogue between, 22
  - Anglo-American, 259
  - anxieties of, 134
  - as involving multiple forms of discursive production, 42
  - as offering a life of dignity for the poor and oppressed in the third world, 70
  - as a 'discipline of crisis' (Charlesworth), 368
  - as a European emancipatory project, 205
  - as a global, egalitarian, universal family of nations, 104
  - as a language and framework for political argument, 192
  - as a late nineteenth-century European Protestant liberal professional cultural sensibility, 85
  - as a medium for coordination, 303
  - as a native or foreign language, 109
  - as a practice of history, 56
  - as a reflection of international society, 52
  - as a tool and expression of colonial domination, 89
  - as a tool for practical management, 82
  - cerns cloaking pursuit of self-interest, 303
  - as adapting to new circumstances (seabed mining), 301
  - as an aspect of sovereign behaviour, 67
  - as an expression of pan-European aspirations, 88
  - as an expression of the dominant power's style of global leadership, 109
  - as an ordinary component in the constitution of social relations, 369
  - as an organising idea of international political life, 117
  - as apology or as utopia, 52
  - as colonial, 90

- as commercial, 90
- as constituted in its encounter with colonialism, 109
- as emphasising construction of institutions over inclinations of statespersons, 113
- as epiphenomenal to the interests of states, 289, 303
- as European, 84, 90
- as expression of consolidated power, 82
- as expression of universal reason, 82
- as expressive of a normative continuity from origins to future, 84
- as independent from states, 154
- as independent of international society, 52
- as made in the back and forth of political conflict/ within politics, 94
- as natural jurisprudence, 36
- as neither history nor political morality, 52
- as not 'universal', 90
- as not 'public', 86
- as not shifting power or wealth from powerful to weak states, 304
- as occupying a historyless present, 98
- as outside and above ideology, 87
- as private, 90
- as professional activity, 103
- as protecting impunity of states and corporations to exploit the ocean, 289
- as ratifying inequality, 89
- as reflecting the politico-economic interests of the capitalist class within and outside of powerful states, 304
- as reinforcing unequal relations among nations, 86
- as religious, 90
- as rooted in conflict, 90
- as simultaneously an instrument of domination and of emancipation, 193
- as solely an emanation of underlying political configurations, 289
- as speaking only to the interactions between European states, 205
- as the expression of humanist wisdom, 82
- as the only limitation on the exercise of the territorial jurisdiction of the occupying state, 169
- as the product of European legal culture, 84
- as what great men thought at different times, 113
- aspirations of for universal justice, 207
- attachment of to crises, 368
- authority and legitimacy of, 71
- Bentham's thought on, 202–5
- binding force of based on the notion of the 'self-binding' will of states, 258
- British Empire as a major site for the creation of, 196
- changing character of the academy of, 55
- Christian, 175
- claims of to be universal, secular, progressive and fair, 88
- claims of to universal wisdom and accepted power as undermined by use of history, 83
- colonial and neo-colonial, resistance to, 86
- colonial forms of, 178
- coming to terms with the 'dark past' of, 86
- complicity of in the world's injustices, 55
- complicity of with imperial power, 195
- conceptual change in, 67
- consolidation of as an academic discipline, 192
- constitutive power of, 307
- construction of modern, 70
- contextual history of, 28
- contributions of Asian states to development of, 85
- contributions of past jurists to, 83
- conventional narratives of a progressive, 207
- counter-disciplinary research between history and, 358
- created through treaties entered into by sovereign states, 171
- critiques of, 358
- debates about around WW1, 178
- decolonising of, 298
- deconstruction of contemporary, 159
- determining rules of, 306
- discourse of, 70
- discrediting of, 89
- distributional outcomes of, 91
- economic analysis of, 303
- emancipatory role of, 195
- epiphenomenality of, 307
- Eurocentric orientation of, 50
- Eurocentrism of, 104
- exclusion of colonisation from history of, 63
- experience of reading, 97
- feminist approaches to, 16, 357
- feminist critiques of, 359, 368
- feminist histories of, 379
- focus development of through crises instead of routine operation, 360

- law, international (cont.)  
 fragmentation of, 54  
 function of codification of to reduce  
   uncertainty about states' respective rights  
   and duties (Bentham), 204  
 German, 170  
 global history of, 1, 85  
 globalisation in, 51  
 heroic vision of, 7  
 heterogeneity of, 70  
 historians of, 72  
 historical context of, 63  
 historical turn within, 22  
 historicized, 104  
 history as proof for the legality of, 73  
 history/histories of, 8, 14–15, 21, 27–8, 31,  
   36–7, 47, 55, 64–5, 67, 69, 78, 98, 155, 359,  
   362, 364  
 is made and applied in struggle, 83  
 linked with universal reason, 88  
*Literaturgeschichte* of history of, 65  
 long standing commitment to commerce of,  
   240  
 loose sense of history in users of, 82  
 lost private side of, 368  
 machinery of, for distribution of power,  
   wealth and prestige, 89  
 maintaining a critical standpoint within, 60  
 materialist history of, 304  
 materials of as archaeological fragments, 91  
 merits of political thought for, 131  
 modern science of, 115  
 nature of, 254  
 neglecting of private law by historians of,  
   362  
 nineteenth-century scholarship of, 88  
 nineteenth-century, in the context of  
   'power', 81  
 normative authority of, 82  
 of nature and of nations (*ius naturae et*  
   *gentium*), 1  
 orientation to universality and coherence of,  
   90  
 origin narratives of, 61  
 origins of, 61  
 papal encyclicals belonging to history of, 64  
 past, present and future of, 70  
 pluralism of, 72, 92  
 political economy of, 307  
 positive, 293  
 practice in as a rhetorical skill, 53  
 principles and practice of colonial  
   administrators as origins of, 63  
 private side of, 15  
 professional competence in, 53  
 professional period of, 55  
 professionalisation of, 10, 103  
 progressive development, 74  
 progressive teleology of, 82  
 public, 15, 362  
 public European (*ius publicum Europaeum*)  
   88  
 public/private distinction in, 87  
 questioned as a concept, 154  
 race as central to the definition of, 207  
 reform of, 51, 86  
 reformism in, 51  
 relationship between public and private, 361  
 relevance of political thought for, 135  
 removed from economics, 89  
 replacing divine law/Pope with natural law/  
   sovereign, 81  
 role of in legitimising and sustaining  
   colonialism, 86  
 role of power and politics in history of, 64  
 roots of, 104  
 roots of in Christian European culture, 88  
 sociology of, 8  
 spatial order in, 140, 152  
 Third World approaches to (TWAII),  
   78  
 treatises of, 362  
 understood as a historically particular  
   system, 202  
 universalisation of, 104  
 unselfconsciously anachronistic mode of,  
   105  
 women as legal subjects or actors in, 357  
 writing of, 109  
 law, international criminal, 106, 112  
 law, international economic, 74  
 law, intertemporal, 57  
 law, local, 44  
 law, marriage  
   reform of, 370  
 law, natural, 14, 35, 65, 87, 142, 210, 239, 309,  
   341, 347  
   as ideological, 36  
   as legitimization of law, 35  
   emergence of in colonial context, 81  
   European school of, 84  
   idiom of, 1

