international economic law 40, 48 international legal personality and 197 municipal and international law, interrelationship 130 soft law and 118 international humanitarian law 1167-1203, see also armed conflict; human rights; weapons, prohibited choice of methods of warfare, limitation on 1186-7 customary international law 1167-8, 1187 emblems, use in time of war 1170, 1172 enforcement 1199-1201 food aid to Iraq 1244 n200 in Georgia 1192 human rights law, convergence 1168, 1196 - 8ICRC principles (general) 1201-2 ICRC principles (non-international armed conflicts) 1201-2 ICRC, role 1200-1 individual criminal responsibility 1200 military necessity and 1178 n55, 1181-2, 1183, 1184-5 serious violation of 404, 408, 418, 419-20, 421, 429, 435-6 state responsibility and 434, 793 websites 1339 international humanitarian law, applicability 'armed conflict' 1190-3 children (CRC 38) 331 combatants and non-combatants distinguished 1170-1 from initiation of conflict to conclusion of peace 435, 1191-3 international armed conflict 435 international legal personality and 197 non-international armed conflict 404–5, 408, 435 peacekeeping operations 1232–3 Tadić 435, 1190-3 US intervention in Grenada 1183 n79

whole territory of state or under the control of warring party 435 international humanitarian law and the conduct of hostilities 1184-90 protection of civilians as basic principle 1169-70, 1184-5 international humanitarian law, conventions and similar international instruments related applicability to third parties 1168 customary international law and 1167-8 Declaration of Minimum Humanitarian Standards 1198 Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field (1864) 1168 Geneva Conventions (1949) and Protocols I and II (1977): see Geneva Conventions (1949) and Protocols I and II (1977) Geneva Conventions, Protocol I 1184-6 Hague Convention IV and Regulations: see Hague Convention IV (1899) and Regulations (1907) Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954) 1186 n96 Protection of Civilians in Armed Conflicts (SC resolution 1674 (2006)) 1184 n83 St Petersburg Declaration (1868) 1168, 1186, 1189 termination for material breach (VCLT 60(5)) 949 international humanitarian law, history and development 28, 270, 1167-70 battle of Solferino and 1168 change of terminology from laws of war 1167 Dunant, Henry and 1168 Geneva Conventions (1929) 1169 Geneva Conventions (1949) and Protocols I and II (1977), 1169–70, see also Geneva Conventions (1949) Hague Conferences (1899 and 1907) 1168-9

international humanitarian (cont.) St Petersburg Declaration (1868) 1168, 1186, 1189 international humanitarian law, scope conduct of hostilities: see international humanitarian law and the conduct of hostilities 'violations of the laws or customs of war' 1192 wounded and sick 270, 1169-70, 1186 n94 wounded, sick and shipwrecked members of the armed forces at sea 1169, 1186 n94 international investment law see also multinational private companies, codes of conduct municipal and international law, interrelationship 130 International Labour Conference, 339–40, see also ILO international law see also general principles of law/international law; international law, history and development; intertemporal law comity and 2 conflicts within 140 gaps/non-liquet 98-9, 1087, 1189 municipal law and: see municipal courts and international law: municipal and international law, interrelationship SC and 1268-71 subjects of: see subjects of international law international law, breach municipal law as defence 133-6, 137, 138, 648, 941 Nottebohm 648 international law, compliance with see also state responsibility for internationally wrongful act; treaties, compliance/ implementation (VCLT 26-7) advantages of compliance 8 China and 38 exaggerated expectations 7, 12 - 13

justification of actions by reference to international law 8 legal terminology and practice as essential part of international relations 8-9 legitimacy and 61-3 level of 6-8 as obligation 138 reciprocity as driving force 7-8 rules of the game, recognition of need for 7 vital interests as justification for violation 8 international law, definition, function and scope 2, 34, see also international trade law balance of interests and 45 balance of rights and obligations and 44 economic relations 40, 48 environmental protection 45, 48 functionalist approach 48, 58 n47 health 48 labour standards 48 marine resources 48 peaceful co-existence as basic premise 44 policy-oriented approaches 58-63, 64, 267 international law, history and development 13-42, see also codification; natural law; positivism 19th century 27-30, 270 20th century 30-1 ancient world 14-18 authoritative decision-takers and 59-60 behaviouralism and 55-60 China and 36-8 cold war and 33, 36, 41 communist approaches to 31-8 consistency and certainty of law/responsiveness to change conundrum 43-4 decolonisation and 38-40, 44 developing countries and 9, 23, 38 - 42diplomatic law 750-2

Eurocentricity 27-9, 39-40, 44-5, 114,200 expansion of 28, 31, 43-9 globalisation and 36, 41–2, 44, 48–9, 65–6, 197, 1115–16 Middle Ages 19-20 nation-state and 13-14, 20-2, 487-8, 1282 positivism as brake on 51 power politics and 12, 55, 79-80, 215, 489, 1206 Renaissance 14, 20–2 as response to changing conditions 488-9 self-determination principle and 40 Spain and 22–3 technological development and 41, 43-4, 48 USSR and 8, 31-8 websites 1333, 1334 international law as law 1-13 auto-limitation 9 basis of obligation 9-11, 61-3 binding, whether 61–3 consensus doctrine 10-11 contractual/consensual approach 9–11 moral principles, relevance 2, 3-4, 12, 54, 74-5 natural law and 23 'new' states and 9 politics and 11–13, 24, 38, 44, 67–8, 79-80, 488-9 positivism and 52 international law, research, resources and teaching of 28 websites 1332-3 international law, theories of see also consent as basis of international law; international law, compliance with; positivism critical legal studies movement and 63–5 diplomatic history, relevance 54-5 dualism 29-30, see also dualism general theory of international law, impossibility 63 institutional processes, relevance 54-5

legal philosophy and 49-54 liberalism and 63 monism 29 NAIL (New Approaches to International Law) 63-4 recognition theories and 449 international law, universality China and 38 decolonisation and 38-40 fragmentation, risk of 65-7, 123-4 law between socialist states and 35 Law Merchant 19 regional international law 2, 35 regional organisations and 48 universalism/particularism 27, 41-2, 64 USSR and 33-5 international legal personality 195-7, see also juridical personality/ personality before the law, right to; state/statehood; subjects of international law applicable law 219-20 human rights law and 197 international economic law and 197 international humanitarian law and 197 Lisbon Treaty (2007) and 242 multiplicity of models 242, 260, 263 - 4practice as source of international law and 263 recognition of government and 457 rights, duties and the enforcement of 196, 263 state responsibility and 263, 1311 states: see state/statehood international legal personality, criteria/relevant factors and the acquisition of 195-7 attribution of rights and duties as determining factor 263-4 capacity to enter into international legal relations 260, 263 constitutional/constituent instrument provisions 97, 216, 261 definition and scope 195–6 directly imposed international law obligations 262

international legal personality (cont.) effective territorial control 262-3 enforcement powers, relevance 264 'legal entity distinct from its members' test 264 members' intention 1298 objective (erga omnes) 260, 263, 1298 qualified personality 261, 262-3 recognition of, need for 220-1, 261-2,449 status falling short of 196-7, 263-4, 1297 treaty-making powers 260, 263 international legal personality of associations of states 238-42 belligerents 245 Bosnia and Herzegovina 231–2 Byelorussia 218, 262-3 Commonwealth of Nations 239-40 condominiums 228-30 Cook Islands 239 East Timor 233-4 EC 241 ECSC 241 EU 241-2 EU pillars 241-2 EURATOM 241 federal states 217-23 Germany post-WWII 227-8 Holy See 197, 243-4, 261 ICRC 244 n244, 261-2 individuals 262 insurgents 245 international organisations: see international organisations, international legal personality international organisations, see also international organisations, international legal personality internationally administered territories 230-4 Kosovo 232-3 multinational private companies 249-50, 262 multinational public companies 248-9 national liberation movements (NLMs) 245-8 Nauru 199, 224 n136, 1297

