Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

A, B & Cv. Ireland, 147-48 Abebe, Daniel, 115-16, 167-68 Abkhazia, 28-30 Abraham Lincoln Brigade, 296 absolute immunity, China and, 272-75 accountability, treaty cooperation and, 50 - 54adjudication democracy and, 86-97 filing and settlement of claims, 86 International Court of Justice and, 87-91 Investor-State Dispute Settlement system and, 94-97 ITLOS rulings and, 91-92 WTO Dispute Settlement System and, 92 - 94Africa. See also specific African countries and institutionsassessment of democracy promotion in, 180-84 Big Man syndrome in politics of, 1-4 democracy promotion in, 161–84 preservative democracy support in, 297-300 regional organizations' role in 177n.208 Western influence on democracy promotion in, 166-67 African Charter on Democracy, Elections, and Governance (ACDEG) countries' incompatibility with, 169democracy promotion and, 182-83 establishment of, 23, 162-63 Rwandan violations of, 169-70 violations by countries of, 168

African Charter on Human and People's Rights, 167-73 East African Court of Justice (EACJ), 174 African Commission on Human and People's Rights African Court human rights cases and, 167 - 73establishment of, 163-64 term limits disputes and, 164-65 African Court on Human and People's Rights CCJ and influence of, 178-80 human rights cases and, 172-73 jurisprudence and challenges to countries by, 167-73 regional powers of, 182-83 African Peer Review Mechanism, 163-64 African Union, 2–3 democracy charter of, 23 democracy promotion by, 161 unconstitutional changes of government, focus on, 161-62 agency, democracies and dictatorships and problem of, 57 An Agenda for Democratization (Boutros-Ghali), 21-22 Ajavon, Sébastien, 170-71 Albright, Madeline, 294-97 Allee, Todd L., 86 American Commission on Human Rights, creation of, 128 American Convention on Human Rights, 109, 111-12, 119-20, 138-40 adoption of, 128-29

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

American Convention on Human Rights (cont.) conventionality control doctrine and, 139 - 40term limits disputes and, 140-41 American Declaration of Human Rights, 127 - 28American Jurisprudence through English Eyes: The Nightmare and the Noble Dream (Hart), 305-6 amparo (administrative remedy), 133-34 Angola, term limit amendments in 162n.139 Animal Defenders International v. UK, 150 - 51Anti-Bribery Convention (OECD), 300 - 2anti-globalism, rise of, 9-11 Aptiz Barbera, Juan Carlos, 110-12, 132 - 33Aptiz Barbera et al. v. Venezuela, 111-12, 136-37 Arab League, 121-23 Arab Spring failure of, 9 GCC and, 205-6 Argentina, human rights investigations in, 128 Armenia, EAEU and, 212 arms control treaties, US and Chinese resistance to, 282-83 Articles on State Responsibility, International Law Commission codification of, 84-85 ASEAN Charter (2007), 199-201 ASEAN Economic Community, 199-200 ASEAN Human Rights Declaration (2013), 201ASEAN Political-Security Community Blueprint, 201 ASEAN Regional Forum, 199-200 ASEAN Way, 200-1 Asia. See also specific Asian countries and institutionsabsence of international organizations in, 245-46 authoritarianism in, 198-203 Chinese leadership and dominance in, 264 - 65as emerging global power, 245-46 international order in. 286-87 Asian Infrastructure and Investment Bank (AIIB), 263-64

Association of Judges for Democracy (Asociación Jueces por la Democracia, AJD), 107–12 Association of Southeast Asian Nations (ASEAN), 198-203 Chinese influence in, 269 audience costs, adjudication and dispute resolution, 86 Australia ICJ adjudication and, 90-91 Investor-State Dispute Settlement system and, 95 authoritarian international law. See also liberal international law ASEAN and, 200-1 Asian regionalism and state-building and, 198 - 203Bolivarian Alliance for the Americas and, 207-8 Chinese role in, 216-19, 252 cyberlaw initiatives, 225-29 defined, 192-95 Eurasian Economic Union, 208-12 extradition and, 223-25 extremism and separatism norms and, 219 - 25GCC and, 203-7 layered institutional change and, 234-36 mimicry in, 195-97 repurposing of democratic tools and language in, 229-33 Shanghai Cooperation Organization, 212 - 16authoritarian multilateralism, 228-29 authoritarian regimes abuse of democratic forms by, 188-89 ASEAN defense of, 202 categories of, 54-56, 80-82 decline of ideology and, 188 democratization away from, 76-79 dyads and, 56-57 global capitalism and, 188 ICJ adjudication and, 87-91 intergovernmental organizations and, 98 - 101internal security under, 42-43 international law and growth of, 7-8, 45-49, 186-236 multilateral treaties and, 72-77 power and, 45-49 public-private flexibility in, 272-75

308

soft law and, 269-72

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

time horizons for, 39-41 transparency, 44-45 treaties and, 50-54 treaty registration and, 63-66 autocracy promotion, 47-48 backsliding regimes, 7, 296-97 African examples of, 183-84 ECtHR and, 151-53 European Union and, 157-58, 160-61 growth of, 105-6 human rights abuses and, 137-44 Hungary as example of, 148-49 incumbent takeovers and, 58-59 India as example of, 24-25 international law and, 289-92 preservative democracy support and, 297-300 regional responses to, 126-27, 132-37 Bahrain, 203-7 Baka v. Hungary, 148-49 Bali Democracy Forum, 127 Bandung Summit on Afro-Asian Solidarity, 198.268 Barrow, Adama, 1-4 Bashir, Omar al-, 165-66, 181-82 Belarus, 208-12 Belt and Road Forum for International Cooperation, 268 Belt and Road Initiative (China) bilateralism and, 267-69 democratic erosion and, 275-80 economic coercion and, 280-82 Eurasian co-prosperity and, 262-67 international law and, 267-75 soft law and, 269-72 treaty registration and, 63-66 Benin, African Court jurisprudence in, 170-71 Bentham, Jeremy, 117 Bernauer, Thomas, 93 bespoke expulsion process, EU proposal for, 160 - 61Betancourt, Rómulo, 128 Bharatiya Janata Party (BJP) (India), 25 Big Man syndrome, 1-4 Bilateral Investment Treaty (Germany & Turkey, 1959), 78-80 bilateralism Belt and Road Initiative and, 267-69 categorization of, 62-63

Chinese statecraft and, 252 democracy as driver of, 66-68 by democratic dyads, 63-66 extradition treaties, 223-25 human rights and, xiv-xv investment treaties, 70-71 labor agreements, 69-70 organizational complexity & dispute resolution, 67-68 preferential trade agreement participants, 72 Bilateral Labor Agreements, in Europe, 78-80 Bjørnskov, Christian, 80-82 Blakely, Jason 12n.24 Block-Lieb, Susan, 82-84 Blum, Leon, 296 Bolivarian Alliance of the Peoples of Our Americas (ALBA), 207-8, 234-35 Bolivia abuse of international law in, 188-89 judicial independence in, 110-12, 132 - 33term limits dispute in, 140-41 Boockman, Bernard, 85-86 Bork, Robert, 238-39 Boutros-Ghali, Boutros, 21-22 Bradford, Anu, 265 Breyer, Stephen, 239 Brighton Declaration, 150 Brunei, ASEAN accession by, 198-203 Bucaram, Abdala, 134-36 Burke-White, William, 282 Burkina Faso election rights violations in, 179-80 human rights cases in, 171-72 term limits dispute in, 165 Burma, Asian regionalism and, 198 Burundi, Republic of democracy promotion in, 173-77 elections rights violations in 177n.208 PSC sanctions in, 165-66 term limits disputes in, 175 Busch, Marc L., 93 Bush, George H. W., 242 Bush v. Gore, 239 Cambodia ASEAN defense of, 202