- law, private, 67, 183, 347
  - as the context of public international law's power, 358
  - duty of states to recognise one another's, 375
  - institutions of, 305
  - law, private international, of domicile and 'comity of nations', 372, 375
- law, private international, 358–9, 365–6, 375
  - agreement on principles of, 366
  - as a lost side of international law, 359
  - as part of international law, 363
  - common-law rules of, 359
  - development of, 371
  - established as a field in the United States, 377
  - focus of as the state at home, not abroad, 364
  - Hague conventions on, 364
  - harmonising rules of, 363
  - modification of the English family and the English state by, 369
- law, Roman, 235, 346, 348–9, 351, 353–5
  - commentaries on, 14
  - division of law into public and private law under, 347
  - division of private law into natural (*ius gentium*) and civil law in, 14
  - early modern discourse, 342
  - early-modern commentaries on, 345
  - internal time of, 45
  - right of foreigners to beg, 244
  - sixteenth-century commentators on, 347
- laws
  - colonial marriage, 370
  - conflict of, 358–9, 377
  - contingency of, 52
  - imperial conflict of, 359, 370
  - indigenous to the colonies, 365
  - Nazi racial, 131
  - positive, 137
  - validity of from reason alone, 141
- laws, civil, 244, 341, 343
- laws, foreign, 365
- laws, settler, 365
- laws, sixteenth-century poor, 248
- lawyers, 1–5, 8–9, 13, 35, 42, 44, 49, 53, 60, 63, 67, 71, 101, 131, 162, 275, 277, 287, 308
  - activist, 85
  - Anglo-American, 261
  - as people exercising authority, 68
  - British in the 1950s, 306
  - contemporary international, 103
  - early seventeenth-century English, 64
  - environmental, 74
  - feminist international, 377
  - German, 160, 164, 168, 171, 174, 178
  - intellectual and professional stance of, 277
  - international, 2, 42, 50, 54, 70, 73–4, 91, 96, 99, 101, 171
  - medieval, 355
  - natural, 61
  - professional role of, 12
  - early-modern, 352
  - tendency of to believe 'nothing happened' at different points of history, 117
  - third world, 300
  - US, 50
- leadership, 77, 113, 139, 148, 153, 158, 330–1
  - global, 109
  - in the use of language, 316
- League of Nations, 11–12, 58, 84, 90, 146, 152, 154, 163, 207, 214, 216, 253–81
  - as a new agent and locus for the organisation of international life, 256
  - as a new site of politics, 216
  - as a nexus for interstate cooperation, 263
  - as a scene of speech, 255
  - as challenging to both juridical and historical analysis, 280
  - Covenant of, 256–7
  - effect of on United Nations, 273–4
- legal positivism, 136–7
- legalism, 111, 114
- legislation, 34
  - as political, 34
  - imperial, ideology of, 35
- legitimacy, 35, 65, 133
- legitimation, 25, 32–3, 38
  - discursive, 35
  - of conceptual change through innovation, 315
  - of killing, 147
  - politics of, 26
  - Skinnerian model of, 38
- Leviathan*, *see* Hobbes, Thomas
- liberalism, 110, 133, 141, 143, 191–2, 371
  - relational feminist critique of, 360
- Liberia, 207
- liberties, English legal, 366
- liberty, 293
  - as yielding obedience to magistrates (*Vives*), 249
  - ruled by reason, 246

- Libya, 114  
 Lieber, Francis, 177  
 Lin Zexu, 200  
 literature, 123  
   in dialogue with history, 38  
 Locke, John, 345  
   Foucauldian reading of, 39  
*longue durée*, 47, 63, 66, 78  
 Lorimer, James, 15, 90, 107, 375
- Machiavelli, Niccolo, 342  
 MacKinnon, Catherine, 115  
 Mali, 59  
 Malta, 296  
 mankind  
   the conscience of, 121  
 manners, 376  
   as part of gender studies of the history of  
     international law, 377  
 Marcuse, Herbert, 143–4  
*Mare Liberum* (Grotius), 286  
 market(s), 326  
 marriage(s) (*matrimonium*), 14–15, 117, 362,  
   365, 367  
   and how it relates to ideas of law and justice,  
     355  
   as natural under *ius gentium*, 349  
   as not part of natural law (Cicero), 348  
   as part of the law of nations (*ius gentium*),  
     347  
   as interwoven with emergence of states  
     (Roman law commentators),  
       347  
   as the beginning of justice in the Roman law  
     tradition, 355  
   colonial laws on, 370  
   determining validity of a, 358  
   foreign, 370  
   Hague Conventions on, 364  
   illegitimate 349–50  
   medieval and early-modern understanding  
     of, 356  
   natural and civil, 342  
   relationship to of emergence of civil  
     government, 354  
 Martens, Friedrich, 199  
 Marx, Karl, 51, 112  
 Marxist analysis, 13  
 masculinity, 376  
 master-slave relation, 366  
*matrimonium*, 14, *see* marriage
- meaning, 28, 39  
   as interpretation by historian, 30  
   formation of in law, 67  
   historical, 30  
   in context/ contextual, 30  
   in history of international law, 28  
   legal, 45–6, 48  
   political, 30–1, 45, 48  
 memory, 73, 98  
*Menschheitswerte* (human values), 141–2  
 mercantilism, 92–3  
 merchant companies  
   acting like states, 181  
 merchants, 2, 239, 315, 365  
 metahistory, 7  
 metaphor, 147  
   authorship as, 112  
 metaphysics, 314  
 method, 5, 7, 97, 100, *see* methodology  
 methodology, 3–6, 21, 24, 27–9, 60, 62, 71–2, 78,  
   80–1, 88, 92, 96–7, 99–100, 102, 105–12,  
   114–16, 118–20, 118, 122–3, 132, 306, 314–16,  
   357  
   as choices, 115  
   as informed by ‘mood’, 124  
   contextualised historical, 99  
   inter-disciplinary, 116  
   limits of in history, 21  
   macro-historical, 108  
   micro-historical, 121  
   of international legal contextualists, 80  
 metropole, the, 198, 359, 364, 366,  
   368  
   public policy exception in, 367  
 Mexico, 242, 251  
 Michelet, Jules, 119  
 Middle East, 202  
 migration  
   contemporary politics of, 252  
 Minerva  
   owl of, 78  
 minorities, 265  
 modernisation, 103  
 modernism, 51, 78  
 modernity, 47, 49, 85, 135  
   experience of our own, 334  
   narrative of, 43  
   political, 43  
   the story of, 44  
   Western, 44, 47  
 monarchy, 136