Palestine 247-8 Palestinian Authority 247-8 private persons party to agreement subject to international law 262 SADR 236-7 Sovereign Order of Malta 243 SWAPO 248 Taiwan 234–5 tribes 216-17, 264, 503, 525 TRNC 235-6 trust territories 224-8 Ukraine SSR 218 UN 47, 83, 1297-8, 1302-3 UN Council for Namibia 248 Vanuatu 229 international legal system enforcement machinery, absence, 3, 4-5, see also economic sanctions as response to threat to or breach of the peace (UNC 41); regional arrangements for the maintenance of international peace and security (UNC Chapter VIII); self-defence, right to (UNC 51) establishment of rights and duties 902-3 judicial system, limitations 3, 70 legislature, absence 3, 70 non-hierarchical nature 5-6 separation of powers and 6, 11-12 weaknesses 12-13 International Meteorological Organisation, dissolution 1330 n214 international officials diplomatic protection and 811 n212 as internationally protected persons 675-6 international officials, privileges and immunities 1324-6 customs duty on first installation, freedom from 1324 experts 1324-5 functional test 1324 immigration restrictions, exemption 1324 immunity from jurisdiction 1324 immunity from national service obligations 1324

tax exemption 1324 UN Secretary-General 1324 waiver obligation 1324 international organisations see also individual organisations; regional organisations codification and development of international law and 1295 collective recognition of states and 465-6 dissolution 1329-30 growth 28, 47–8 ICJ and 1072, 1113 norms governing work and development as part of international law 1295 origin 1284 state practice and 82-3, 88-9, 1295 state succession and 985-6 succession 1330-1 websites 1339 international organisations, accountability 66, 1317-18 abuse of power and 1318 balance between constitutionality and institutional balance 1318 due diligence 1318 good faith and 1318 reasoned decisions, need for 1318 subsidiary organs and 1318 transparency 1318 World Bank 1040 international organisations, applicable law 1309-10 commercial contracts 1310 headquarters agreements 1309-10 internal law of organisation 1310 status-related matters 1310 tortious liability 1310 treaty relationships 1310 international organisations, constituent instruments 1303-6 as constitutional/constitutive instrument 1303-4 ECOWAS 1029 as internal law of organisation 1310 international legal personality and 216, 261, 1297, 1299, 1303 interpretation of 936-7

Legality of Nuclear Weapons (WHO request) 1303-4 member state liability and 1317 multilateral treaty status 1303, 1305 - 6powers, dependence on 97, 1302, 1307, 1308-9 privileges and immunities of organisations, general conventions on and 1319-20 reservations, exclusion 920 subsequent practice 261 treaties between states and international organisations and 954 VCLT, applicability (VCLT 5) 907, 937 international organisations, constituent instruments, interpretation 936-7, 1304 - 8ICJ advisory proceedings and 954, 1072, 1304-5 Legality of Nuclear Weapons (WHO request) 1303-4 responsibility for 1304-5 special rules 936-7, 1305-6 specialised agencies and 1305 subsequent practice and 937 teleological approach (object and purpose) 936-7, 1305-6 UN Charter 937 VCLT 31 and 32, applicability 1305 international organisations, definition/classification as ILC Articles on the Responsibility of International Organisations 1295-6 multinational public companies distinguished 1296 NGOs distinguished 1296 as product of treaty 1296 Treaty Succession, Vienna Convention on (1978) 1295–6 international organisations, international legal personality 47, 259-60, 1296-1303 applicable law 260 by inference 1297-8 capacity and 1303

international organisations (cont.) capacity to claim reparation for breach of obligations 1311-12 constituent instrument as basis 216, 261, 1297, 1303 determining factors 259-60, 1296 effects 1299, 1302-3 intention of members and 1298 Nauru v. Australia 1297 objective (erga omnes) 1298, 1299 organisations created under domestic law and 1315 n149 recognition under private international law 1300 Reparation for Injuries 47, 83, 1297-8, 1302-3 responsibility and 1311 right to sue and be sued 1311-12 rights and duties resulting from 1302–3 as subjects of international law 47, 258, 259-60, 1297 Third Restatement of Foreign Relations Law 1298 n69 international organisations, international legal personality under domestic law acceptance in domestic law of status under international law 1300 Arab Monetary Fund case 1301 headquarters agreement and 1299-1300 incorporation of treaty and 1301-2 legislation, need for 1300-2 obligation of member states to make provision for 1299 personality under domestic law distinguished 1296-7, 1299 private international law and 1300 recognition by courts on basis of comity/acceptance in other states 1302 recognition by the executive 1302 Tin cases 1300-2 UK and 1300-2 Westland Helicopters 1302 international organisations, member state liability towards organisation 1311 - 12Reparation case 1311-12

international organisations, member state liability towards third parties 1314-17 applicable law 1314–15 Matthews v. UK 1317 organisation not having legal personality and 1314 pacta tertiis nec nocent nec prosunt rule 1315 *Tin* cases 721, 1315–17 tortious liability 721 transfer of competences to international organisation and 1317 international organisations, membership and relationship with members 1295-6 entities other than states 1296 Holy See and 244 state sovereignty and 57, 488 states, limitation to 1295–6 international organisations, powers and responsibilities human rights obligations 276 ILC Commentary 1309 Treaties between States and International Organisations Convention (1986) 1309 treaty-making powers 1308-9 international organisations, privileges and immunities 1318-29, see also international officials, privileges and immunities access to courts, right of and 1321 - 2criminal jurisdiction and 1328 currency restrictions and 1328 customary international law 776, 1321 n176 customs duties, exemption 1328 diplomatic bags and 1328 freedom of communication 1320, 1328 functional necessity test 776, 1319 - 22General Convention on the Privileges and Immunities of the UN (1946) 776 headquarters agreements and 1319-20, 1323-4

immunity from execution or enforcement 1327 immunity from jurisdiction 1326 international financial institutions and 1319 n168 inviolability of premises and archives 776, 1326, 1327-8 jure imperii/jure gestionis distinction, relevance 1318-19, 1326-7 Privileges and Immunities of the Council of Europe, General Agreement on (1949) 1319 n169 Privileges and Immunities of the European Communities, Protocol Concerning (1965) 1329 n169 Privileges and Immunities of the OAS Agreement (1949) 1319 n169 reciprocity, relevance 1318-19, 1326 specialised agencies 776 n447, 1319 state immunity distinguished 1318-19, 1326-7 UN 1319-21, see also UN, privileges and immunities waiver 1327 international organisations, privileges and immunities, jurisprudence Eckhardt v. Eurocontrol (No. 2) and 1321 n176 FAO v. INPDAI 1321 Iran–US Claims Tribunal v. AS 1320-1 Kukuru v. EBRD 1321 Mandaro v. World Bank 1320 Obligation to Arbitrate case 1320 Waite and Kennedy v. Germany 1321-2 ZM v. Permanent Delegation of the League of Arab States to the UN 1321 international organisations, privileges and immunities of representatives of states to 775-6, 1322-4 administrative and technical staff, entitlement 776 codes and cyphers, right to use 1322 currency and exchange restrictions, facilities relating to 1322 customary international law 1323 customs exemption 1322 diplomatic bag 761

functional test 1323 headquarters agreements provisions 1323-4 immigration restrictions, exemption 1322 immunity from arrest/seizure of personal baggage 1322 immunity from civil and administrative jurisdiction 776 immunity from criminal jurisdiction 776 International Organisations, Vienna Convention on the Representation of States in their Relations with (1975): see International Organisations, Vienna Convention on the Representation of States in their Relations with (1975) inviolability of archives, documents and correspondence 1322 inviolability of premises 776 municipal law and 1328-9 personal baggage immunities and facilities 1322 'representative' 1323 n182 tax exemption 1322 UK practice 1328 unilateral withdrawal and 1323 US practice 1328 waiver obligation 1323 international organisations, responsibility 13, 1310-14, see also state responsibility for internationally wrongful act including acts of, international organisation for acts of organ or agent 1312 for aid or assistance to a state or another organisation 1312 attribution 1312 countermeasures and 1313 n141 customary international law 1311 distress and 1313 n141 force majeure and 1313 n141 ILC Draft Articles on 1295-6, 1312 international legal personality and 1311 jus cogens/peremptory norms 1313 n141 for lawful acts 1313