Chinese influence in, 269 Cambodian National Rescue Party (CNRP), 202

309

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

Cameron, David, 150 Cameroon, judicial independence violations in, 172–73 Carr, E. H., xiii, 27-28 carrots as democracy promotion tool determinants of democratic efficacy and, 114-16 EU accession, 160-61 Cascade Investments v. Turkey, 302-3 Cassese, Antonio, 19 Castro, Fidel, 207-8 Castro, Xiomara, 109-10 Catholic Integralism, 12n.24 Celmer case, 158-61 Central African Republic, PSC sanctions in, 165-66 Central Asian Cooperation initiative, 919-16 Chad term limit case in, 162n.139 war crimes prosecution in, 167-68 Charter for Democracy (2001), 119-20 Charter Liberalism, 35, 291 Charter of Fundamental Rights, Article 47, 154 - 57Chavez, Hugo, 110-12, 120-21, 234-35 Cheibub, Antonio, 80-82 Chile democratization in, 76-79 human rights investigations in, 128 Inter-American Court of Human Rights and, 131-32 Chilton, Adam, 69-70 Chiluba, Frederick, 162n.139 China absence of treaty registration in, 63-66 anti-corruption initiatives and, 300-2 Asian regionalism and, 198 authoritarianism in, 7-8, 11 COVID-19 response in, 26-28 cyberlaw initiatives and, 225-29 emerging international order and, 237 - 38extradition practices in, 223-25 extraterritoriality and statecraft in, 256-62 global hegemony of, 240, 245-52, 292 - 94global market access for, 42 international authoritarian law and, 216-19

international law and role of, 282-85 multilateralism embraced by, 240-44 neutralization of human rights initiatives in, 229-33 One Belt One Road initiative, 262-67 regime survival in, 39-41 repurposing of international law and, 252-56 Shanghai Cooperation Organization and, 212 - 16transparency and, 46 treaties as information source in, 51 Uighur minority persecution in, 230 - 31Venezuelan dictatorship and, 120-21 WTO membership, 14-15, 52-54 China Coal case, 273-74 China Development Bank, 263-64 China Export-Import Bank, 263-64, 275 - 77China-Latin American Forum, 268 China-Philippines Memorandum of Understanding, 270-71 Chinese Communist Party (CCP), resilience and stability of, 193-95, 238, 280 Chu, Samuel, 257-61 civilian dictatorships, 55-56 bilateral treaties and, 80-82 civil society actors, ECOWAS and, 178 claims, filing and settlement of, 86 classical liberalism, 12 Clear Risk of Serious Breach of fundamental EU values, 153-54 in Poland, 154-57 Clinton, Bill, 239, 242 club goods, regional provision of, 38-39 Club of Plant Lovers, 222 CMPort joint venture, 276 coercive economic diplomacy Chinese efforts in, 280-82 US-Chinese convergence on, 283-85 Cohen, Julie, 299-300 Cold War, authoritarianism and international law during, 190 collective action for democracy limitations of, 121-23 regional organizations and, 125-27 collective security doctrines, 190 Collective Security Treaty Organization, 216 collective self-defense, Warsaw Pact commitment to, 195-97

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

colonialism ASEAN and legacy of, 200 Asian regionalism and, 198 international legal system and, 190 Comecon, 190 Commission for Functioning and Restructuring the Judicial System (CFRJS) (Venezuela), 110-12 Commission on Unalienable Rights, 282-83 commitment theory of international law, 7 violation of judicial independence and, 136 - 37Commitment to Democracy protocol (UNASUR), 207-8 Committee of Ministers (Council of Europe), 151-53 Committee on the Elimination of Racial Discrimination, 205-6 Common Market (GCC), 204-5 Commonwealth of Independent States (CIS), 208-12 Shanghai Cooperation Organization and, 216 Commonwealth of Independent States (CIS) Election Monitoring Organization, 232-33 Community Court of Justice (CCJ) (Africa), 177 - 80Community of Democracies proposal, 294 - 97Compaoré, Blaise, 165, 179-80 Comparative Constitutions Project, 192-95 comparative law, margin of appreciation jurisprudence and, 146-48 competition, international incentivization of, 116 compliance with adjudication and dispute resolution democratic vs. authoritarian states, 87 ECtHR jurisprudence, compliance with, 150ICJ decisions and, 90-91 conflict African regional democratic efforts and reduction of, 181-82 democracy and, 31-37 ECOWAS role in prevention of, 177-80 extraterritoriality and, 260-62 Gulf Cooperation Council and, 205-7 Confucianism, Chinese statecraft and,

Confucianism, Chinese statecra 248–50 Congo, multistate conflicts in, 181-82 Congress of Vienna, 190 Constitutional Court v. Peru, 133-34 constitutional structures African threats to, 161-62 African Union focus on, 161-62 authoritarian threats to, 134-36, 192-95 Chinese Belt and Road initiatives impact on, 278–79 courts and, 23–24 in Latin America, 140-41 Constitutional Tribunal (Camba Campos et al.) v. Ecuador, 134-36 Constitutive Act of the African Union. Article 30, 161-62 constructivist school, determinants of democratic efficacy and, 113-14 Conte, Lansana, 162n.139 Continent of International Law (COIL) project, treaty-making and, 66-68 "The Contribution of Development to the Enjoyment of All Human Rights" (Chinese resolution on), 254-55 conventionality control, judicial doctrine of, 130-31, 139-40 Convention on Countering Extremism, 919-95 Convention on Counter-Terrorism, 219-25 Convention on the Elimination of Racial Discrimination (CERD), 75-77 Convention on the Rights of the Child (CRC), 75-77 Conventions on Discrimination against Women (CEDAW), 75-77 cooperation international law and, 47 liberal order and, 285 Shanghai Cooperation Organization efforts and, 212-16 through treaties, 50-54 Cooperation and Verification Mechanism (EU), 160-61 Correlates of War project on Intergovernmental Organizations (IGOs), 97-98 corruption authoritarian international law and, 219 common efforts to stem, 300-2 democracy and, 23-24 cosmopolitanism

democracy and international law and, 4-9

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index More Information

Index

cosmopolitanism (cont.) extraterritoriality and, 260-61 Kant and, 31-33 liberalism and, 13 public law and international law and, 18 - 19costliness of treaties, 50-51 Cote d'Ivoire, African Court electoral jurisprudence in, 169, 171 Cottiero, Christina, 98-101 Council of Europe, 144-45 democracy protections and role of, 151-53 ECtHR and, 145-46 Council of the International Civil Aviation Organization, 90 "Countering the Use of Information and Communications Technologies for Criminal Purposes" (UNGA resolution), 226 - 29coups African statistics on, 181-82 African Union focus on, 161-62 Court of Eurasian Economic Union, 209 Court of Justice of the European Union, 211 Court of Punishment of Economic Crimes and Terrorism(CRIET), 170-71 Court of the Eurasian Economic Community (EURASEC), 210 court systems, authoritarian abuse of, 188 - 89Covenant of the League of Nations, treaty registration in, 64n.5 COVID-19 pandemic, backlash against liberalism and, 14-15 Creamer, Cosetts, 85-86 Crimea, annexation of, 28-30 crisis governance, democracy and, 26-28 cross-border political organization, Bolivarian Alliance for the Americas and. 207-8 cross-fertilization, regional institutions and, 125 - 27cryptocurrencies, international law and, 301 - 2Cuba Bolivia and, 207-8 human rights investigations in, 128 neutralization of human rights initiatives bv. 231 sanctions against, 119-20

Venezuelan dictatorship and, 120-21

Customs Union (GCC), 204-5 cyberlaw initiatives authoritarian international law, 225-29 preservative democracy support and, 299-300 Daly, Tom, 130-31 damage awards, incentivization of democracy through, 117-18 Davos Man mythology, 14-15 debt restructuring, Chinese Belt and Road Initiative impact on, 275-80 Deby, Idriss, 162n.139 Declaration on Friendly Relations Among States, 218 Declaration on Organization of African Unity, 161-62 Declaration on the Principles of International Law Concerning Friendly Relations and Cooperation Among States, 216-19 Declaration on the Promotion of International Law, 216-19 decolonization, Asian regionalism and, 198 democracy promotion and protection adjudication and dispute resolution and, 86-97 in Africa, 161-84 African Court on Human and People's Rights jurisprudence on, 167-73 ASEAN ambivalence concerning, 201 authoritarian repurposing of language and tools of, 229-33 Chinese Belt and Road Initiative and erosion of, 275-80 collateral international laws and, 302-4 compliance with adjudication and dispute resolution and, 87 defense of, 26-28 dyads and, 56-57 ECHR and ECtHR support for, 144-53 ECOWAS rule in, 177-80 European Union support for, 153-61 future threats to, 285, 289-92 governance technology and, 192-95 group beneficiaries in, 39 growth of authoritarianism and, 186-92 Inter-American Court of Human Rights defense of, 132-37 intergovernmental organizations and, 97-98 International Court of Justice and, 87-91