- monasteries, 11
- monasticism, Western, 240
- money
  - legal construction of, 94
- Montesquieu, 200
- More, Thomas, 350
- Morgenthau, Hans, 143, 147
- mothers, 343–5
- moyenne durée*
  - European, 43, 45–6
  - global, 48
- Namibia, 59
- Napoleon, 103, 112, 120, 196
- narrative(s), 7, 10
  - changing the, 74
  - early encounter, 232
  - historical, 72–3
  - ingrained Western, 368
  - large-scale, 90
  - of foundation, 14
  - sacred, 37
- nation(s), 1, 9–10, 262
  - as context, 77
  - as moral communities of equal status, 10
  - comity of, 372, 375
  - European family of, 359
  - family of, 104
  - law of, 170, *see* law of nations
  - principle of universality of, 105
  - self-perfection of, 198
- nation-state(s) 159
  - African, formed and governed on European models, 208
  - as aim of decolonisation, 212
  - European, 176
- nationalism, 82, 92, 163, 309
- nationality, 359–60, 373–4
  - acquisition and loss of as involving the state, 373
  - as a political bond, 15
  - as connecting factor governing an individual's legal status and capacity, 372
  - campaign to abolish dependent, for married women, 374
  - public international law concept of, 372
- nationhood, 348
- natural law 218, *see* law, natural
- naturalism, 110, 117, 119
- naturalization
  - as privileging men, 374
- nature, 46
  - as context of eighteenth-century international law, 81
  - early modern understandings of, 341
- Nauru, 302
- navigation, 181, 286, 304
- Nazi Germany, 132, 141
- Nazi party (NSDAP), 140, 148
- Nehru, Jawaharlal, 112
- neighbours, 240
- neoclassical economic theory, 313
- neoliberalism, 89, 300
  - rise of, 52
- Netherlands, 56, 61
- New International Economic Order (NIEO), 300, 305–6
- New World, 12, 66
  - contribution of conquest of to economic growth of Europe, 207
- New Zealand, 196, 257
- Nicaragua, 206
- Nietzsche, Friedrich, 40, 46, 100, 135
- Nkrumah, Kwame, 220–1
- North Africa, 368
- North America, 46
- North Atlantic, 43, 93
  - interventions of in Africa, 84
- novel(s), 20
- Nuremberg, 106, 113, 117, 120–1, 131, 134
- Nussbaum, Arthur, 61
- Nyerere, Julius, 223–5
- Nys, Ernest, 61
- obedience, 151
  - limits of, 180
- obligation, 15, 378
  - absolute, 15
  - absolute, contrasted with comity and courtesy, 376
  - as underwritten by ideals of masculinity, 376
  - binding, between states, public international law concept of, 372
  - international, 372
  - religious, 11
- occupation, 160–2, 174, 182
  - effective, 57
  - institution of within *ius publicum Europaeum*, 183
  - military (*occupatio bellica*), 166, 170
  - mixed (*Mischbesetzung*), 170
  - of Belgium, 168

- occupation (cont.)
  - peaceful (*occupatio pacifica*), 166, 170
  - sovereignty during, 167
  - theories of, 182
  - theory of (Schmitt), 184
  - of the Rhineland, 9, 160–5, 172, 176, 178, 180–2, 186
- occupier
  - sovereign will of, 185
- ocean. *see also* seas
  - as a commons, 286
  - as an intensely juridified space, 290
  - as now entirely legally incorporated, 308
  - as unoccupiable, inexhaustible, unalterable
    - by human activity and irreducible to private ownership or state sovereignty (Grotius), 286
  - constitution of the (LOSC), 287
  - irreducible to territorial jurisdiction, 286
  - legal lines delimiting, 292
  - policing of, 286
  - states claiming exclusive sovereign rights
    - over parts of (post-1945), 287
  - threat of depletion, 285
  - utopian projects for building human habitats
    - on, 288
- Old World, 12
- ontology, 321
- opinion, public, 261
  - use of the rhetoric of by League of Nations Secretariat staff, 265
- Opium War, *see* War(s), Opium
- Oppenheim, Lassa, 113, 259
- orality, 6
- order
  - ideal global, 140
  - international, 152
  - global, 93
  - legal, 1
  - liberal global, 94
  - liberal international, 92
  - post-war liberal, 93
  - universal international, 111
  - absence of meaningful post-war (Schmitt), 134
  - conceived of as organized unequally around sovereignty, territoriality and comity, 378
  - precariousness of a law-based, 158
- order, international legal,
  - constitutional position of United Nations in, 274
  - progressive universalization of, 75
- order, political
  - quest for the ‘concrete’ grounds of, 110
- orders
  - legal, 109
  - national legal, 15
  - transnational, 139
- orders, legal
  - personations of, 259
- Orders, mendicant, 240, 243, 248
- Orford, Anne, 2, 4, 60, 70, 77, 192, 274–5, 277, 357–8, 368
- organisations
  - as sites of social control, 11
  - international, 11, 74, 140, 171, 254, 274–5, 278–80
  - new forms of, 321
  - non-government (NGOs), 265
- origins
  - narratives of, 4
  - relativism of normative power of historical, 57
  - search for, 105–6
- pacifism, 140, 146, 150
  - as effeminate, 376
- pacta sunt servanda*, 65
- Pagden, Anthony, 239, 365
- Pal, Justice Radhabinod, 121
- palace, 26
  - as institutional site of political discourse, 31
- pan-Africanist thought, 215
- Panama, 175
- pan-Asian thought, 215
- pan-Islamic thought, 215
- Papacy, 107
- paradiastolic redescription
  - as political action, 315
- paradigm, 319, 324, 327, 331
  - concept of (Kuhn), 316, 318
- paratext
  - as a zone of transmission and transaction, 27
- Pardo, Arvid, 298
- parenthood
  - as a legal and social institution under Roman law, 353
- parents
  - command to honour both (Decalogue), 346
- parliament, 26, 136
  - as institutional site of political discourse, 31
- parliamentary representation, 133