international organisations (cont.) necessity and 1313 n141 outer space 546, 859, 1312 n138 peacekeeping operations 1313-14 preclusion 1312-13 remedies 1313 tortious liability 1313 treaty base 1311 International Organisations, Vienna Convention on the Representation of States in their Relations with (1975)criticism of/refusal to sign 775-6, 1323 n182 diplomatic bag 761 diplomatic relations between sending and host states, relevance 775-6 General Convention on the Privileges and Immunities of the UN distinguished 776 scope 775-6, 1323 n182 International Organisations, Vienna Convention on Treaties between States and (1986) advisory opinions and 954-5 conclusion 953 dispute settlement provisions 954-5 ILC views on 953-4 member states of organisation and 953-4 powers and responsibilities of organisation and 1309 'reservation' to 914 n57 VCLT, relationship with 953 International Refugee Organisation, dissolution 1330 n214 international relations, history and development 1282-4 19th century changes 27-8 American Continent, developments on 1291 ASEAN, establishment and development 1294-5 Berlin Conference (1871) 1283 Berlin Conferences (1884–5) 1283 China and 38 Cold War, impact 33, 36–7, 41, 573, 1209, 1217, 1224, 1226, 1234, 1287, 1290

congress system 1282-3 establishment (1919) 31, 271, 338, 1285 games theory and 58 ILA, establishment (1873) 1283 international conferences and conventions, effect of growth in 28, 54–5 international law as reflection of 43, 67 - 8international river commissions 1283 Islamic approach to 18 Napoleonic wars 27, 1282 natural law value system and 21 NGOs: see NGOs non-alignment 57, 1287 Paris Conference (1856) 1283 Peace of Westphalia (1948) 26, 1120, 1282 power politics and 36, 55, 215 public international unions/intergovernmental associations 1283-4 Red Cross, establishment (1863) 1283 scramble for Africa 1283 superpower politics 57 Thirty Years War 1283 Treaty of Versailles (1919) and 30 unanimity approach 1283 USSR approach to 35, 36 International Seabed Authority (UNCLOS 156-85) 633-5 'Area' 629 Assembly, composition and powers 633-4 consensus and 634 nn398 and 400 Council, composition and powers 633, 634 Economic Planning Commission 634 Enterprise 629, 630, 633, 634-5 'equitable sharing' principle and 590, 629 exploitation of the continental shelf and 590 ITLOS and 639 landlocked states and 634 n399 Legal and Technical Commission 634 opposition to 631

organs 633-5 role and responsibilities 629-31 special interests, representation of 634 n399 International Settlement Bank 249 state succession to state property and 993 International Steering Group (Kosovo) 204 international straits: see straits (innocent passage); straits (transit passage) international trade law, history and development 45, see also effects doctrine/extraterritorial jurisdiction on economic matters; GATT Law Merchant as 19-20 Renaissance 14, 20-2 soft law and 118 WTO dispute settlement procedures and 1037-8 international watercourses 883-7, see also Danube; Danube Commission; Gabčíkovo-Nagymaros Project; Kiel Canal; Panama Canal Zone; Suez Canal adverse impact, measures to avoid 885-6 bilateral agreements 885, 886 n235 Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents (2003) 884 n218 Congress of Vienna (1815) and 28 consultation and negotiation 886 customary international law 851-2, 883 definition 883 dispute settlement 885-6 ecosystems, protection of 886 EIAs 865 n115, 884 equitable and reasonable share principle 108, 884, 885 freedom of navigation 1221 n85 Helsinki Rules (1966) 883-4 ILA Rules on Groundwaters (1986) 884 ILA Rules on Water Pollution (1982) 884 n217

international co-operation 884-5 Lac Lanoux 852, 864, 883 n215, 1017 measures to protect 884 Non-Navigational Uses of International Watercourses Convention (1997) 108, 885-6 notification obligations 884, 885-6 obligation to avoid injury to other states 885 Oder 851-2, 883 'polluter pays' principle 884 'pollution' 886 n233 precautionary principle 884 regional agreements 886 n235 Rhine Commission: see Rhine Commission riparian rights 883, 885 state succession 970 sustainable development principle 884 'transboundary impact' 858 transboundary protection, state responsibility 858 Transboundary Watercourses and International Lakes Convention (1992) 858, 884-5 international watercourses, boundaries 498, 505-6, 531 accretion and 495, 498, 499, 520, 531 avulsion and 531 change of boundary and 531 channel as 498, 531 navigable/non-navigable rivers 498 thalweg 531 'internationalised' contracts 829 internationalised criminal courts and tribunals 417-30, see also Bosnia War Crimes Chamber; Cambodia, Extraordinary Chambers of; East Timor Special Panels for Serious Crimes; Iraqi High Tribunal; Kosovo Regulation 64 panels; Lebanon Special Tribunal; Serbian War Crimes Chamber; Sierra Leone Special Court applicable law 418 definition 417-18

internationalised criminal courts (cont.) individual criminal responsibility and 418 reason for growth in 417 Internationally Protected Persons Convention (1973) adoption 764 aut dedere aut judicare principle and 675, 764-5 extraditable offences and 764-5 'international protected persons' 675-6 passive personality principle 665 summary of provisions 764-5 Interoceanmetal Joint Organisation 630 intertemporal law boundary treaties, interpretation 496-7, 500 n68 continental shelf 508-9 legislative interpretation and 160-1 territorial acquisition 496–7, 500 n68, 508-9, 520-1 treaties of cession prior to UNC, validity 500 n68, 508 n110 treaties, interpretation 496-7, 500 n68 intervention in the affairs of another state, justification aid to government authorities 1151-2, 1154-5 collective self-defence and 1152 Congo 1154-5 Grenada 1144, 1151, 1183 n79, 1276 n355 human rights protection 49, 213, 268, 269, 270, 272-3, 278, 488, 648 humanitarian intervention by states 449, 1155-8, see also humanitarian intervention by states Nicaragua 1151 n165 Panama 1151 state practice 1152 threats to international peace and security 1237 intervention in the affairs of another state, prohibition 1147-58, see also domestic jurisdiction principle (UNC 2(7)); use of force (UNC 2(4))

aid to rebels 213, 1152-5 civil wars 1148-51 colonial territories and 212-13, 649 Congo 1154-5 Corfu Channel 1127-8 Declaration on Armed Intervention in the Domestic Affairs of States (1965) 1127 Declaration on Friendly Relations (UNGA resolution 2625 (XXV)) 213, 1123, 1127, 1148 democratic rights and 49 equality of states and 1205 EU and 213 national identity and 213 Nicaragua 1148, 1153 peaceful co-existence and 215 positivism and 279 racial oppression and 213 restoration of democracy 1158 Rushdie fatwa as 213 n82 state practice 1153 territorial jurisdiction and 213-14 UNC 2(7) 212-13, 488 investment: see foreign direct investment Iran arms sanctions (UNC 41) 1247 embargoes 688 n220 human rights in 305 London embassy 757 n324 non-recognition policy and 484 nuclear weapons and 1247 prisoners of war 1021 n59 Rushdie fatwa as intervention in UK affairs 213 n82 straight baselines 561 n37 Iran–Iraq war 1228 as breach of the peace (SC resolution 598 (1987)) 1241 child soldiers and 331 civilian population and 1185 n91 freedom of navigation and 610-11 genuine link/reflagging 612–13 UN Iran–Iraq Military Observer Group 1228 UNIIMOG 1244 n201 Iran–US Claims Tribunal 1043–5 applicable law 1043-4