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

international law and norms of, 4-9, 16-20 international organizations and institutions and, 16-20, 47, 97-101 international protection for, 7 Investor-State Dispute Settlement system and, 94-97 lawmaking and, 82-86 liberalism and 11-16 markets and, 11-15 measurements of, 61-62 mechanisms and tools for, 112-21 multilateral treaties and, 72-77 nationalist resurgence and, 9-11 power and, 45-49 preservative democracy support, 297-300 regime survival and, 37-39 regional organizations and, 105-6, 125-27 rise of populism and, 9-11 time horizons for, 39-41 transparency and, 43-45 treaty ratification and, 50-54, 65-66 Trump's attack on, 244 war and, 31-37 working definition of, 20-26 WTO Dispute Settlement System and, 92-94 Democratic Governance and International Law (Fox & Roth), 104-5 democratic transitions authoritarianism and, 28-30 time horizons for, 39-41 democratizing nations, treaty adoption and, 76 - 79Deng Xiaoping, 46, 52-54, 259, 264-65 dependency theory, international law and, 17 - 18Derrida, Jacques, 26 detention, right to freedom from, 171-72 developing countries Chinese Belt and Road Initiative and erosion of, 275-80 international law and, 17-18 dialogue and mutual respect framework, authoritarian international law and, 235-36 dictatorships bilateral treaties and, 80-82 Chinese model of, 238 democratic institutions as benefit to, 188 - 89

dyads and, 56-57 exploitation of liberal openness by, 299 - 300global capitalism and, 188 group beneficiaries in, 39 ICJ adjudication and, 87-91 international organizations and institutions and, 16-20, 47, 97-101 Investor-State Dispute Settlement system and, 94-97 judiciary targeting under, 110-12 power and, 45-49 time horizons for, 39-41 transparency and, 43-45 treaty cooperation and, 50-54 WTO Dispute Settlement System and, 92-94 dispute resolution audience costs in, 86 authoritarian models for, 235-36 Chinese versions of, 265-66, 269-72 continuous vs. discontinuous disputes, 93 - 94democracy and, 86-97 EAEU and, 209 filing and settlement of claims, 86 International Court of Justice and, 87-91 Investor State Dispute Settlement (ISDS) system, 94-97, 302-4 ITLOS rulings and, 91-92 third-party resolution, transparency and, 44-45 WTO Dispute Settlement System and, 92 - 94Dlamini-Zuma, Nkosazana, 165-66 domestic politics ASEAN and, 200 ASEAN noninterference in, 200-2 Chinese Belt and Road Initiative impact on, 275-80 Chinese statecraft and, 245-52 democracy promotion and, 292-94 ECtHR jurisprudence and, 148-49 human rights abuses in incumbent takeovers and, 137-44 Inter-American Commission review of, 130-32 Inter-American Court of Human Rights jurisprudence and, 132–37 international behavior and, 29-30 international law ratification and, 44 - 45

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

> domestic politics (cont.) international legal institutions and, 117 - 18international support for structures in, 115 - 16judicialization of, 141-43 liberal theory and, 33-37 limitations of sanctions and, 121-23 provision of public goods and, 114-16 US Supreme Court and, 238-40 WTO Dispute Settlement System and, 93 Dominican Republic democratization in, 76-79 dictatorship in, 128 Dos Santos, Jose Eduardo, 162n.139 Doyle, Michael W., 119 Draft United Nations Convention on Cooperation in Combatting Cybercrime, 226-29 Dreher, Axel, 85-86 Dryzek, John, 104-5 Duda, Andrzej, 157 Dulitsky, Ariel E., 130-31 Duterte, Rodrigo, 235-36 Dworkin, Ronald, 305-6 dvads authoritarian dyads, 80-82 bilateral treaties and, 70-71 democracy vs. dictatorships and, 56-57 domestic politics and dispute resolution and, 93 ICJ adjudication and involvement of, 87 - 91WTO Dispute Settlement System and, 92 East Africa Legislative Assembly (EALA), 176 - 77East African Civil Society of Organizations' Forums vs. Attorney General of Burundi, 175 East African Court of Justice (EACJ), 173 - 77"Eastphalia" ideology, rise of Asia and, 945 - 46East-West Street (Sands), xi-xii economic coercion, Chinese Belt and Road Initiative and, 280-82 Economic Community of West African States (ECOWAS)

assessment of democratic initiatives by, 180–84

court reforms by, 178

Index

democracy promotion and, 7, 15-16, 177 - 80democratic transitions and, 28-30 legacy of, 292-94 Operation Restore Democracy and, 2-4 preservative democracy support and, 297 - 300Protocol on Democracy and Good Governance, 169 term limit disputes and, 165 economic data, democracy vs. dictatorship, 43 - 44economic integration ECOWAS attempts at promotion of, 177-80 One Belt One Road initiative, 262-67 Ecuador coup attempts in, 138-40 judicial independence violations in, 134-36 effectiveness of democracy determinants of, 113-14 regional institutions and, 125-27 Egypt coup (2013) in, 165-66, 292-94 foreign investment laws in, 303 elections, right to participate in African Court jurisprudence concerning, 169 - 71authoritarian abuse of, 188-89, 232-33 Chinese Belt and Road Initiative and erosion of, 275-80 Chinese suppression in Hong Kong of, 257 - 59democracy and role of, 20-26 democratic governance and, 103-7 dispute resolution and accountability in, 97 EACJ jurisprudence involving, 176-80 European Convention provisions on, 149 Inter-American Court of Human Rights defense of, 132-37 international support for democratic structures and, 115-16 emergent analytics, international legal order and, 290 The Emerging Right to Democratic Governance (Franck), 103-7 Enlightenment, classical liberalism and, 12 Equatorial Guinea dictatorship in, 2-3 Westphalian system and, 3-4 equilibrium, democracy and role of, 112-13

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

Erdogan, Recep Tayyip, 218-19, 223-25, 302 - 3Erie, Matthew S., 266-67 Eurasian co-prosperity sphere, 262-67 Eurasian Economic Community, 208-12 Eurasian Economic Union (EAEU), 208-12 Europe, treaty ratification in, 78-80 European Arrest Warrant, 158 European Commission on Democracy through Law (Venice Commission), 116 procedures against Poland by, 154-57 term limits disputes and, 141-43 European Convention on Human Rights (ECHR) core articles of, 145-46 defense of democracy by, 144-53 judicial independence and, 148-49 margin of appreciation jurisprudence and, 147-48 political attacks on, 151 Protocol 1, Article 3 of, 149 European Council, 153-54, 158-59 European Court of Human Rights (ECtHR), 117 - 18defense of democracy and, 144-53 establishment of, 145-46 Inter-American Court of Human Rights and, 130-31 judicial independence and rulings of, 148 - 49political attacks on, 151 European Court of Justice (ECJ) EAEU Court and, 211 judicial retirement age reduction challenge in, 154-57 European Economic Commission, 208-12 European Parliament, backsliding of democracy and, 154-57 European Union (EU) accession as democracy carrot, 160-61 Chinese economic power and, 267-69 democratic regression and, 7 European Neighborhood Policy, 208 - 12populist protest against, 10-11 promotion of democracy and, 153-61 regulatory power of, 265 treaty for establishment of, 62-63 Venezuelan dictatorship and, 120 - 21

external institutions regional organizations as alternative to, 141 - 43sticks approach to promotion of democracy and, 116-21 extradition ASEAN and, 202 authoritarian international law and, 223-25 EU relief provisions concerning, 159-61 Extradition Law (Hong Kong), 256-57 extraterritoriality Chinese foreign policy and, 256–62 jurisdicational issues, 260-61 extremism authoritarian norms of, 219-25 cross-border cooperation and, 212-16 Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Government, 164-67 face recognition technology, Chinese export of, 279-80 fair trial, right to African Court jurisprudence on, 171-72 ECtHR jurisprudence and, 147-48 femicide, 24-25 Fidesz Party (Hungary), 148-49, 154 Fiji, democratization in, 76-79 fire alarm claims, in multilateral treaties, 72 - 77First Court of Administrative Disputes (Venezuela), 110-12 Five Principles of Peaceful Coexistence, 198, 216-19, 246-48 Foreign Corrupt Practices Act (US), 300-2 foreign investment, democracy promotion and, 302-4 Foreign Sovereign Immunity Act (FISA), 272 - 75France Lotus case and, 260n.76 Spanish Civil War and, 296 Franck, Thomas, 19-20, 103-7, 192, 939 - 33Franco, Francisco, 296 Freedom House democracy measurements, 61 - 62