- past, the, 3, 5–7, 15, 19–20, 31, 41, 73, 107, 116,  
311, 357, 364  
ability to learn from, 78  
as stories, 6  
juridical and historical methods of critically  
engaging, 277  
meaning in, 40  
narratives of, 16  
popular accounts of, 112  
readings of as fundamental to critical  
perspectives on the present and the future,  
208  
*patria potestas*, 346, 350, 352, 355  
patriarchy, 91  
patricide, 352  
peace, 7, 51, 57, 65, 67, 74, 90, 93, 103, 112, 152,  
154, 159, 178, 202, 376  
debates on perpetual, 67  
enforced (*Diktatfrieden*), 163  
offenses against international, 203  
progress towards global, 133  
*realpolitik* of, 146  
settlement, 256, 261  
through law, 257  
treaty, 152  
universalistic proposals for perpetual (Kant),  
150  
Peace of Westphalia (1648), 56, 60, 115  
peace-keeping, 203, 258, 275  
peace-making, 50, 55  
peoples  
indigenous, 84  
legal recognition of colonised, 58  
mandatory, 255  
movement of across the world, 214  
multiple allegiances of, transcending  
borders of states and empires, 214  
occluded, 104  
of the South, 84  
poor, 301  
Permanent Court of International Justice, 146  
personal status law, 364  
personality, 257, 259  
artificial, 11  
group, 259  
international legal, 260  
legal, 254, 258–9, 262  
split, 322  
personhood, 11–12, 321–2  
person(s), 9, 11, 320, 329  
legal, 260  
theorization of, 11  
Peru, 72  
Philippines, 56, 58  
philology  
historical, 45  
political-philosophical, 45  
philosopher(s), 55, 61, 275, 355  
and politics, 133  
philosophy, 23, 34, 36, 41, 66, 103, 116, 141–2,  
309, 314  
ancient, 347  
as a politics of truth (Foucault), 40  
as creative of new meaning, 40  
dialogue with history, 40  
histories of, 41  
moral and religious, 35  
political, 33  
piracy, 106, 115, 286  
Plato, 243, 346  
pluralism, 10, 14, 90, 92, 259  
as international not domestic, 154  
legal, 367  
pluriverse, political world as a, 139  
Pocock, John, 23, 25, 41, 330  
poetic technique, 116  
poetics, historical and legal, 6  
poetry, 37, 47, 117  
poiesis, 40  
Poland, 104  
political economy.  
history of, 66  
political realism, 32  
political scientists, 79  
political theory, 106, 180, 191, 309, 311  
political thought, 10  
European, 158  
global history of, 2  
historians of, 46, 191, 277, 314, 316, 341–2  
importance of sexual and conjugal  
dimensions in, 354  
limits of, 12  
medieval, 44  
realist, 9  
Secretariat of the League of Nations as a site  
for, 275  
political thought, history of, 2, 3, 5, 7, 15, 21,  
26–9, 27, 34–6, 40, 42–3, 46, 65, 185, 191,  
210, 314  
'international turn' in the, 19, 208  
as an act of political thinking in the present,  
21

- political thought, history of (cont.)  
     Cambridge school of, 23, 27  
     contextual, 23, 29–30, 32, 37  
     dialogue with history of international law, 31  
     evolution of as a discipline, 40  
     global, 37  
     history of itself as a stand-in for ‘history’, 22  
     in the African present, 226  
     Janus-face of, 47  
     *longue durée*, 47  
     new histories of, 16  
     philosophical, 41  
     realist 35  
     temporality of, 22  
     twentieth-century, 47  
     view of law, 42  
     writing of, 33
- political, the, 14–15, 35  
     as contracted, 341  
     autonomy of, 35  
     construction of as a construction of power, 40  
     constructions of, 9, 41  
     historicity of, 38  
     history of, 38  
     Indian, 38  
     theorization of, 9
- politicians, 78, 162
- politics, 1–2, 8, 10, 16, 23–4, 28, 30–5, 46, 64, 76, 94, 115, 257  
     absence of in Alexandrowicz’s legal historical argument, 195  
     agent-centred model of, 32  
     and the political, distinction between, 35  
     as being constructed in opposition to the social or the private, 342  
     as outside expert rule, 94  
     as political action to increase power, 7  
     as within *Allgemeine Staatslehre*, 159  
     boundaries between economics and, 12  
     conflictual as driver of linguistic innovation, 38  
     contemporary global, 71  
     differences between ‘man’ and ‘woman’ in, 342  
     different concepts of, 48  
     domestic, 32  
     early modern narratives of the emergence of, as gendered, 342  
     role of international legal doctrines in, 69  
     Hobbesian vision of, 36  
     imperial, 35  
     insistence on separation of law from, 307  
     international, 32, 42  
     legitimacy as defining characteristic of, 24  
     modern global, 139  
     of action, 41  
     of legitimation, 26  
     of the text, 41  
     patriarchal, 14  
     place of law in construction of, 31  
     practitioners of real, 10  
     real, 32  
     realist vision of, 7
- polity/polities, 1  
     Amazonian, 355  
     as centred on male citizens/subjects, 342  
     Christian, 16  
     early-modern understandings of, 341  
     peripheral, 257
- poor, the  
     authority to coerce and imprison, 248  
     care of in hospitals, 249  
     debates about rights and freedoms of in sixteenth-century Europe, 243  
     distinction between real and voluntary, 241  
     freedom of movement of, 248  
     global legal immobility of, 73  
     having access to things of necessity via charity not as a right, 247  
     natural rights of (Soto), 244  
     seen as enemies rather than honoured guests, 234
- pope, 81, 240
- papal,  
     encyclicals of as part of history of international law, 65
- populism, 92–3, 95
- Portuguese, 198, 222
- positivism, 65, 70, 87, 102–3, 105, 110, 117–18, 185, 279–80  
     Eurocentric, 194, 198  
     historical, 38  
     legal, 171
- possession  
     right of, 239
- postcolonialism,  
     feminist critiques of, 358
- postmodern, 40
- postmodernism, 6