claims below and above \$250,000 distinguished 1044 composition 1044 development of international law and 111, 1044-5 diplomatic protection distinguished 1044 dual nationals and 1044 espousal of claim principle and 1044 establishment 1043 final and binding nature of awards 1044 individual, standing 1043 privileges and immunities 1320-1 recognition and enforcement of awards 1044 rules of procedure (UNCITRAL as modified by parties or Tribunal) 1044 Security Fund 1044 Iran–US Claims Tribunal, jurisdiction disputes relating to the interpretation of the Claims Settlement Agreement 1043 inter-state contractual claims 1043 violations of individuals' property rights arising out of the hostages crisis 1043 Iran–US relations freezing of assets 692 sanctions 692-3 Iraq see also Iran–Iraq war Arab League and 1032 Coalition Provisional Authority 428 human rights in 83-4, 305 ICC Statute (1998), incorporation 429 invasion of Kuwait: see Kuwait, Iraqi invasion of Kurds and 1156, 1239, 1254-5 minorities in 293 n164 no-fly zones 1156, 1254-5 'oil-for-food' scheme 1250 prisoners of war 1021 n59 prisoners of war, treatment of 1175 n39 Red Cross and 1201, 1243 safe haven 1156

as threat to the peace (SC 688 (1991)) 1156, 1239, 1254-5 UN blockade 1244 UN failure 1224, 1234 UNIKOM 1229 UNMOVIC 1249-50, 1256 UNSCOM 1249-50, 1255 n253 US missile attack in Baghdad (1993) 1145 WMD and 1248-50 Iraq, occupation of 1183-4 human rights, Special Representative 1183–4 internationally recognised government of Iraq as objective 1183-4 obligations of occupying powers 1183-4 Iraqi High Tribunal Appeals Chamber 429 death penalty 429 due process/fair trial and 429 establishment 428-9 individual criminal responsibility 429 Iraqi Special Tribunal, as successor to 429 judges (Iraqi nationals) 429 non-Iraqi nationals, role 429 President 429 Trial Chambers 429 Iraqi High Tribunal, jurisdiction concurrent/primacy 429 crimes against humanity 429 crimes committed between 16 July 1968 and 1 May 2003 429 crimes of regime of Saddam Hussein 429 genocide 429 over Iraqi nationals or residents 42.9 war crimes 429 Ireland continental shelf 588 customary international law and 167 international law in municipal courts 170 treaties/municipal law relationship 170

Irish Free State–UK Treaty (1921), state succession to public debt and 999 irregular forces, right of self-defence and 1135-6 **ISAF 1280** Isaiah 15 Islamic approach to international law/international relations 18 diplomatic privileges and immunities and 18 inter-faith relations 18 war, laws of 18 Islamic Conference 395 n295 Islamic Shari'ah as applicable law 395 n295 islands 564-5 artificial 199, 582, 583, 609 chain 559, 565 contiguous zone, right to 564-5 continental shelf, right to 564-5, 588 creation 498 definition (GCTS/UNCLOS) 564 EEZ, right to 564-5, 582 installations on the continental shelf distinguished 589-90 low-tide elevations distinguished 559 maritime delimitation and 594-5, 598, 603, 605 oil rigs distinguished 589-90 rocks, status 559, 565, 582 self-determination and 199 sovereignty over 524 territorial sea, entitlement 564-5 Israel boundary disputes 200 diplomatic premises, immunity in relation to 755 n314 *Eichmann* case 214, 651, 671–2, 680, see also Eichmann case embargoes 1125 Entebbe rescue 680, 1144 international law in ancient Israel 15 international law in municipal courts 166 recognition 200, 457 recognition by Arab countries 447, 462 nn71 and 74

Red Cross and 1201 self-defence, right to (including pre-emptive action) 1135, 1138, 1139 state succession 960 Israel occupied territories see also Construction of a Wall case, Beit Sourik and Mara'abe in the table of cases annexation, exclusion 1182 Geneva Conventions (1949) and Protocols I and II (1977), applicability 1178–9 Golan Heights, proposed change in status 469 n105, 502 n80 human rights and 1181–2 ICCPR, applicability 322 national security and public order considerations 1181-2 powers and authority of military commander 1182 Special Committee on Practices in 303 territorial acquisition and 502 West Bank 1178–9, 1181–2 withdrawal from, agreements related to 247 Israel–Egypt Peace Treaty (1979) 1228 n117 Israel–Jordan Peace Treaty (1994), jurisdictional arrangements 657-8 Italy 1930s aggression 30 city states 20 customary international law and 173 deep sea mining 630 employment contracts, state immunity in relation to 726 Gulf War and 1253 n246 Holy See and 244 ICJ and 1073 international law in municipal courts 173 state immunity from execution/attachment 747 state succession (1947) 958 n4 unification (1870) 28

ITLOS

see also law of the sea, dispute settlement (UNCLOS Part XV); law of the sea, jurisprudence ad hoc judges 639 advisory opinions 642 applicable law 639-40 composition 638-9 counter-claims 641 exhaustion of domestic remedies 642 experts 639 jurisdiction 639 jurisprudence 642-4 non-appearance 641 non-state entities and 639 parallel treaties, primacy 637-8 prompt release proceedings (UNCLOS 292) 642-3 provisional measures 637-8, 640-1, 643,644 qualifications 639 Seabed Disputes Chamber: see Seabed Disputes Chamber (UNCLOS 186 - 91) standing 639 term of office 639 third party intervention 641-2 website 1338 ITU 28, 244, 549, 550-1, 1285 n14 establishment (1865) 28, 1284 role 549 Ivory Coast, arms sanctions (UNC 41) 1247 n218 Jammu 1226 n108 Jan Mayen Island 599-601 Japan 1930s aggression 30 as archipelagic state 566 customary international law and 176 deep sea mining 630 ICJ and 1072 n103 international law in municipal courts 177 invasion of China/Manchuria

(1931) 30, 468

from 30

minorities in 295

League of Nations, withdrawal

and 224 Taiwan and 234 treaties/municipal law relationship 176 Jay Treaty (1794) 823, 1048 Jericho 247 Ierusalem proposed international status (1947) 230 SC resolutions (476 (1980) and 478 (1980)) (change of status) 469 Jordan, 1958 crisis 1273 journalists, compulsory licensing 388-9 Joyce case 667 Judaism, and international law 15 judicial decisions as source of international law 109-12 cross-reference between municipal and international courts 130 cross-reference between tribunals 111, 352 n37 as evidence of customary international law 112 ICTR and ICTY decisions 111 international arbitral tribunals 111 municipal courts 111, 112 PCIJ/ICJ decisions 109-11 as subsidiary source 109 websites 1334-5 judicial impartiality 1060 n17 judicial independence 11-12 African Commission resolution on 393 ICC 415 Zimbabwe 393 judicial notice of foreign law 140 ICI 1091 of international law 140-1 judicial review 182, 188-91, 193, 692, 812 ICJ and 1113–14, 1271 judicial role 56, 146, 147 juridical personality/personality before the law, right to ACHR 3 274 ICCPR 16 275 indigenous peoples and 300 non-derogation 274