ratings of countries in, 116

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

freedom of expression and association African Court jurisprudence on, 171-72 ASEAN and, 203 CCJ jurisprudence on, 178-80 democracy and role of, 20-21 democratic governance and, 103-7 ECtHR jurisprudence and, 150-51 Indian government restrictions on, 25 international investment law and, 302 - 4free trade agreements, EAEU and, 208-12 Free Trade Agreements, GCC and, 204-5 Free Trade Area Court (CIS), 210 Fujimori, Alberto, 133–34 The Function of Law in the International Community (Lauterpacht), xi-xiii The Gambia, 15–16, 28–30 dictatorship in, 1-4 ECOWAS role in, 177-78 human rights jurisprudence in, 167-68, 172-73, 178-80 intervention in, 119 Gandhi, Jennifer, 55-56, 80-82 Gartzke, Erik, 295 Gathii, James, 176-77 GCC Joint Defense Agreement (2000), 204 - 5GCC Security Agreement, 204-5 gender equality, democracy and, 24-25 General Agreement on Tariffs and Trade (GATT) domestic politics and dispute resolution and, 93 Most-Favored Nation principle, 72 WTO Dispute Settlement System and, 92 Georgia, democratic transition in, 28-30 Geremek, Bronislaw, 294-97 Ginsburg, Douglas, 238-39 Glenister v. President of South Africa and others, 23 - 24global capitalism authoritarian regimes and, 188 extraterritorial jurisdiction and, 260-61 liberal order and, 285 public-private flexibility and, 272-75 Goldsmith, Jack, 39 Gore, Al, 239 Grenell, Richard, 295-96 Grotius, Hugo, 33 Guaidó, Juan, 120-21

Guantanamo Bay renditions, 34-35 Guinea PSC sanctions in, 165-66 term limit amendments in, 162n.139 Guinea-Bissau, PSC sanctions in, 165-66 Gülen, Fethullah, 218-19, 302-3 Gulf Cooperation Council (GCC), 203-7, 234-35 Guo Wengui, 219 Gutierrez, Lucio, 134-36 Guzman, Andrew, 93-94 Habré, Hissène, 167-68 Haggard, Stephen, 98-101 Haiti, coup of 1991 in, 104 Halliday, Terence C., 82-84 Handyside v. United Kingdom, 146-48 "Harmonious Society," Chinese statecraft and, 248-52 Hart, H. L. A., 305-6 Hatch Act, 244 Hathaway, Oona, 118-19 hegemonic international law, 36 emerging international order and, 237 - 38United States and, 242 US-Chinese convergence on, 283-85 Hernandez, Juan Orlando, 139-40 Hill, Daniel, 75-76 Hirst v. United Kingdom, 150 Hoekstra, Peter, 295-96 Holder, Eric, 301 Hollyer, James, 43-44, 52-54 Honduras abuse of international law in, 188-89 electoral dispute in, 107-10, 119-20 human rights abuses and incumbent takeover in, 138-40 Inter-American Court of Human Rights and, 132-33 OAS suspension of, 117-19 outcasting sanctions against, 120 Hong Kong Chinese extraterritoriality in, 256-62 liberalism and, 15-16 Hong Kong Basic Law, 257-59 Huawei, 226, 265, 279-80 Hu Jintao, 247, 251-52 human dignity, international law and, 18-19 humanitarian intervention, liberal theory and, 35-37

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

human rights ASEAN and, 199-200 authoritarian repurposing of language and tools of, 229-33 backsliding by ECHR and ECtHR on, 151 - 53CCJ jurisprudence on, 178-80 Chinese repurposing of, 254-56, 283-85 cyberlaw and omission of, 226-29 democracy and, 24-25 East African Court of Justice jurisprudence and, 174-75 ECHR and ECtHR support for, 144-53 incumbent takeovers and abuse of, 137-44 international law and, 3-4, 114-16 Lauterpacht's advocacy for, xiii-xiv regional law cooperation on, 125-27 reservations about treaties for, 75-77 US and Chinese convergence on, 282-83 "Human Rights and Unilateral Coercive Measures" (UNGA resolutions), "Human Rights and Unilateral Coercive Measures.," 231 Human Rights Council, 229-33, 241-42, 254-56, 304-5 Human Rights with Chinese Characteristics ideology, 254-56, 282-83 Hume, David, 54-55, 59, 293 Huneeus, Alexandra, 128 Hungary authoritarianism in, 7-9, 15-16 ECtHR jurisprudence and, 148-49 EU response to populism in, 154 Hun Sen, 202, 269 Hug, Aziz Z., 20-21 Hurd, Ian, 37-38 Hurley, James, 277-78 Hussein, Zeid Ra'ad al-, 120-21 Huth, Paul K., 86 ideological pluralism authoritarian regimes and, 188 democratic governance and, 104-5 Ikenberry, John, 285 immigration law, international law and, 242-44 Immunities and Criminal Proceedings case, 301 imperialism

Asian regionalism and, 198 in China, 246 international legal system and, 190 incumbent takeovers African norms of democracy and condemnation of, 164-65 human rights abuses in Latin America and, 137-44 India Asian regionalism and, 198 democracy in, 25 individual responsibility international law and, xiii-xiv public law and, 18-19 Indonesia, authoritarianism in, 9 information, treaties as source of, 51 Ingabire v. Rwanda, 169-70 institutionalist perspective determinants of democratic efficacy and, 113 - 14international support for democratic structures and, 115-16 institutions African Court jurisprudence on integrity of, 169-70 authoritarian use of, 192-95 in China, 248-52 domestic politics and, 117-18 international organizations, 16-20, 47, 97 - 101networks of, 143-44 political conflict and, 112n.31 regional institutions, 125-27 sticks approach to democracy promotion and role of, 116-21 Inter-American Charter on Democracy, 22-23, 105-6 Inter-American Commission on Human Rights criticisms by, 130-32 Honduran electoral dispute and, 109 Peruvian judicial violations and, 133-34 Inter-American Court of Human Rights (IACtHR). See also specific cases involvingCCJ and influence of, 178-80 defense of democracy and, 132-37 establishment of, 128-29 Honduran electoral dispute and, 109, 117 human rights cases before, 130-32 judicial employment rights and, 132-37 judicialization of politics and, 141-43 populist protest against, 10-11 remedial creativity of, 131-32 Venezuelan cases before, 111-12, 136-37

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

Inter-American Democratic Charter, 120-21, 129-30, 138-40 Inter-American Development Bank, incentivization of democracy and, 119-20 Inter-American regional organizations, 127-44 intergovernmental organizations (IGOs) absence in Asia of, 245-46 African Court on Human and People's Rights and, 167-73 African democracy promotion and, 182 - 83Community of Democracies proposal and, 294 - 97democracies vs. dictatorships and, 97-98 preservative democracy support and, 297-300 internal security, authoritarianism and, 42 - 43Internal Security Pact (GCC), 204-5 International Centre for the Settlement of Investment Disputes, 302-3 International Commission of Jurists, 119 - 20International Convention for Regulation of Whaling, 90-91 International Convention for the Unification of Methods of Sampling and Analysing Cheeses, 62-63 International Convention on Civil and Political Rights (ICCPR), Article 25, 91-99 International Convention on the Elimination of All Forms of Racial Discrimination, ICJ adjudication and, 90 International Court of Justice (ICJ) adjudication and dispute resolution and, 87-91 Advisory Opinion on Genocide Convention (1951), 72-77 authoritarian representation on, 190 bindingness of treaties and, 63-66 corruption and asset recovery cases, 301 GCC complaints before, 205-6 Iran nuclear agreement and, 241 Lauterpacht's influence on, xiv-xv US Embassy relocation in Israel and, 241 - 42US pro-democratic military action and rulings of, 105