- poverty, 11, 89, 206, 233  
     as a sacred condition within the Christian tradition, 243  
     criminalisation of, 243  
     of Christ as model for mendicant orders, 243  
     valorised by mendicant orders, 243
- power, 7, 11, 16, 31–3, 39, 70, 73, 83–4, 89, 92–3, 109, 321  
     absolute paternal (Filmer), 345  
     as context of nineteenth-century international law, 81  
     as operating through international legal concepts and institutions., 362  
     as without gender, 356  
     balance of, 73, 109  
     colonial, 88, 177  
     construction of, 40  
     context for exercise of, 76  
     discursive, 39  
     distribution of state, 303  
     dynamics of movement and, 252  
     gender relations as a way of signifying or structuring legal, 357  
     hegemonic, 93  
     historian's relationship with, 40  
     human will to, 143  
     international organisations as important sites of, 274  
     law as challenge to and product of, 62  
     legal construction of, 93  
     legitimation of political, 341  
     location of in concept to hospitality, 244  
     military exercise of as 'factual' validity of authority, 166  
     moved from poor to rich in sixteenth-century Europe, 246  
     new institutions for the exercise of, 322  
     occupying, 181  
     of master over slave, 25  
     political, 25, 35  
     private, 88–9, 93–4  
     public as different from violence in a private capacity, 35  
     realities of, 36  
     relationship between law of sovereignty and law of property as 'yin and yang' of global (Koskenniemi), 362  
     role of in history of international law, 65  
     role of in the ascendancy of certain legal norms or institutions, 192  
     sovereign, 34, 42, 170, 172  
     supreme (*sumum imperium*), of mothers over children in the state of nature, 343  
     to command, 32  
     transfer of in decolonisation, 212  
     withdrawal of administering, 59
- practice, 6  
     international legal, 49
- practices  
     legal, 63
- pragmatics, 27
- pragmatism, 91, 103, 306
- precedent, 73, 75
- present, the  
     requirements of, 106
- presentism, 122
- prestige, 89
- principle of self-determination, 194
- private, 2, 4, 89–90, 342, 363  
     boundaries between public and, 12  
     separation of, from public, 371
- private ownership, 86  
     ocean as irreducible to, 286
- private property, 312, 333
- processes, legal  
     as themselves sites for creating or dismissing law, 307
- profession  
     as context, 77
- professionalisation, 103
- progress, 7, 51, 75, 156, 158, 215, 219  
     modern concept of (Koselleck), 334  
     technological, 146  
     theory of, 329
- progressivism, 51  
     reformist, 52
- property, 89, 305  
     agriculturalist account of, used to defend settler colonialism (Vattel), 196  
     as basis for order, 151  
     as part of *ius gentium*, 67  
     discourse of, 232  
     division of (*divisio rerum*), 239  
     in religious orders, 251  
     law of, 361  
     of the marine environment, 293  
     private, 67
- protection, 151, 175  
     protection of, 155  
     reform of colonial arrangements, 307  
     right to common, under the law of nations, 239

- protection (cont.)
  - transmission of, 15
  - protectionism, 74
- protectorate, 175
- Protestantism, 61, 65, 84, 329, 369
- Prussia, 131, 149, 196
- psychology, 33–4, 150
- public, 2, 4, 14, 25, 342
  - boundaries between private and, 12
- public domain, 25
- public good(s) 310
- public opinion, 264, 272
  - as sanction against lawbreakers, 376
- public order, 175
- public spaces, 31
- public/private dichotomy, 362
- Pufendorf, Samuel von, 105, 197
- race, 366
- raison d'état*, 14, 65, 158, 309, 311
- Rajagopal, Balakrishnan, 115
- rape, 377
- rational choice theory, 311
- rationality, 141
- readers/ audiences, 113
- reading
  - deconstructive techniques of, 27
- realism, 3, 7, 32, 34, 37, 62, 67, 108–9, 143, 151, 158, 272, 306
  - American, 110
  - as a paradigm of history, politics and law, 7
  - critical, 40
  - legal, 50
  - political, 33–4, 37–8, 42, 111
  - structural, 106
- realities, 108
- Realpolitik*, 79, 316
- reason, 246
  - expert and public, 76
  - universal, 88
- reason of state, 309
- reason, professional and public, 71
- Rechtsstaat*, 163
- redescription, critical, 71
  - in legal thought, 71
- reductionism, 314
- Reformation, 330
- reformism, 94
- refugees, 73
- relations
  - between the 'natural' and the 'political', 15
  - interstate, 15
- relations, international, 69, 152–3, 202, 232
  - as an academic discipline, 7, 50, 64, 74, 101–2, 143, 206, 261, 276, 310, 358, 378
  - hegemonic realities of, 153
- relations, transnational private
  - removing legal obstacles to, 363
- relationship, parent–child
  - as dependent on issue of providing food, 353
- relativism, 327
- religion, 82, 87–8, 90, 142, 203, 249, 366
  - in dialogue with history, 38
- Renaissance, 376
- reparations, 162, 164, 168
- representation, political, 180
- res publica*, 347
- resistance, 77, 92
  - legal and political, 45
  - political, 45
  - passive, 164
- resources
  - allocation of, 13
  - allocation of, to invention, 318
  - allocation of, to production, 335
  - claims legal subjects have to, 67
  - consumer-led allocation of, 312
  - deep seabed petroleum, 299
  - free movement of, 73
  - hierarchy of distribution of (Augustinian Rule), 241
  - ocean, 285, 289
  - optimal allocation of, to research and development, 337
  - rights to access, 11
  - role of law in distribution of, 66
- resources, linguistic and cultural
  - unfamiliar deployment of, 316
- resources, natural, 248, 289, 291, 303
  - appropriation of, 240
  - regimes for, 293
  - right to, 239
- Responsibility to Protect (R2P), 206
- revisionism, 72
  - third world historical, 89
- revolution, 30, 319, 326–7
  - moments of as vantage points to observe history at its most vivid, 114
  - right of, 180
  - transformative moments of, 114

- revolution, scientific, 324
  - theory of (Kuhn), 319
- rhetoric, 28
- Rhineland, 160, 162–3, 169, 172, 176, 178, 186
  - occupation of the, 178, 180–1, 186
- Ricoeur, Paul, 21
- rights,
  - civil, 365
  - contractual, 68
  - creation of as distinct from existence of, 57
  - human, 65, 67, 74, 82, 85, 87–9
  - in family relations, 68
  - land, 68
  - language of, 244
  - natural, 142
  - of nationals in foreign territory, 57
  - private, 116
  - reality of vested legal, 306
  - sovereign, 82
  - system of intervention, 178
  - universal (to elect one's own government), 234
- Rousseau, Jean-Jacques, 65, 67, 184
- rule, emergency, 154
- rulers
  - as trained in the legal academy, 71
  - female, 355
  - Muslim, 198
- rulership, 71–2, 76
  - as elite articulation, 75
  - colonial, 369
  - expert, 75
  - managerial, 75
  - training for, 76
- rules, legal, 50
- Russia, 108, 115, 269, 365
- Rwanda, 113, 120
  