Pacific Islands Trust Territory

jurisdiction see also domestic jurisdiction principle (UNC 2(7)); justiciability applicable law 647 aut dedere aut judicare principle 671, 1160civil jurisdiction: see civil jurisdiction; torts in violation of international law, jurisdiction (US Alien Tort Claims Act) criminal jurisdiction: see criminal jurisdiction definition, difficulties and confusion 647 executive jurisdiction 650-1, see also forcible abduction/unlawful arrest extraterritorial jurisdiction: see extraterritorial jurisdiction federal states: see federal states international law and conflict of laws rules distinguished 646-7 law-making (prescriptive) and law-enforcement jurisdiction distinguished 645-6 legislative, executive and judicial jurisdiction distinguished 645, 649 - 50overview 645-7 ships: see ships (jurisdiction) territorial jurisdiction: see territorial jurisdiction jurisdiction based on nationality, collisions on the high seas 618 jus civile 16–17 jus cogens/peremptory norms 124-7 acquired rights 1001 aggression 808 n198 apartheid 808 n198 creation of 126-7 customary/treaty law, limitation to 127 definition 125-6 environmental offences 807 erga omnes rules distinguished 124-5 genocide 126, 808 heads of state immunities and 126 n239 human rights 266-7 ICJ jurisdiction and 1085

international crimes 126 lex specialis derogat legi generalis and 124 natural law and 125-6 non-derogation principle 125, 126, 275, 807, 1197 piracy 126 racial discrimination 808 n198 SC resolutions and 127 self-determination, right to 808 n198 slave trading 126, 808 slavery 808 n198 standing/locus standi and 125 state immunity from jurisdiction and 127, 716 State Responsibility, ILC Articles and 126, 807-8 torture 326, 808 treaty amendment and 931-2 treaty obligations and 127 treaty reservations and 1217 universal jurisdiction and 673-4 use of force, prohibition 126 validity of treaties and (VCLT 53 and 64) 125, 127, 944 jus communis 534 jus gentium 16-18 jus soli 661 just satisfaction (ECHR 41) 353, 359, 806 n184 just war 1119-20 balance of power system and 1120 Grotius 24 law of war and 1120-1 nation-state and 1119-21 Peace of Westphalia (1948) 26, 1120, 1282 positivism and 1120 St Augustine 1119 state sovereignty and 1119-21 Suarez 1120 Vitoria 23, 1120 WWI and 1121 justice, natural law and 24, 54 Justice and Home Affairs Pillar 241, 2.42justiciability 179-88, see also act of state doctrine

# 1446

basis of doctrine 180–1 constitutionality of foreign government 186 defence matters 184 definition 179-80 diplomatic protection 188-9 diplomatic representation, matters related to 186 n302 domestic acts, applicability to 180-1 evidential bar considerations 180 foreign law 186-7 foreign relations and 140, 182, 187 - 92individual's treaty rights and obligations 185 manageable judicial standards, need for 182, 186, 190-1 separation of powers and 180, 189 state immunity and 180, 182-3, 699-701 state sovereignty and 180-3 taking of property in foreign state 191-2 terrorist threat assessment 189 treaty concluded between third states 185-6 unincorporated treaties 183-6 Kadesh 14 Kaliningrad 964 n45 Kant, Immanuel 132 Kashmir 1221, 1226 n108 Katanga secession 205 self-determination and 392 Kazakhstan EU Guidelines (1991) and 451-2 treaty succession 976-7 Kellogg-Briand Pact (1928) 439 n226, 468, 501, 506, 509, 942, 1122 Kelsen, Hans 49-51, 72, 131-2, 1068 n75 Kenva Bogotá Declaration (1976) 552 bombing of US embassy 1134 Somali claims over 523-4 treaty succession and 958 n6 Kerkennah islands, effect on delimitation 594

KFOR as regional arrangement (Chapter VIII) 1280 state responsibility and 350-1, 787-8, 1312 n140 website 1340 Khrushchev, Nikita 33 Kiel Canal, as international waterway (Treaty of Versailles) 540, 930 Kinmen 235 Korean war 57, 1215 collective use of force (Chapter VII) 4 Korovin, E. A. 32 Koskenniemi, M. 63-5 Kosovo see also KFOR Ahtisaari Plan (2008) 204, 452–3 applicable law 233 civilian population and 1185 n88 Constitutional Framework for Provisional Self-Government (2001) 233 EU Special Representative 204 EULEX 204 n41 humanitarian intervention in 1158-9 ICTY and 404 independence 201, 204, 424, 452-3 International Civilian Representative (ICR) 204 international legal personality 232 - 3International Steering Group 204 minorities in 295 n170 OSCE Mission 1033 recognition of 453 recognition and UN membership 453 SC resolution 1244 (1999) and 232-3, 452 sovereignty over 233 Special Representative, role 233 territorial title 233 Torture Committee (CoE) and 363 n115 UN membership and 453 UNMIK 232-3, 423 War and Ethnic Crimes Court 423 n145

Kosovo Regulation 64 panels applicable law 424 composition 423-44 establishment 423 problems relating to 424 Kozhenvikov, F. I. 34 Kurds, repression by Iraq (SC 688 (1991)) 1156, 1239, 1254–5 Kuwait boundary with Iraq, UN guarantee (SC resolution 687) 521 n193, 1248, 1267 torture and 716-17 Kuwait, Iraqi invasion of 186-7, see also UN Compensation Commission (Iraq) as act of aggression 1241 n180 Arab League and 1032 as breach of the peace 1241 collective self-defence and 1147 economic sanctions as response to threat to or breach of the peace (UNC 41) 4, 1243-4, 1248-50 individual criminal responsibility 402 Iraq's historic claim to Kuwait and 525 non-recognition policy and 469-70, 1269 SC resolution 660 (1990) 1241, 1253 - 4SC resolution 661 (1990) 1147 n149, 1243 SC resolution 662 (1990) 1269 SC resolutions 402, 469-70, 502, 1223, 1269 state responsibility for damage arising from (SC resolution 687 (1991)) 858 n73, 1045 n209, 1248-9 UNIKOM 1229 Kyoto Protocol (1997) 880-1 Kyrghyzstan, EU Guidelines (1991) and 451-2 labour rights: see ILO; work, right to; workers' rights Lagash 14

LaGrand 135

lakes: see international watercourses land law, municipal and international law distinguished 489, 490-1 landlocked states 607-8 access to the sea, right of (UNCLOS 125) 607-8 climate change and 879 common heritage of mankind and 607 equality of treatment in ports 608 freedom of the high seas and 610 innocent passage and 570, 608 International Seabed Authority and 634 n399 law of the sea, role in the development of 80 living resources, right to equitable exploitation (UNCLOS 69(1)) 608 seabed resources 590, 607-8 UNCLOS and 555 language, rights relating to 268, 281, 294, 297, 318, 365-6, 367, see also Minority Languages, European Charter for Regional or Minority Languages (1992) CIS Convention 378 Linguistic Rights of Minorities, OSCE Oslo Recommendations (1998) 376 Use of Minority Languages in the Broadcast Media, OSCE Guidelines (2003) 376 n192 Laos, ASEAN membership 1294 Las Malvinas: see Falkland Islands laser weapons 1190 Lateran Treaty (1929) 244 Latin America 19th century use of force against 1121 Andean Pact (1669) 1292 n42 asylum and 2, 27, 76–7 ECLAC (UN Economic Commission for Latin America) 1213 independence 27 nuclear weapons, prohibition 610 n297 regional international law 2, 27, 76-7,92

SC and 39-40, 1207 SC membership 39-40 specialised agencies 384 standard of treatment of alien 27 US sphere of influence 57 uti possidetis doctrine/stability of boundaries and 525-6, 967-8 Latin American Free Trade Organisation, dissolution 1330 n214 Latin American Integration Association 1292 n42 Latvia CIS membership 249 minorities in 294 n164 USSR invasion/annexation of 468, 961 Lauterpacht, H. 131-2, 197, 200, 205, 218, 260, 449-50 law anthropology and 52–3, 55 function of 1 natural law see natural law positivism: see positivism psychology and 52-3, 55 realism and 49, 53, 55-6 sanction and 3-4 sociology and 51-4, 55-6, 59 law-habit 11 Law Merchant 19 Law Merchant (lex mercatoria) 19 law of the sea see also contiguous zone; continental shelf; EEZ; high seas, freedom of; ITLOS; Law of the Sea Convention (1982); marine pollution; marine resources: maritime delimitation: seabed; territorial sea common heritage of mankind and 488, 492, 533–4, 554–5, 629 economic pressures and 555 websites 1337 Law of the Sea Convention (1982) as balance of interests 555 customary international law and 556, 559, 568 entry into force 555-6 Geneva Conventions (1958), continuing relevance 555