International Covenant on Civil and Political Rights (ICCPR) international support for, 291-92 Optional Protocol on human rights, 72-77 reservations concerning, 75-77 rights contained in, 103-7 International Covenant on Economic and Social Rights (ICESR), 75-77 International Criminal Court (ICC) African conflicts and, 181-82 authoritarian challenges to, 235-36 Trump's threats to, 241-42 US and Chinese misgivings about, 282-83 international development banks, incentivization of democracy and, 119 - 20international economic law, authoritarianism and, 191-92 international human rights movement, global liberalism vs. democracy and, 4-9 international investment law, 302-4 international law authoritarianism and, 186-236 Belt and Road Initiative (China) and, 267 - 75Chinese pragmatism concerning, 246-48, 252, 282-85 Chinese learning and repurposing of, 252 - 56democratic norms and, 4-9, 16-20, 101_{-9} "Eastphalia" ideology and, 245-46 emerging international order and, 237 - 38European influence in, 78-80 future threats to, 289-92 incumbent takeovers and human rights abuses and, 137-44 Kant's philosophy and, 31-35 Lauterpacht's legacy in, xi-xv lawmaking and, 82-86 mechanisms and tools for democracy and, 112-21 nationalist resurgence and, 9-11 preservation of democracy and, 8-9 protection of democracy through, 7 public goods vs. liberal perspectives on, 58 - 59regional cooperation on, 125-27 role of treaties in, 62-82

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

summary of features in, 48-49 tax havens and, 301-2 US-Chinese relations and, 282-85 US military activities and, 242 International Law Association, 190 International Law Commission authoritarian representatives on, 190 lawmaking by, 84-85 international legal order ASEAN and, 202 authoritarian regimes and, 188 Chinese impact on, 247-48, 252-56 domestic politics and, 117-18 future of, 289-92 lack of Asian participation in, 245-46 US-Chinese convergence on, 282-85 international organizations and institutions Asian regionalism and, 198-203 authoritarian models of, 232-35 Chinese learning and repurposing of, 252-56 democracy and, 16-20, 47, 97-101 dictatorship and, 16-20, 47, 97-101 ECOWAS and, 178 regional institutions and, 125-27 US undermining of, 240-44 international relations Chinese law and role of, 269-72 Chinese view of, 248-49, 251-52 realist theory of, 26-28 International Telecommunication Union (ITU). 226 The International Bill of Rights (Lauterpacht), xiii-xiv International Transport Working Group, 82 - 84International Tribunal for the Law of the Sea (ITLOS), 91-92, 216-19, 242-44, 269 International Whaling Conference, 90-91 intervention African nations' fear of, 183-84 Chinese opposition to, 253-54 sanctions as, 119 investment law, democracy and, 302-4 investment treaties bilateral treaties, 70-71 regional cooperation on, 125-27 US and Chinese convergence on, 282-83 Investor State Dispute Settlement (ISDS) system, 302-4

Investor-State Dispute Settlement (ISDS) system, adjudication and dispute resolution, 94-97 Iran China's Belt and Road Initiative and, 264 - 65ideological rhetoric in, 188 US relations with, 241 Venezuelan dictatorship and, 120-21 Iran Nuclear Agreement Review Act (2015), 241 Iraq war, 242 liberal theory and, 35-37 Islam, Saif al-, 167-68 Jackson, Robert, xiii Jammeh, Yahya, 1-4, 15-16, 23, 172-73 Japan China and, 246, 281 East Asian order and, 286-87 ICJ adjudication and, 90-91 Jawara v. Gambia, 172-73 Jo, Hyeran, 96 joining mentality, Chinese statecraft and, 253 - 54Joint Comprehensive Plan of Action (Iran nuclear deal), 241 Joseph Lemire v. Ukraine, 303 judges union, formation of, 107-12 judicial independence. See also specific cases involvingAfrican Court cases involving, 172-73 authoritarian abuse of, 188-89 CCJ rulings on, 178 Chinese legal system and, 266-67 Chinese threat in Hong Kong to, 257-59 democracies and, 109-10 ECtHR and, 145-46 EU mechanisms for, 157-58 incentivization of, 119-20 incumbent takeovers and, 138-40 Inter-American Court of Human Rights and, 132-37 international support for democratic structures and, 115-16 judicialization of politics and, 141-43 mutual enforcement and assistance strategies for enhancing, 158-61 Polish threats to, 154-57 sticks approach to promotion of, 116-21

judicial independence. (cont.)

Index

Venezuelan dictatorship and threat to, 110-12, 120-21, 136-37 weakness in Africa of, 183-84 jus ad bellum, 242 jus in bello, 242 Kaczyński, Jaroslaw, 121-23 Kaddhafi, Muammar, 167-68, 242 Kagame, Paul, 169-70, 235-36 Kant, Immanuel on democracy, 31-33, 42, 295 on republics, 6-7, 54-55 Katabazi v. Secretary General fo the East African Community, 174n.197 Kazakhstan EAEU and, 208-12 Shanghai Cooperation Organization and, 212-16, 223-25 Kelsen, Hans, Lauterpacht and, xii Kennedy, Anthony, 238-39 Kenva democracy promotion in, 173-77 EACJ jurisprudence in, 175 elections rights jurisprudence in, 176-77 Kenyatta, Uhuru, 181-82 Kim, Yong Kyun, 96 Kleptocracy Asset Recovery Initiative (US), 301 Koh, Harold, 242-44 Komu v. Tanzania Attorney General, 176-77 Konate v. Burkina Faso, 171-72 Korea, East Asian order and, 286-87 Korean War, 190 Koremenos, Barbara, 66-68 Koskenniemi, Martti, xi Kosovo crisis in, 41 military intervention in, 35-37, 242 separatism in, 221-22 Koštunica, Vojislav, 41 Kuwait, 203-7 Kyrgyzstan democratic transition in, 28-30 elections in, 232-33 Shanghai Cooperation Organization and, 212-16, 223-25 labor agreements Bilateral Labor Agreements, 78-80 as bilateral treaties, 69-70

Landau, David, 139-40 Laos, ASEAN and, 202 Latvia, democratization in, 76-79 Lauterpacht, Elihu, xi Carr and, 27-28 education and early career, xii publications by, xii-xiii Lauterpacht, Hersch (Sir), life and legacy of, xi-xv lawmaking and legislation democracy and, 82-86 EACJ jurisprudence on, 176-77 ECtHR jurisprudence and modifications to. 150 law of nations Kant on, 31-33 sticks approach to promotion of democracy and, 117 Lawyers Committee for Human Rights v. Swaziland, 172-73 layered institutional change authoritarian international law and, 234-36 China and, 247-48 League of Nations, China and, 246 legalist theory dispute resolution and, 96 international relations and, xiii-xiv Legislative Guide on Insolvency (UNCITRAL), 82-84 liberal international law. See also authoritarian international law Chinese challenge to, 252-56 cyberlaw initiatives and, 225-29 democracy and dictatorship and, 58-59 ECtHR and, 145-46 future threats to, 289-92 modern evolution of, 33-37 theoretical background, 13-14 liberalism backlash against, 14-15 basic principles of, 15-16 Chinese opposition to, 245 democracy and, 11-15, 28-30 democracy and dictatorship and, 58-59 future threats to, 289-92 Liberia, 177-78 Libva African Court jurisprudence on, 167-68 limits of sanctions against, 121-23 military intervention in, 35-37 US bombing of, 242

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

limitations clause, 146-48 Liu Xiabo, 280-81 López Lone, Adán Guillermo, 107-12, 132-33 Lotus case, 260 Lukashenko, Aleksandr, 160-61 Madagascar, PSC sanctions in, 165-66 Madsen, Mikael, 128, 151-53 Maduro, Nicolas, 120-21, 188, 208 Magnesite antitrust case, 273-74 Magufuli, John, 175 Malaysia, ASEAN and, 198-203 Maldives, 277, 281 Mali ECOWAS role in, 177-78 PSC sanctions in, 165-66 Malta, judicial independence in, 157-58 margin of appreciation jurisprudence ECtHR and, 146-48 increase in use of, 151-53 prisoner voting rights and, 150 maritime and shipping law, Chinese absolute immunity claims and, 274n.120 marketplace of political change, authoritarianism and, 188 markets authoritarian regimes and, 42, 188 democracy and, 11-15 international cooperation and, 114-16 Marrero Ortiz, Evelyn Margarita, 110-12 Martin, Lisa, 50-51 Mauritania, PSC sanctions in, 165-66 Maxwell-Fyfe, David (Sir), 144-45 May, Theresa, 151 McCain, John, 294-97 McNair, Arnold, xii Mearsheimer, John, 35-37 Media Services Act (Kenya), 175 Member States of the EU, violation of democratic principles by, 153-54 MERCOSUR, Venezuelan dictatorship and, 120-21 Mexico, human rights investigations in, 128 - 29military dictatorships, authoritarianism under, 55-56 Mill, John Stuart, 117 Milošević, Slobodan, 41 mimicry of international law, authoritarian regimes' use of, 195-97