- Saint-Pierre, Charles-Irénée Castel, abbé de, 67
- Salamanca, School of, 77
- San Domingo, 175
- sanctions, 295
- satire, 26
- savages
  - as excluded from protections of the law of war, 83
- Savigny, Friedrich Carl von, 49, 372
- Scelle, Georges, 260
- Schachter, Oscar, 55
- Schelling, Friedrich Wilhelm Joseph von, 146
- schematism, 314
- Schmitt, Carl, 9–10, 12, 15, 44, 62, 104, 108, 110–12, 114–15, 132–7, 139–48, 151–6, 158, 160–1, 163, 174–82, 184–6, 259, 271
  - anthropological assumptions of, 150
  - anti-Semitism, 134
  - as a German jurist, 136
  - as a politician, 140
  - as source for deconstruction of
    - contemporary international law, 159
  - construction of the state as one historically contingent political form, 139
  - Großraum* (great space), 152
  - importance of innate human aggressiveness, 149
  - importance of the exception/ extreme case, 138
  - influence of work on law-makers in
    - Germany, 142
  - intellectual formation of, 135
  - international thought of, 134
  - polemical concept of the state, 149
- scholars, 72, 212
  - Asian, 86
  - contemporary left-wing Schmittian, 187
  - European, 246
  - German, 258
  - legal, 276
  - modern conflicts, 371
  - third world, 301
  - Western, 86
- scholarship, 3, 97, 112, 132, 196
  - academic legal, used as propaganda in wartime, 133
  - as marred by present-mindedness, 357
  - contemporary international law, 91
  - early modern legal, 354
  - epoch-defining styles of, 108
  - feminist, 342, 344
  - feminist legal, 360
  - French, 260
  - German legal, 143
  - in common-law countries, 376
  - in context, 78
  - international academic, 142
  - international legal, 306
  - late medieval and Renaissance Roman legal, 44
  - legal, 35, 44–5, 137, 156
  - Methodenlehre* in German legal, 138

- scholarship (cont.)
  - nineteenth-century, 371
  - public law, 155
  - style of, 109
  - traditions of, 43
- scholasticism
  - fifteenth-century, 77
- Schumpeter, Joseph, 13, 310–14, 316, 319, 322–3, 325–8, 331–2, 335
- Schwarzenberger, Georg, 111
- science(s), 85, 94, 317
  - creativity in (Kuhn), 319
  - history of, 316
  - human, 320
  - legal, 91
  - natural, 325
  - philosophy of, 316
  - social, 111
  - tension between innovation and tradition in
    - the history of (Kuhn), 310
    - theory of (Kuhn), 317
- scientists, 319, 322
  - political, 344
- Scotland, 367, 369
- Scott, James Brown, 61
- scripture, 20, 23, 47
- sea(s), 110, 204
  - law of, 296
    - as an example of a tragic commons, 296
    - ecological protection of, 308
    - enduring political economy of the law of, 288
    - freedom of the, 293–7
    - idea of a free, 287
    - imagined as an assemblage of
      - jurisdictionally discrete sites of economic activity, 290
    - multilateral treaties concerning uses of the, 290
    - new law of the, 292, 303, 305, 308
    - old law of the, 293
    - political economy of the law of the, 293
    - protection of rights to access and use, 293
    - regulation of some uses of the, 287
    - sovereign jurisdictions at (piracy, fishing), 286
    - unconstrained use of, 293
    - uneven distribution of rights to access and use, 308
    - uses of the common areas of, 308
- Searle, John, 23
- secrecy, 148, 152, 263, 267
- secularism, 133
- self, the
  - as social, 371
  - conception of, 360
- self-determination, 65, 69, 74, 215
- self-government, 216, 219, 221, 311
  - dependent on having achieved a standard of civilization defined in terms of the modern West, 215
- self-identity, 360
- self-preservation
  - right of the political community to, 252
- self-rule
  - social contract of, 221
- shame, 92, 163, 220, 248
- shipping
  - list of instruments relating to, 290
- shipwreck
  - as a case of exception for poor relief/hospitality, 246
- Shotwell, James T., 144, 146
- Siam, 365
- siege, 161, 182, 185–6
  - military state of as distinguished from dictatorship, 179
  - ‘real’ military vs political ‘fictive’ state of, 177
- Skinner, Quentin, 13, 23–6, 28, 32, 36, 38, 43, 46, 78, 111, 113, 310, 314, 316, 319–21, 323–4, 327, 329–30, 342, 358
- slavery, 248, 365–7
- Smith, Adam, 67, 196, 203
- social assistance, 234
- social imaginary, 324
- social imaginary significations (Castoriadis), 325
- social interdependence, 76
- social theory, 312
- socialism, 335–6
- society, 4, 325
- sociology, 78–9, 92, 110, 150, 260, 268, 311, 327
- Socrates, 346
- solidarity, international
  - rise of, 378
- Somerset's Case* (1772), 366
- Soto, Domingo de, 244, 248
- South Africa, 58–9, 222
- South West Africa, 58–9
- South, the
  - emanipatory claims from, 85
- sovereign(s), 81, 89, 91, 105, 342



- as the origin and enforcer of law, 73
- as who decides on the exception (Schmitt), 139
- case for a unitary and supreme (Hobbes), 271
- constitutional limitations on, 168
- original claim of, 168
- territorial jurisdiction of, 168
- sovereign state(s) 242, *see* state(s), sovereign,
- sovereignty, 7, 12, 34, 56, 67, 70, 89, 103–4, 117, 124, 135, 141, 145, 164, 168, 171, 174, 185–6, 207, 209, 219, 222, 224, 257, 346, 378
- absolute, 142
- African, 209
- as a matter of military power, 81
- as consolidated power, 82
- as effective territorial jurisdiction, 183
- as part of collective life, 220
- as practices of government, 281
- as protection, 57
- as responsibility, 206
- as right to reject external interference, 221
- as source of law's authority, 81
- as the 'uninteresting leftovers of power' (Carl Schmitt), 174
- distinctions between formal claims to and actual territorial jurisdiction, 174
- during occupation, 167
- German over the Rhineland, 176
- illusion of, 103
- in formal juridical (and political) sense, 281
- juristic definition of (Schmitt), 139
- law of, 361
- legal, 167
- legal fiction of divided, mixed or suspended, 161
- mixed, 160
- nature of, 69
- of imperial state, 175
- of man over woman as God-given (Filmer), 345
- political, 160
- principle of, 152
- public, 67
- state, 62, 160, 184
- state territorial, 164
- state, as juristically fictive but historically and practically real, 172
- territorial, 57
- theorisation of, 255
- transformative potential of, 219
- Soviet Union (USSR), 317
- space
  - theorisation of, 132
- Spain, 11, 56, 61, 86, 109, 235, 238, 241–2, 244, 247–9, 251, 272
- speech
  - as animating principle of the League of Nations as a political actor, 269
- speech act(s), 7, 26–7, 29–30, 33–4, 39–42
- St Augustine, 240–1, 245, 271
- St Gregory, 244
- state, 2, 7, 9, 12, 33, 35, 57, 73, 89
  - 'natural', 14
  - as a conceptual frame, 10
  - as a legal institution, 184
  - as international 'person', 11
  - consequences of the gendered, 354
  - creation of, 15
  - duty of to protect its own people, 152
  - federal, 359
  - form of, 10
  - formation of, 8
  - interests of as exogenous to international law, 303
  - model of the Westphalian, 212
  - modern, 136
  - modern, ideology of, 37
  - nascent global, 84
  - postcolonial, 11, 15
  - right of to set own commercial policy, 12
  - sovereign, 34, 174
  - targeted for international intervention
    - imagined as helpless feminine victim, 368
  - totalitarian, 133
- state interests
  - as class interests, 304
- state of nature, 343, 349, 351, 354
  - as a state of war of men against women, 354
  - early-modern concept of, 341
- state sovereignty, 120
- state, modern
  - rise of, 309
- state, sovereign, 34, 174
- state, the, 15, 34, 42, 62, 139, 147, 319
  - as a contingent form, 228
  - as a historical phenomenon, 32
  - as a male entity, 342
  - as an artificial body, 341
  - as most mature political form for the exercise of violence, 148
  - as self-contained, 15