interpretation, responsibility for 1304 as law-creating treaty 556 pressures leading to 555 Third World and 555 law of the sea, dispute settlement (UNCLOS Part XV) 635-44, see also ITLOS arbitral tribunal (Annex VII) 635-6 arbitral tribunal (Annex VIII) 636 choice of forum 635-6 choice of means 635 commissions of inquiry 638 compulsory procedures (UNCLOS 286 and 287) 635, 636-8 conciliation (UNCLOS 284) 635, 638 delimitation 637, 640 n443 ECJ and 635 EEZ rights 583, 636–7 expeditious exchange of views (UNCLOS 283) 635 fishing rights 635, 636-7, 640 n443 freedom of navigation 636 historic title 637 ICI and 635 international organisations and 636 n410 marine scientific research 636 military and law enforcement activities 637 negotiation obligation (UNCLOS 283(1)) 638, 1015–16 parallel conventions, primacy 637-8 peaceful settlement obligation (UNCLOS 279) 635 submarine cables and pipelines 636 law of the sea, history and development closed sea/open sea conflict 553-4, 568,609 Consolato del Mare 19 encroachment on the freedom of the high seas 554–5, 568–9 Geneva Conventions (1958) 555 'land dominates the sea' principle 553, 560-1 Law Merchant (lex mercatoria) 19

law of the sea (*cont.*) Mare Clausum Sive de Dominio Maris (Grotius) 24, 553-4 Rhodian Sea Law 19 UNCLOS/Law of the Sea Convention (1982), role 556 League of Nations abolition of war and 1121–2, 1215-16 dissolution 1330 establishment 30, 1284 as European organisation 30 expulsion from 31 failure 30-1 human rights and 270-1 individual's right of petition 271 Liechtenstein and 217 minorities protection 31, 271 recognition of states and 468 self-determination and 251-2 terrorism and 1159 n211 UN and 31, 225, 1114 n362 USA and 30 use of force and 1121-2, 1216-17 USSR and 30-1, 33 withdrawals from 30 League of Nations, dispute settlement 1216-17 arbitration, judicial settlement or inquiry (LoN 12) 1216 obligation not to war with party to dispute (LoN 15) 1216-17 report and recommendations 1216-17 settlement as preferred option 1216 leases of territory 539, see also Hong Kong; servitudes Panama Canal Zone 539 Lebanon Arab League and 1032 International Independent Investigation Commission 427 peacekeeping in 1212 n33, 1230-1, 1273UN Interim Force 1212 n33 Lebanon Special Tribunal applicable law 428 Chambers 428 Defence Office 428

establishment by Chapter VII Security Council resolutions 427-8 judges 428 Prosecutor 428 Registry 428 Lebanon Special Tribunal, jurisdiction attacks connected in accordance with principles of criminal justice 428 attacks in Lebanon between 1 October 2004 and 12 December 2005 428 attacks similar in nature and gravity to attack of 14 February 2005 428 concurrent/primacy 428 later date decided by Security Council and the parties 428 legal assistance, right to, Copenhagen Final Act (1990) and 374 legal dispute, definition 1012-13, 1067 - 8legal order, requirements 2–3 legal personality: see international legal personality legal representation, right to, death penalty and 321 legislation, interpretation consistency with international obligations, presumption of 143, 153, 159, 164-5, 168 intertemporal approach 160-1 unincorporated treaties and 150-1, 183 - 5legislation, website 1334-5 legislative jurisdiction 649-50, see also extraterritorial legislation; foreign law, recognition and enforcement legitimacy of criminal law proceedings 417-18 legitimacy of international law 61-3 legitimate expectations diplomatic protection 188, 812 ratified but unincorporated treaty 151, 168-9 lex specialis derogat legi generalis 66, 124, 1181 jus cogens and 124 regional international law and 92 - 3Right of Passage 92–3

liberalism and international law 63 Liberia arms sanctions (UNC 41) 1246-7, 1277 - 9AU involvement in 1277, 1279 Chapter VII action 1278-9 civil war 1029 ECOMOG and 1029, 1276-8 ECOWAS and 1029, 1276-8 flags of convenience 611-12 IGAD and 1279 peacekeeping operations in 1276-9 Protocol on Non-Aggression (1978) 1276 regional arrangements (Chapter VII) and 1276–9 as threat to the peace (SC resolution 788 (1992)) 1238 UN failure in 1278-9 UN Mission (SC resolution 1509 (2003)) 1278 UN Observer Mission 1277 Yamoussoukro Accord (1991) 1277 Liberia-Sierra Leone buffer zone 1277 liberty and security of person, right to see also enforced disappearances Arab Charter on Human Rights 395 CIS Convention 378 as collective right 299 ECHR 5 348 ICCPR 9 315 indigenous peoples 299 as natural right 266 UDHR 3 279 Libya see also Chad-Libya boundary dispute Aouzou Strip and 1011–12 arms and air embargo (UNC 41) 753, 1245 embargoes 1245 Gulf of Sirte as historic bay 564 London embassy 756, 760 sanctions (UNC 41) 1270 terrorism and 1244-5 US air raid 1144 US sanctions 692-3 Liechtenstein ICJ and 217, 1072 n103

League of Nations membership 217 nationality/diplomatic protection 813-14 sovereign status 217 Torture Committee and 364 UN membership 217, 1072 n103 life, right to see also death penalty; enforced disappearances ACHR 4 274, 381 arbitrary loss 317 n284 armed conflict and 317 n284 CIS Convention 378 CRC 6 331 date of conception, relevance 381 Declaration on Minimum Humanitarian Standards (1990) 1198 ECHR 2 274, 348, 357, 358 ICCPR 6 275, 314 as natural right 266 non-derogation principle and 274, 275, 358 Lisbon Treaty (2007) Charter of Fundamental Rights (2000) and 371-2 ECHR and 372 EU international legal personality 242 object and purpose 1288 Lithuania annexation by USSR (1940) 203 CIS membership 249 declaration of independence (1990) 203 independence/recognition of 203 minorities in 294 n164 USSR invasion/annexation of 468, 961 Litvinov Agreement (1933) 162, 465 lobster fisheries 589 local government, participation of minorities in 368 n151 Locke, John 25, 26, 266 locus standi: see standing/locus standi Lombok, Strait of 568 Lord's Resistance Army 413, 1154-5

lump-sum settlement 823, 840–1, 1044–5 distribution, responsibility for 841 evidence of customary international law, whether 841 Lusaka Ceasefire Agreement (1999) 1154, 1264, 1270

Maastricht Treaty 241 human rights and 370 McDougal, M. S. 59-60 Macedonia see also Yugoslavia CoE and 346 CoE Torture Committee and 364 n115 Council of Europe 346 ICTY and 404 n43 OSCE Mission 1033 peacekeeping operations 1280 recognition 462 n71, 464 UN membership 464, 1211 **UNPREDEP 1259-60** Machiavelli, Nicolò 20 Maine, H. 22 Malaysia ASEAN membership 1294 immunity of UN special rapporteur 1325-6 Mali Federation, dissolution (1960) 974, 980 Malta, Sovereign Order of 243 Malvinas: see Falkland Islands Managua Protocol (1993) 381 n219 Manchuria Japanese invasion of (1931) 30, 468 non-recognition doctrine and 468 mandate system 224-7, see also South West Africa mandate definition 31, 224 freedom of thought, conscience and religion 271 human rights and 270-1 mandate agreements as treaties 905 Permanent Mandates Commission 271 as 'sacred trust of civilisation' 224, 251, 271, 277 self-determination, right to and 251

sovereignty and 225, 493 trusteeship system and 224, 225-6, 277 Manila Declaration (1987) (ASEAN) 1294 maps as evidence 496, 519-20, 1091 large-scale charts 558 Mareva injunction 743 margin of appreciation 356-7 Marie Byrd Land 536 Marine Environment Disputes Chamber 640 n443 marine mammals 624 n356 marine pollution 620-3, 844, 898-901, see also oil pollution coastal state jurisdiction 899 compensation for impairment of environment 901 due diligence and 855 EEZ and 899 flag state jurisdiction 899 forum 901 GCHS 24 620 IMO and 899, 900 insurance obligation 901 limited liability 901 port state jurisdiction 899 regional conventions 898 n314 reporting obligations 900 state-owned ships 899 strict liability 900 territorial sea and 899 warships and 899 marine pollution, conventions relating Civil Liability Convention (1969/1992) 621, 894 n286, 900 - 1Civil Liability for Oil Pollution Damage from Exploration and Exploitation of Seabed Mineral Resources 900 n325 International Fund Convention (1971) 621,901 Intervention on the High Seas Convention (1969) 620–1, 798 n124, 900 London Dumping Convention (1972) 621, 855, 893