Ming Dynasty (China), 249-50 minority rights, democracy and, 24-25 Model ASEAN Extradition Treaty, 202 Modi, Narendra, 25 Moiwana Village v. Suriname, 131-32 monadic trade disputes, WTO Dispute Settlement System and, 92 monarchy, authoritarianism under, 54-55 Mongolia, Chinese coercion in, 280-81 Morales, Evo, 140-41 Morales, Luisa Estela, 110-12 Moravcsik, Andrew, 13-14, 34-35 Morris, Scott, 277-78 Morsi, Mohamed, 165-66 Mo Sochua, 202 Most-Favored Nation principle, 72 Movement for Socialism (MAS) (Bolivia), 140 - 41Mueller, Robert, 225-29 multilateralism authoritarian neutralization of, 229-33 Chinese Belt and Road Initiative and, 269 democracy promotion and preservation and, 304-5 incentivization of democracy and, 118 - 19multilateral treaties authoritarian exclusion of, 223-25 examples of, 62-63 reservations and objections to, 72-77 Musaveni, Yoweni, 162n.139 Muslim Brotherhood, GCC and, 205-7 mutual enforcement and assistance strategies Chinese treaty interpretations and, 269 - 72judicial independence and, 158-61 mutual trust, principle of, 158-61 Namgung, Hyun, 96 National Council for the Judiciary (Poland), 156-57 nationalism international law and democracy and, 9 - 11liberalism's distrust of, 13 in Poland, 157

National People's Congress (NPC, China), 256–57

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

National Security Law for the Hong Kong Special Administrative Region (SAR), 15-16, 256-59 necessity criterion, 147-48 neoliberalism, cosmopolitanism and, 13 networks of institutions, violations of democracy and, 143-44 Neumayer, Eric, 75-76 New York Convention on the Enforcement of Arbitral Awards, 272-73 Ngoga, Martin, 177n.208 Nicaragua, incumbent takeover in, 137-38, 208Nicaragua v. United States, 105 Niger democratization in, 76-79 term limit disputes in, 164-65 Nkurunziza, Pierre, 165-66 Non-Aligned Movement, 198 nongovernmental organizations (NGOs) African democracy promotion and, 182 - 83human rights and presences of, 44-45 non-interference, ASEAN principle of, 200 non-interference, liberal theory and, 35 - 37norms and standards of democracy in Africa, 161-62 assessment in Africa of, 180-84 authoritarian repurposing of, 186-92, 236 hierarchy of, 139-40 international articulation of, 116, 291-92 international law and, 4-9 regional institutions and, 126-27, 184 - 85term limits and, 141-43 North American Free Trade Association (NAFTA), 241-42 North Atlantic Treaty Organization (NATO), 195-97, 242 Nyong'ov. The Attorney General of the Republic of Kenya, 176-77 Obama, Barack, 241-44 Obiang, Teodoro, 2-3, 301 Oman, 203-7 One Belt One Road initiative (China), 262 - 67"One Country, One Approach (Yiguo yice)" (Chinese policy), 268-69

"One Country, Two Systems" (Chinese policy), 259 Operation Restore Democracy (UN), 2, 28-30, 119, 177-78, 281-82 Opium Wars, 246 Oppenheim case, xii Orbán, Victor, 15-16, 121-23, 154, 157-58, 300-2 Organization for Economic Cooperation and Development (OECD) Anti-Bribery Convention, 300-2 Organization for Security and Co-operation in Europe (OSCE), 232-33 Organization of African Unity (OAU), 161 - 62Organization of American States (OAS) Charter of, 127-28 Cuba as member of, 119-20 founding of, 127-28 Haitian coup and, 104 Honduran electoral dispute and, 108-10, 117-19, 138-40 human rights abuses and, 137-44 incentivization of democracy and, 119-20 infrastructure of, 127-28 legacy of, 292-94 limitations of actions by, 121-23 promotion of democracy by, 129-30 regional influence of, 127-44 term limits disputes and, 141-43 Venezuelan withdrawal from, 111-12, 119 - 91Organization of the Islamic Conference, 229 - 30Organization of the Islamic States, 230-31 Ortega, Daniel, 137-38, 208 Ouattara, Alassane, 171 outcasting in Honduras, 120 incentivization of democracy through, 118 - 19overall treaties, 63-66 Pact of Manila (1955), 198 Pact of San Jose, 141 Paris Climate Agreement, 241-42 Patriotic Society Party (PSP) (Ecuador), 134 - 36Peace and Security Council (PSC) (African

Union)

establishment of, 163-64

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

Ezulwini Framework, 164-67 sanctions imposed by, 165-66 Pelc, Krzysztof, 96 Peninsula Shield Force (PSF), 204-5 People's Trade Agreement (Latin America), 42n.35 The Perils of Global Legalism (Posner), xiii Permanent Court of International Justice (PCIJ), 44-45, 260 Perpetual Peace (Kant), 6-7, 31-33 Peru, Inter-American Court of Human Rights and, 133-34 Philip Morris, Investor-State Dispute Settlement system and, 95 Philippines ASEAN and, 198-203 authoritarianism in, 9, 235-36 pilot procedure, ECHR and ECtHR jurisprudence and, 151-53 Pinochet, Augusto, 76-79 PiS party (Poland), 156-57 Plurinational Constitutional Tribunal (Bolivia), 140-41 Poisson treaty model, 65-66 Poland democratization in, 76-79 EU response to populism in, 154 judiciary retirement age dispute in, 154 - 57populist resurgence in, 10n.20 political conflict democratic systems and role of, 112-21 institutions as channel for, 112n.31 Inter-American Court of Human Rights jurisprudence and, 132-37 judicialization of politics and, 141-43 political parties, time horizons for, 39-41 political regimes, trade dispute resolution and, 93-94 Polity IV database, 61 scoring of democracies by, 84n.48 populism EU responses to, 153-61 international law and, 5, 121-23 rise in, 9-11 Portelance, Gailyn, 277-78 Portugal, judicial independence challenges in, 227.11n.157n.126 Posner, Eric, xvi, 10-11, 39, 69-70 power, democracy and dictatorship and, 45-49

Preferential Trade Agreements legalism and dispute resolution in, 96 participants, 72 preservative democracy support, strategies for, 297-300 collateral international laws and, 302-4 corruption prevention and, 300-2 prisoner voting rights, ECtHR jurisprudence on. 150 private international law, authoritarianism and, 218-19 Private Sources of International Law (Lauterpacht), xii pro-democratic international law democracy and, 103 future of, 292-94 pro-democratic military action, democratic governance and, 104-5 proletarian internationalism, 190 "Promoting Mutually Beneficial Cooperation in the Field of Human Rights" (Chinese resolution on), 254 - 55"Promoting the International Human Rights Cause through Win-Win Cooperation" (Chinese proposed UN resolution), 231-32, 255-56 Property Law (2008, China), 52-54 proportionality test, ECtHR use of, 145-46 "Proposals for the 11th Five-Year Plan on National Economy and Social Development" (China), 255-56 Protocol on Democracy and Good Governance (ECOWAS), 169, 177-78, 182-83 public goods democracy and achievement of, 37-39, 58 - 59global capitalism and demand for, 188 Inter-American Court of Human Rights defense of access to, 132-37 provisions of, democratic efficacy and, 114-16 treaties and, 52-53 types of, 42-43 public law, international law and, 18-19 public-private divide, authoritarian relaxation of, 272-75 public shaming, democracy promotion using, 160-61