- state, the (cont.)
  - as the primary arena of politics, 32
  - conceptualisation of, 254
  - early modern ideas on the beginnings of, 348
  - Hobbesian view of, 32
  - international law and, 134
  - limits and jurisdiction of, 211
  - modern, 43
  - modern, as focal meaning of politics, 44
  - Nazi theory of, 132
  - nineteenth-century ideas of the emergence of, 342
  - power of, 50
  - public law theory of, 260
  - radical pan-African critiques of existing models of, 209
  - re-ordering of through choice of law and rules on jurisdiction, 371
  - seventeenth-century philosophy of, 342
  - shift the conventional focus current theories of, 275
  - space of as predetermined and limited, 42
  - theorisation of, 255
  - theorizations of, 14
  - Weberian view of, 24
  - Westphalian model of, 221
- states, 9–10, 15–16, 254
  - African post-colonial, 224
  - as analogous to reasoning, liberal individuals (Wilson), 261
  - as creatures in and of law, 276
  - as founded by fathers (Hobbes), 354
  - as legal equals but also global empires, 205
  - as legal equals regardless of size or power (Vattel), 197
  - Asian, 85–6, 200
  - Barbary, 201
  - collapsed, 88
  - contingency of, 211
  - creation of, 347
  - emergence of contractual relations between, 142
  - equality of in international realm, 203
  - European, 134, 145, 200
  - formation of, 10, 86
  - imperial nature of modern liberal, 192
  - inequalities of, 89
  - international order made up of free and equal independent, 213
  - jurisdiction of, 10
  - Latin American, 85
  - legal equality of newly decolonized, 197
  - liberal, 205
  - new post-colonial in Africa, 223
  - non-European, 104
  - obligation between, 360
  - plurality of allows for diversity or identity, 151
  - plurality of creates viability of, 151
  - postcolonial, 16
  - powerful, 93
  - sovereign, 86
  - sovereign will of, 258
  - spatially alien, 152
  - Third World, 86
  - universal equality of, 204
- states, colonial, 213
- states, confederations of [*Staatenverbindungen*]
  - legal nature of, 258
- states, developed
  - pioneer investor status of in seabed mining, 300
- states, developing, 206, 294, 296–302, 307, 360
- statebuilding, 355
- state-centrism, 371
- statecraft, 93
- statehood, 7, 257
- state-theory, liberal, 141
- status naturalis*, *see* nature, state of
- status, civil, 362
- stories/story-telling, 71, 73, 76
- stranger(s),
  - as both guest and enemy, 232
  - as enemy (Schmitt), 151
  - classical conception of hospitality as welcoming the, 241
  - the poor as, 234
  - welcoming of as a law of nature, 240
- strategy, 77–8, 91
- Strauss, Leo, 133, 150
- Strauss-Kojève dialogue, 133
- Strupp, Karl, 164, 170, 174, 178
- style, 6, 97, 109
  - as method, 110
  - as persuasion, 97
- Suárez, Francisco, 90
- subjecthood
  - interwar thinking on, 254
- subjects
  - acting on others, 321
  - royal, 368
- succession, 362

- suicide, 322, 327
- Switzerland, 196
- Talleyrand, Charles Maurice de Talleyrand-Perigord, 183
- Tanganyika, 213, 215–17, 220, 224
- Tanzania, 209, 211, 221, 223
- taxation, 285
  - reframing of as a duty of citizenship in post-colonial states, 221
- Taylor, Charles, 324–5
- technology, 133, 145–6, 158, 292, 300, 303, 305, 317, 327, 334, 336
  - investment in as a public good, 310
- teleology, 5, 30, 43, 55, 105, 110, 114, 119, 314
- temporality, 15, 22, 24, 39, 102, 311
  - modern, 46
  - of thought and of law, 21
- terra nullius*, 88
- territoriality, 24–5, 73, 378
  - absolute, 378
  - non-self-governing, 58
- territory/territories,
  - administration of ‘internationalised’, 256
  - administration of Ottoman, 256
  - annexation of, 176
  - colonial, 58
  - gaining de facto control over, 178
  - immediate change in sovereignty when occupied, 183
  - no part of ocean can be counted in any people’s, 286
  - occupied, 166
- terror
  - war on, 106
- terrorism, 111
- text(s)
  - and history of international law, 65
  - as acts, 28
  - fidelity to, 116
  - making historical sense of, 41
  - new editions of as new acts, 27
  - nineteenth-century legal, 60
- The Law of War and Peace*, 48
- theology/theologians, 55, 180, 355
  - political, 44, 133
- theorist(s),
  - feminist legal, 368
  - French post-Marxist, 324
  - legal, 275
  - political, 275, 342
  - social, 309
- theory,
  - feminist critiques of political, 358
  - feminist legal, 360–1
  - history of international legal, 79
  - normative claims of, 193
- theory–practice distinction, 2
- Third Reich, 111–12, 132
- third world, 70, 89
- Third World Approaches to International Law (TWAIL), 78, 86, 118
  - marginalization of histories by, 358
- Thirty-Years’ War, 60
- time, 101–3, 115
  - immemorial, 106
  - international law’s preoccupations with, 114
  - legal, 73
- totalitarianism, 140, 143
- trade, 63, 67, 88
  - effects of in history of international law, 365
  - right to (*ius negotiandi*) under the law of nations, 239
- trading companies
  - roles of in international law, 64
- tradition(s), 288
  - critical interpretive practice within, 79
  - enlightenment, 135
  - family, 86
  - historical, 81
  - intellectual or religious as context, 77
  - ‘law and context’, 79
  - scholarly, 106
- translation
  - cultural, 40
- travellers, 247
- treaties, 74, 114, 124, 256, 278, 303, 305, 362–3
  - as contested legal interpretations, 63
  - as instruments of anachronism, 125
  - as source of law, 279
  - as sources for international law, 113
  - bilateral, 290
  - international, 34
  - interpretation of, 53
  - inter-sovereign, 286
  - multilateral 290
  - obligations of, 178
  - of ancient Near East, 60
- Treaty of Paris (1898), 56
- Treaty of Utrecht, 109
- Treaty of Versailles, 103