MARPOL Convention (1973) 621, 898-9 Oslo Dumping Convention (1972) 621, 895 Paris Convention on Marine Pollution from Land-Based Sources (1986) 621, 872, 875, 894, 895 Preparedness, Response and **Co-operation Convention** (1990) 870-1,900 Prevention of Pollution of the Seas by Oil (1954) 621 UNCLOS 621-3, 875, 898 n314, 899 marine resources see also seabed resources (UNCLOS, Part XI) as common heritage of mankind 554–5 conservation obligations and rights 572 fishing zones and 581 freedom of the high seas doctrine, impact on 554-5 international law, role 48 landlocked states and 608 marine scientific research dispute settlement 636 EEZ 582, 583 n134 high seas 609, 610 innocent passage and 572 seabed resources distinguished 629 n374 maritime delimitation 590-607, see also baselines; continental shelf; Continental Shelf Convention (1958), customary international law and 3-mile and 12-mile territorial sea limits distinguished 592 access to fish stocks 600, 602, 606 agreement, need for 590-1, 595-6 coastal configuration 596-7, 598, 604,606 coastal lengths 597, 598, 599, 605, 606 customary international law in relation to continental shelf and EEZ, relevance 601 defence arrangements and 602

delimitations involving opposite and adjacent coasts distinguished 591, 592,600 dispute settlement 637, 640 n443 distance 597 distributive justice, exclusion 107 n159, 108, 597 economic position of two states 597-8 equidistance/special circumstances principle 85-6, 107 n154, 591-5, 599, 600, 602, 603, 604, 605, 606, 916 equitable principles 106-8, 593-605 GCTS provisions 591, 592-5 geography as key factor 596, 598, 602 historic title and 591, 592 islands, relevance 594-5, 598, 603, 605 jurisprudence: see equity, jurisprudence landmass 597-8 marine scientific research considerations 602 median line 591-2, 594, 595, 597, 598, 599-600, 603 methodology 591-2, 595-6, 597, 598-9,604-6 modus vivendi line 605-6 non-encroachment 593, 597, 598, 599,606 non-refashioning of nature 107, 597, 606 oil resources and 602, 606 practice of parties 606-7 proportionality 593, 597, 598, 599, 601, 603, 604 security considerations 600, 606 single continental shelf and fishing zone/EEZ boundary 595-6, 601-4 'special circumstances' and 'relevant circumstances', relevance 599 n234 territorial sea 591-2 UNCLOS provisions 591-2, 595-605 uti possidetis principle and 591 maritime law: see law of the sea Maroua Declaration (1975), validity 134, 914

Marrakesh Accords (2001) 881 Marrakesh Agreement (1994) 1287 marriage, right of, ECHR 12 348 Marshall Islands 225 Marshall Plan 1288 n21 Martens clause 1169 n9 Marxism and international law 31-2, 267 in China 37-8 mass killings, as 'grave breach' 403 material breach of treaty: see treaties, termination for material breach (VCLT 60) Matsu 235 Mauritania, territorial claims against Morocco 237, 254, 491, 525, 1110 Mayotte 1019 n42 Media, OSCE Representative on the freedom of the press 377 distinction 1018 Hague Conventions (1899/1907) 1019 third party involvement 108 mediation: see good offices/mediation mentally ill, protection of, IAComHR recommendation on 383 n228 mercenaries, recruitment, use, financing and training as act of aggression 1153 n177 Convention on (1989) 1173 n31 ILC Draft Code of Crimes against the Peace and Security of Mankind (1991) 671 special rapporteur 305 MERCOSUR membership 1038 website 1340 MERCOSUR dispute settlement procedures (Protocol of Brasilia) 1038 n165 arbitration 1038 n165 negotiations 1038 n165 merger of states 208-9 as absorption process 965-6, 997-8 Germany (1871) 28 Germany (1990): see Germany, FRG–GDR unification (1990) Italy (1870) 28

Yemen Arab Republic/People's Democratic Republic of Yemen (1990) 963-4 merger of states, state succession and 963–6 nationality and 1007 state archives 996 state property and 992 treaty succession and 971-3 Mesopotamia 14 meteorology, remote sensing 551 Mexico-US relations, Texas, secession of 998 MFN treatment 839 MICIVIH 1239 Micronesia 224, 225 Middle Ages 18, 19–20, 21 n71 Middle East see also individual countries 1948 War 1237 early treaties 14 ICRC and 1201 SC and 446, 1209, 1241 SC resolution 54 (1948) 1237 SC resolution 242 (1967) 469, 502, 1209, 1221, 1223 as threat to the peace (SC resolution 54 (1948)) 1237 UN peacekeeping force, role 1267 UN peacekeeping force, withdrawal 1216 UN Secretary-General and 1227 UNEF 1226, 1228, 1272 UNEF II 1227, 1228 n117 UNGA special sessions 1212 Uniting for Peace and 1273 **UNTSO 1226** US mediation 1018 Middle East Peace Conference (1993) 245 Migrant Workers Committee 333-4 establishment 334 individual complaints 334 inter-state complaints 334 membership 334 reporting obligations 334 Migrant Workers Convention (1990) applicability (MWC 2 and 3) 333

conclusion/entry into force 333 minorities and 369 n151 migrant workers, rights of collective expulsion, protection from (MWC 22) 333 cultural identity (MWC 31) 333 education (MWC 30) 333 equality of treatment with nationals 333 health/medical treatment (MWC 28) 333 IAComHR 383 n228 'migrant' (MWC 2) 333 protection of minorities and 296 regular/documented situation and 333 trade union, freedom to join (MRC 26) 333 Vienna Declaration and Programme of Action (1993) 280 migration military necessity belligerent occupation and 401, 1181 - 2cultural objects and 1186 humanitarian considerations and 1181-2, 1183, 1184 ICTY and 443 n229 protection of cultural property and 1186 Military Staffs Committee (UNC 47) 1244, 1251, 1254 mineral resources Antarctica: see Antarctic Minerals Resources Convention (1988) continental shelf 584-5 seabed: see seabed resources, Conventions and other international instruments relating to; seabed resources (UNCLOS, Part XI) mines and booby traps Corfu Channel 575-6, 784-6 state responsibility and 785-6 US mining of Nicaraguan waters 785 mines and booby traps, prohibition of use against civilians 1189-90