public visibility, in international law, 44-45

punishment, jurisprudence involving, domestic politics and, 150 Putin, Vladimir, 218-19, 300-2 Qatada, Abu, extradition of, 151 Qatar coup, 53 economic boycott of, 90 GCC and, 203-7 Quebec (Canada) secession referendum, 221-22 Rajapaksa, Gotabaya, 277 Rajapaksa, Mahenda, 275-77 Rao, Weijia, 97 Reagan, Ronald, 238-39 realism determinants of democratic efficacy and, 113 - 14liberal theory and, 33-37 regime spells, democratization and, 76-79 regime survival democracy and, 37-39 time horizons for, 39-41 Regional Anti-Terrorism Structure (RATS), 212 - 16regional organizations African democracy initiatives and, 163, 180-84 ASEAN as, 198-203 Asian regionalism and state-building and, 198 - 203authoritarian norms of extremism and separatism, 219-25 authoritarian regimes and, 191-92, 205-7 Bolivarian Alliance of the Peoples of Our Americas, 207-8 CCJ as, 178 Chinese economic power and, 269 Chinese involvement in, 257-59 club foods provision and, 38-39 democracy promotion and, 22-23, 105-6, 184-85, 292 ECOWAS initiatives as, 177-80 Eurasian Economic Union, 208-12 European Convention on Human Rights, 144 - 53GCC, 203-7 growing importance of, 125-27 inter-American system of, 127-44 international law supported by, 292

Index

norms of democracy and, 141-43 Shanghai Cooperation Organization, 212 - 16stick approach to promotion of democracy and, 117 regulatory power authoritarian regimes and, 188 China's Belt and Road Initiative and, 265 regulatory risk in democracies, 96 dispute resolution and, 96 Reinhardt, Eric, 92 remedial activism, Inter-American Court of Human Rights and, 131-32 repression, technologies for, Chinese Belt and Road export of, 279-80 republics, Kant's definition of, 31n.3, 54-55 reputational sanctions, sticks approach to promotion of democracy and, 116-21 Responsibility to Protect doctrine, 15-16 restrictive immunity, US adoption of, 272 - 75Rhee, Syngman, 190 A Right to Democracy resolution, 22n.51 Right to Democracy theory, 19-20, 232-33 Ringgen, Stein, 238 Roberts, Anthea, 78-80 Rode, Martin, 80-82 Roldosist Party (PRE, Ecuador), 134-36 Rolland, Nadège, 245 Romania, EU scrutiny of, 160-61 Ruggeri Cova, Ana Maria, 110-12 rule of law African Court jurisprudence and, 171-72 democracy and role of, 20-21 ECtHR jurisprudence and, 147-48 EU protections for, 154, 159-61 Inter-American Court of Human Rights and, 132-37 judges union and promotion of, 107-12 Trump's attack on, 244 Washington Consensus and, 13-14 Rule of Law framework (EU), 154 rules-based community, ASEAN goal of, 199 - 200Russia authoritarian international law and, 216 - 19authoritarianism in, 7-8, 11, 28-30 cyberlaw initiatives and, 225-29 EAEU and, 212

Index

extremist activity in, 222 international authoritarian law and, 216 - 19private international law and, 218-19 Shanghai Cooperation Organization and, 212-16 Venezuelan dictatorship and, 120-21 Rwanda, Republic of African Court challenges in, 169-70 authoritarianism in, 169-70, 235-36 democracy promotion in, 173-77 genocide in, 181-82 Sadurski, Wojciech, 10n.20, 160-61 sanctions African Union PSC use of, 165-66 Chinese opposition to, 253-54 European Union use of, 160-61 incentivization of democracy through, 118 - 19limitations of, 121-23 Sands, Philippe, xi Santiago Declaration (1991), 129-30 Sattler, Thomas, 93 Saudi Arabia, 203-7 Scheppele, Kim Lane, 106-7, 160-61, 184 - 85Schmitt, Carl, 249 SCO Convention on Countering Terrorism, Separatism and Extremis, 219-25 Scott v. PRC, 273-74 secession demands extraterritorial jurisdiction and, 260-61 separatist ideology and, 221-22 secrecy, soft law and, 269-72 Secured Transactions Working Group, 82 - 84sedimentation model of institutional change authoritarian international law and, 234 - 36China and, 247-48 Seger, Alexander, 227-28 self-determination democratic governance and, 103-7 international law and, 4 separatism and, 221–22 self-governance, global demands for, 290 Senkaku/Diaoyu islands dispute, 280-81 separation of powers, ECtHR jurisprudence and, 147-48

separatism authoritarian norms of, 219-25 cross-border cooperation and, 212-16 September 11, 2001 attacks, Western-Gulf region relations and, 205-6 Serbia NATO bombing of, 41 US bombing of, 242 seventeen 17+1 Group, 268 Shaffer, Gregory, 290 Shanghai Cooperation Organization (SCO) authoritarian international law and, 216 - 19authoritarian norms of extremism and separatism and, 219-25 cooperative efforts of, 212-16 election monitoring by, 232-33 increased visibility of, 252-56 Shanghai Five, 212-16 Shanghai Trading Company case, 273-74 Shapiro, Scott, 118-19 shipping law, Chinese absolute immunity claims and, 274n.120 Shklar, Judith, legalist theory and, xiii Sierra Leone civil war in, 177-78 coup in, 161-62 Simmons, Beth, 75-76, 85-86, 93-94 Simpson, Gerry, 35, 291 Slaughter, Anne-Marie, 13-14, 282 Sloss, David, 299-300 soft power, Belt and Road initiative and, 263-64, 269-72 Soro, Guillaume, 171 South Africa, 235-36 South African Constitutional Court, 23-24 South China Sea Arbitration, 216-19, 242-44, 247, 269 Southeast Asian Treaty Organization (SEATO), 198 South Ossetia, 28-30 South Sudan, 173-77 sovereign immunity, public-private flexibility and, 272-75 sovereignty ASEAN commitment to, 200 authoritarian international law and, 236 Chinese Belt and Road Initiative and, 268-69 Chinese treaty interpretations and, 269 - 72

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

sovereignty (cont.) Chinese view of, 248-52 cyberlaw initiatives and, 225-29 democratic norms and, 4-9 extraterritoriality and, 260-61 global ascendancy of, 285-86 Gulf Cooperation Council and, 205-6in international law, 3-4 liberal theory and, 35-37 US-Chinese convergence on, 283-85 Soviet Union international legal system and, 190 Warsaw Pact and, 195-97 Spanish Civil War, 296 Sri Lanka democratization in, 76-79 Hambantota Port development in, 275-77 Srisena, Maitreya, 277 standardization, regulatory power concerning, 265 state building, Asian regionalism and, 198-203 state-owned enterprises Chinese initiatives in developing countries and, 276 public-private flexibility and, 272-75 sticks, determinants of democratic efficacy and use of, 116-21 Sudan civil war in, 181-82 PSC sanctions in, 165-66 Sunday Times case, 147-48 Sun Yat Sen, 251-52 Supreme Court of Canada, 221-22 Supreme Court of Justice (Quintana Coello et al.) v. Ecuador, 134-36 Supreme Court of United States, 238-40 Supreme People's Court (China), 266-67 Swaziland, human rights violations in, 179 - 73Sweet, Alec Stone, 145-46 systemic infringement action, EU proposal for. 160-61 Taiwan Chinese interference in, 281 COVID-19 response in, 26-28

Tajikstan, Shanghai Cooperation Organization and, 212–16 Talon, Patrice, 170-71 Tandja, Mamadou, 164-65 Tanzania African Charter violations in, 168 democracy promotion in, 173-77 elections rights cases in, 176-77 fair trial rights jurisprudence in, 171-72 tax havens, international law and, 301-2 Technical Commission on Combatting ICT Crime (UN), 226-29 Teledsur media initiative (Bolivia), 207-8 Tenorio-Trillo, Mauricio, 292 term limits African Commission monitoring of, 164-65 African Union focus on violations of, 161-62 EACJ jurisprudence on, 175 international law and disputes over, 107-10, 119-20, 137-44 judicialization of politics and, 141-43 regional organizations impact on, 184-85 terra nullius doctrine, 78-80 terrorism authoritarian international law and. 219 - 25cross-border cooperation on, 212-16 extraterritorial jurisdiction and, 260-61 Tesón, Fernando, 34-35 Thailand, ASEAN and, 202 That Politics May Be Reduced to a Science (Hume), 54-55 Theory of Peaceful Coexistence, 190 third-party dispute resolution ASEAN and absence of, 200-1 authoritarian alternatives to, 98-101, 235 - 36transparency and, 44-45 Third Wave of democracy, 61 authoritarian repurposing of, 232-33 International Court of Justice and, 87-91 Third World Approaches to International (TWAIL), 17-18 tianxia (all under heaven) Belt and Road initiative and, 263-64 Chinese statecraft and, 248-52 time horizons, democracy and, 39-41 Togo, PSC sanctions in, 165 Tokios case, 303-4 tolerance, future threats to, 285 tools for democracy development international law and, 112-21