- tribunal(s)
  - war, 134
  - human rights, 53
  - international, 4
  - international criminal (ICT), 84
  - war crimes, 113
- Trusteeship Territories of the United Nations,, 222
- truth, 39, 321, 329
  - historical, 186
- Tully, James, 39, 193
- Turkey, 58, 201, 365, 373
- TWAIL 86, *see* Third World Approaches to International Law
- tyranny, 180, 346, 355
- Uganda, 224–5
- uncertainty, 323, 326, 332, 337
  - as a political choice (Dobb), 335, 337
  - as an inevitable product of development driven by innovation, 325
  - as one of the wages of capitalism, 335
  - is the result of dynamic competition, 326
- United Kingdom, 299
- United Nations, 51, 53, 58–9, 73–4, 89, 105, 155, 214, 216–17, 222–3, 273–4, 277
- United Nations General Assembly, 206, 296–8
  - discredited use of resolutions of, 307
- United Nations Secretary-General, 301
- United Nations Trust Territory, 211
- United Nations Trusteeship Council (1947), 216
- United States of America, 50–1, 56, 61, 72, 84, 89–90, 92–3, 109–11, 131, 143, 152, 156, 161–2, 175–6, 178, 199, 205, 207, 268, 290, 294, 299–300, 317–18, 327, 335, 376
- Universal Declaration of Human Rights (UDHR) 215
- universalism, 109, 156, 194, 201–2, 204, 240
  - as based on the law of nature, 194
  - late-mediaeval, 109
  - legal, 197
  - moral, 191
- universality
  - claim to of international law, 71
- universities, 90, 136
  - as sites of socio-culturally authoritative discourse, 31
- utilitarianism, 50
- utopian, 52
- Vattel, Emer de, 10, 65, 68, 90, 102, 113, 194–6, 198–9, 202–5, 207, 213
  - as used by China, 200
  - mixed legacy of to twentieth-century international thought, 202
  - on commercial independence, 200
  - reception of his *Droit des gens* (1758) in early nineteenth-century British debates, 193
  - republican doctrine of, 198
- Versailles, 120, 135, 141
  - Peace Conference (1919), 112
  - Treaty of, 161–3, 172, 176
- Vienna Congress, 183
- Vienna School, 258
- violence, 32, 62, 141, 144–5, 148, 207
  - a global system dominated by empires as doomed to incessant (Bentham), 203
  - legitimate, 24
  - normalisation of, 40
  - literary, 122–3
- Vitoria, Francisco de, 65–6, 77, 81, 84, 90, 111, 118, 233, 238–42, 244–7
  - appeal to principle of hospitality, 238–40
  - facilitation of appropriation of natural resources, 239
  - right to hospitality as *ius communicandi*, 239
  - use of *ius negotiandi*, 239
  - normative, 315, 325
  - of elite rule, 93
  - of historicism, 309
  - of law as vector for significance of past events in the present, 280
  - of Protestant Christianity, 315
  - social, 325
- vocabulary(ies), 81, 257
  - choice of, 50
- war, 7, 50, 55, 57, 63, 67, 82, 90, 111–13, 139, 142, 144–5, 151, 156, 159, 161, 166, 170, 178, 311, 331, 362
  - abolition of, 178
  - against terrorism, 83
  - as a case of exception for poor relief/hospitality, 246
  - as lawful if hospitality denied, 242
  - as neither the purpose nor content of politics (Schmitt), 150
  - condition of, 349
  - civil, 141
  - criminalisation of, 145

- effects of on history of international law, 365
- enemy nationals as domiciliaries in time of, 373
- English maritime (total), 183
- Franco-Prussian, 177
- humanisation of, 103
- international laws of, 169
- just (*bellum iustum*), 65
- laws of, 118, 168
- of aggression, intellectual preparation of, 132
- on terror, 118
- outlawing of, 145
- perceiving the state through, 153
- prevention of as part of the work of the
  - League of Nations, 256
- purely state character of (Talleyrand), 183
- role for law in, 81
- state of nature as a condition of, 341
- the just, 65
- use of academic legal scholarship as
  - propaganda in times of, 133
- wars, 73
  - as a legitimate exercise of sovereignty, 145
  - as not authored by Great Men, 112
  - colonial, 207
  - introduction of in *ius gentium*, 355
  - just, 81
  - of decolonization, 206
  - trade, 89
- War(s)
  - Algerian, 207
  - American Revolutionary, 197, 202
  - Cold, 274
  - Napoleonic, 183
  - of Jenkins' Ear, 203
  - Opium, 199–201, 207
  - Seven Years', 202
  - Vietnam, 207
- war crimes, 118
  - law of, 117
- war crimes trials, 112
- war criminals, 120
  - German, 132
- warfare, 86
  - history of European, 60
- wealth, 11, 16, 89, 92–4, 313
- Weber, Max, 24, 32, 95, 149, 313, 315
- Wehberg, Hans, 140, 258–9
- Weimar, 114, 134, 141, 155
- West Indies, 197
- Westlake, John, 63, 374
- Westphalia, 102, 104–5, 156
- Wheaton, Henry, 115, 199, 201
- Wilson, Thomas Woodrow, 163
- Wittgenstein, Ludwig, 23, 41
- Wolff, Christian, 113, 197
- women, 364, 368–9
  - and the social contract, 354–5
  - as legal subjects or actors in international law, 357
  - as slaves in a pre-contract state of war, 354
  - as subjects of international law, 379
  - as subordinated by the civil law, 355
  - guataperas* community as basis of hospitals especially for, 251
  - historical subordination of, 14
  - in international law, 360
  - in matters of royal succession, 362
  - in the state of nature (Hobbes), 344
  - inclusion of in political life, 362
  - nationality of married, 362
  - position of, 2
  - repression of the traffic in, 256
  - rights of in international treaties, 362
  - role of in the emergence of civil government, 354
  - status of, 362
  - status of children born to enslaved, 362
- words, *see* language
- World Bank, 78, 89
- World War I, 117, 119, 135, 146, 155, 161, 255, 269
  - consequences of, 144
- World War II, 10, 74, 111, 117, 131, 150, 155–6, 159, 206, 266, 273
- writing, 6
  - conventions of historical, 41
  - history of political thought, 26
- Zasius, Ulrich, 350–2
- Zilliacus, Konni, 268–74, 276, 279