326

limitations of, 121-23

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

trade disputes Chinese economic coercion and, 280-82 regional cooperation on, 125-27 WTO Dispute Settlement System and, 92-94 transnational legal order determinants of democratic efficacy and, 113 - 14international law and, 242-44 Trans-Pacific Partnership (TPP), 242-44 transparency authoritarian-international organizations and, 98-101 democracy and dictatorship, 43-45 power and, 45-49 treaties and, 52-53 treaties. See also bilateral treaties; multilateral treaties Chinese law and role of, 269-72 Chinese law and status of, 269-72 cooperation through, 50-54 democracy and role of, 62-82 domestic legislation and influence of, 176 - 77in Europe, 78-80 overall treaties, 63-66 ratification of, 69n.12 registration of, 64n.5 toggled democracies and, 76-79 Treaty for Establishment of the East African Community, 173-77 Treaty of Amity with Iran (1955), 241 Treaty of Amsterdam, 153-54 Treaty of Mesilim, 187 Treaty of Nice, 153-54 Treaty on the European Union Article 2, 153-54 Article 7, 159-61 Article 19(1), 154-57 Article 258, 154-57 tribute system, Chinese statecraft and, 249-52 Trujillo, Rafael, 128 Trump, Donald, 121-23, 240-44, 282-83, 295-96, 299-300, 304-5 Tsai Ing-wen, 281 Turkey authoritarianism in, 9 China and, 223-25 democratization in, 76-79 Kurdish minorities in, 151-53

Lotus case and, 366.11n.260n.76 Qatar and, 205-7 Turkmenistan, 232-33 The Twenty Years' Crisis (Carr), xiii Tymoshenko, Yulia, 303-4 Uganda democracy promotion in, 173-77 detention violations case in, 174n.197 election rights cases in, 175 term limit amendments in, 162n.139, 164-65 Ugokwe doctrine, 178-80 Uighur minority (China), 223-25, 230-31 Ukraine democratic transition in, 28-30 EAEU and, 209 foreign investment laws in, 303 Orange Revolution in, 303-4 Umbrella Movement (Hong Kong), 256-57 unconstitutional changes of government, African focus on, 161-62 UN Declaration on Friendly Relations (1970), 105"Unequal Treaties," 246 UN High Commissioner for Human Rights, Venezuelan dictatorship and, 120-21 unilateral sanctions, incentivization of democracy and, 118-19 Union of South American Nations (UNASUR), 207-8, 232-33 United Arab Emirates GCC and, 203-7 ICJ adjudication and, 87-91 United Kingdom, voting rights legislation in, 150United Nations authoritarian engagement with, 212-16 Chinese activism in, 252-56 cyberlaw and, 225-29 financial crisis in, 10-11 Shanghai Cooperation Organization and, 919 - 16United Nations Charter, xiv Article 2(7), 35 Article 36(2), 87-91 authoritarian international law and, 216-19 global governance and, 62-63 United Nations Commission on International

Trade Law (UNCITRAL), 82–84

327

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

United Nations Convention on the Law of the Sea (UNCLOS), 91-92, 216-19 United Nations General Assembly, 104 cyberlaw initiatives and, 226-29 United Nations Human Rights Commission, 229 - 30United Nations Human Rights Committee CCJ and influence of, 178-80 establishment of, 21-22 individual complaints to, 72-77 United Nations Human Rights Resolution Portal, 231 United Nations Principles on Judicial Independence, 133-34 United Nations Security Council, 241 Chinese activism and, 253-54 Operation Restore Democracy, 2-4 United Nations Treaty Series (UNTS), 63-66 authoritarian categorization of, 80-82 COIL sample and, 66-68 United States anti-corruption laws in, 300-2 authoritarian regimes and, 190 cyberlaw and, 225-29 democracy in, 8 domestic politics and elections in, 238-40 emerging international order and, 237-38 ICJ adjudication and, 90-91 international law and, 36, 101-2, 240-44, 282 - 85preservative democracy support in, 297 - 300pro-democratic military action by, 104 - 5restrictive immunity in, 272-75 revisionist ideology in, 240-44 treaties and exceptionalism of, 45-49 Venezuelan dictatorship and, 120-21 Unit for the Promotion of Democracy (OAS), 129-30 Universal Declaration of Human Rights (1948)Article 21, 21-22 Lauterpacht's criticism of, xiii-xiv Vagts, Detlev, 36, 45-46, 242 Van Gen den Loos case, 211 Vanhullebusch, Matthias, 252 Varieties of Democracy (V-DEM) project,

Venezuela authoritarianism in, 9 Bolivarian Alliance for the Americas and, 207 - 8coup attempts in, 138-40 demise of democracy in, 120-21 democracy in, 26 Dominican Republic and, 128 election monitoring in, 232-33 Inter-American Court of Human Rights cases and, 136-37 judiciary targeted by dictatorship in, 110-12, 119-20 neutralization of human rights initiatives by, 231 US sanctions against, 118-19 Venice Commission. See European Commission on Democracy through Law (Venice Commission) Vermeule, Adrian, 12n.24 Vienna Convention on Consular Relations, 90-91 Vienna Convention on Diplomatic Relations, Optional Protocol to, 241-42 Vienna Convention on the Law of Treaties, 271Vienna Conventions on Treaties, Diplomatic Relations and Consular Relations, 84-85 Vienna Declaration and Programme of Action, 254-56 Vietnam ASEAN and, 202 Chinese conflict with, 251-52 voting rights. See also elections, right to participate in democracy and, 24-25 European Convention provisions on, 149 Inter-American Court of Human Rights defense of, 132-37 Trump's attack on, 244 Vreeland, James Raymond, 80-82 Wang, Jiangyu, 269–72 Wang, Tieya, 251 war crimes, African Court jurisprudence on, 167 - 68Warsaw Pact, 190, 195-97 Warsaw Treaty Organization, 197 Washington Consensus, 13-14

Liberal Democracy index, 65-66

61 - 62

328

Weisiger, Alex, 295

Cambridge University Press 978-1-108-84313-3 — Democracies and International Law Tom Ginsburg Index <u>More Information</u>

Index

Western powers, African democracy promotion and, 166-67 Westphalia, Treaty of, 3-4, 78-80 authoritarian international law and, 236 China and legacy of, 245-46, 252-56 democracy and legacy of, 27-28 international authoritarian law and, 216-19 Whaling in the Antarctic case, 90-91 Wong, Joshua, 256-57 World Bank, incentivization of democracy and, 119-20 World Justice Project, 116 World Trade Organization (WTO) Appellate Body of, 241-42 China's membership in, 14-15, 52-54 Dispute Settlement System and, 92-94 GCC complaints before, 205-6 World Treaty Index, 63-66 World War of Africa, 181-82 Xi Jinping

anti-corruption initiatives and, 300–2 authoritarian international law and, 217–18 Belt and Road initiative and, 263–65 Chinese transparency and, 46 domestic politics and, 193–95 foreign policy under, 251–52 Hong Kong National Security Law and, 257 repurposing of international law and, 255–56

Yameen, Abdulla, 277 Yanukovych, Viktor, 209 Yoo, John, 51

Zambia, term limit amendments in, 162n.139 Zambrano, Diego, 299–300 Zelaya, Manuel (President), 107–10, 117–20, 138–40 Zhang, Taisu, 257, 266–67 Zhou Dynasty (China), 248–49 Zhu Rongji, 52–54 Zimbabwe, Chinese partnership with, 279–80 zombie election monitoring, 232–33 Zongo v. Burkina Faso, 171–72 ZTE Corporation, 279–80 Zucman, Gabriel, 301–2 Zuma, Jacob, 235–36

329