Minorities, Framework Convention for the Protection of (1994) (CoE) 365-8 CAHMIN (Committee for the Protection of National Minorities) 366 n135 conclusion and entry into force 366 FRY and 367 n141 'national minorities', absence of definition 368 obligations 366-7 Vienna Declaration and Programme of Action (1993) and 366 Minorities, Framework Convention for the Protection of (1994) (CoE), implementation 367-8 Advisory Committee 367-8 Committee of Ministers and 367-8 conclusions and recommendations 367-8 individual complaints, exclusion 367 monitoring arrangements 367, 368 non-parties and 367 n141 publication of conclusions and recommendations 368 publication of reports 367 reporting obligations 367 Minorities, Independent Expert on 297 Minorities, OSCE High Commissioner on National confidentiality of proceedings 376 Education Rights of Minorities, Hague Recommendation (1996) 376 n194 establishment 376, 1289 Linguistic Rights of Minorities, Oslo Recommendations (1998) 376 Public Life, Lund Guidelines on the Effective Participation of National Minorities in (1999) 376 n194 Use of Minority Languages in the Broadcast Media, Guidelines on (2003) 376 n194 minorities, protection of 293-301, see also Minorities, Framework Convention for the Protection of (1994) (CoE) Aaland Islands 294 n162 acquired rights and 524 n207

minorities, protection (*cont*.) affirmative action 296-7 CIS Convention 378 collective activity, right of 271 as collective right 271, 281, 294, 299, 366 Copenhagen Final Act (1990) and 374 Council of Europe 298, 365-8 cultural life 294, 296, 297, 366 Declaration on Minimum Humanitarian Standards (1990) 1198 determination of existence as objective matter 296, 298 differential treatment, justification 296-7 Eastern and Central European states and 293-4, 297-8 ECHR 14 365 equality of fact, need for 271, 288 gender discrimination and 297 geographic proportions, avoidance of measures changing 367 ICCPR 27 294-7 indigenous peoples: see indigenous peoples as individual right 294-5 individual's standing 259, 294 language, right to 281, 294, 297, 365, 367, see also Minority Languages, European Charter for Regional or Minority Languages (1992) League of Nations, role 31, 294 migrant workers and 296 'minorities' 295, 296, 368 Minority Schools in Albania 271, 288 nationality of individuals, relevance 295, 296 Nazi exploitation of minority issues 294 NGOs, role 297 Nigerian minorities in Cameroon 524 n207 non-discrimination and 271, 366 OSCE/CSCE 298, 376 Peace Treaty (Italy-Allied Powers) (1947) 294 n166

petition, right of 294 political life, right to participate in 366 recognition of states and 451, 452, 461 religion, right to practise 281, 297, 366 reserves 296 Roma 297 n198 satellite broadcasting and 550 self-determination, right to 522-3 technical co-operation and 297 territorially based rights 296 UN Declaration on (UNGA resolution 47/135) 297 UNHRC 305 UNHRC General Comment 23 296-7,318 Vienna Declaration and Programme of Action (1993) 280, 366 women and 318–19, 321 WWI minorities treaties 259, 271, 293 - 4WWII, treaty provisions following 294 Minorities Sub-Commission: see Human Rights, Sub-commission on the Promotion and Protection of Minority Languages, European Charter for Regional or Minority Languages (1992) 365-6 accession by non-CoE members 366 measures to promote use of 365 Minority Languages, European Charter for Regional or Minority Languages (1992), Committee of Experts 365-6 membership 365 reporting obligations 365 standing/locus standi 365 minors see also child, rights of death penalty and 318 Minsk Process 1033 n142 MINURSO 1229 mixed arbitral tribunals/claims commissions

# 1456

diplomatic protection and 823 individuals, standing 258-9 Mexican Claims commissions 1056 Moldova CoE membership 346 n4 EU Guidelines on Recognition of New States (1991) and 451-2 independence 238 OSCE Mission 375, 1033 monism 29, 131-2 equality of states and 132 pacta sunt servanda as basis 29 positivism and 51, 131 Montenegro see also Yugoslavia secession 963 n39 UN membership 1211 Montreal Rules of International Law Applicable to Transfrontier Pollution (1982) 856-7, 864, 872 MONUC 1154, 1262-3, 1264-5 moon as common heritage of mankind 548–9, 882 demilitarisation 548 international regime 548-9 peaceful purposes, limitation of activities to 548 Moon Treaty (1979) 548-9, 881-2, see also Outer Space Treaty (1967) moral principles China and 37 human rights and 266 international law and 2, 3-4, 12, 54, 74-5,1010 natural law and 25, 53-4 'positive morality' 3-4 positivism and 29, 49 Morocco Gulf War and 1253 n246 SADR and 236-7 territorial claims against Mauritania 237, 254, 491, 525, 1110 territorial claims over Algerian territory 525 Western Sahara and 525, see also Western Sahara

Morocco-France relationship (Treaty of Fez (1912)) 216 sovereign status of Morocco 216Moscow Mechanism: see Human Dimension of the CSCE (Moscow Mechanism) Mozambique General Peace Agreement (1992) 1223 n97 ONUMOZ 1229 n122 peacekeeping operations 1229 Rhodesia and 1241 n180, 1242 n189 Multilateral Investment Guarantee Agency 842–3 multinational private companies see also Transnational Corporations, UN Commission on definition 249-50 international legal personality 249-50 multinational private companies, codes of conduct draft Norms on the Responsibilities of Transnational Corporations and other Business Enterprises with Regard to Human Rights (2003) 250 ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy 250 OECD Guidelines for Multinational Enterprises 250 UN Commission on Transnational Corporations, draft Code of Conduct 250 World Bank Guidelines on the Treatment of Foreign Direct Investment 250, 828, 835, 837, 842 n373 multinational public companies definition 248-9 examples 249 international legal personality 248 - 9international organisations distinguished 1296

municipal courts and international law 138-79, see also judicial decisions as source of international law cross-citation between municipal and international courts 130 ECJ decisions and 140 ECtHR decisions and 140, 156 ICJ decisions 158-9 international law as defence 130 municipal court decisions as source of international law 111, 112 public policy considerations 139 municipal and international law, interrelationship 129-94, see also municipal courts and international law ambiguity 142-8 applicability of municipal law in international tribunals 136-7 conflict between 140, 143, 159, 164-6 consent and 143 distinction between 1, 2-4, 130 dualism: see dualism growing interpenetration 129-30, 138 incorporation doctrine: see incorporation doctrine jurisprudence 134-7, 141-7, 157-61 monism: see monism positivism and 131 primacy 131-7, 158-9, 164, 177-9 state sovereignty and 178 transformation doctrine: see transformation doctrine treaties: see treaties, compliance/implementation (VCLT 26-7); treaties, interpretation (VCLT 31-3) UK practice 139-57 US practice 150-1, 157-66 websites 1334-5 municipal law as defence to breach of international law 133-6, 137, 138, 648, 941 as evidence of compliance with international obligations 137 as evidence of state practice 83, 136 - 7

murder: see wilful killing/murder mutual assistance 674 Myanmar 1223 n97 ASEAN membership 1294 NAFTA (1992) 'expropriation' 830 n305, 832 n312 expropriation, requirements 835 n335 'full and equitable treatment' (NAFTA 1105) 1039 n174 'full protection and security' (NAFTA 1105) 1039 n174 interpretation, FTC responsibility for 1039 object and purpose 1038 parties to 1038 website 1340 NAFTA dispute settlement procedures 1038-40 applicable law 1039 Arbitral Panels 1039-40 bi-national panel reviews 1039 compliance obligation 1039-40 Final Reports 1039-40 financial services provisions 1039 Free Trade Commission 1039 good offices/mediation/conciliation 1039 ICSID Additional Facility 1038–9 ICSID arbitral tribunal 1038-9, 1041 individual investor/state party disputes (Chapter 11) 1038-9 Initial Reports 1039-40 inter-state disputes (Chapter 20) 1039-40 interim measures 1039 Scientific Review Board 1039 suspension of benefits of equivalent effect 1040 UNCITRAL Arbitration Rules and 1038-9 website 1340 Nagorno-Karabakh 237-8, 375 n186, 1033 n142 NAIL (New Approaches to International Law) 63–4 name, right to ACHR 18 275, 381

CRC 7 331 non-derogation 275 Namibia see also South West Africa mandate independence 227, 1234 intervention in Congo 1154 status 225-7, 248 SWAPO and 248 UN and 1234 UN responsibility for 226 UNGA Special Session 1212 n33 Uniting for Peace and 1273 UNTAG 231 n177, 1229 Namibia, UN Council for 303, 1212 establishment, role and purpose 248international legal personality 248 membership and accountability 248 travel and identity documents 248 Napoleonic wars 27, 1282 nation-state death of 67 n87 international law, history and development and 9, 13-14, 20-2, 48 n16, 58, 1282-3 just war and 1119-21 as principal subject of international law 1,10 national debt: see public debt; state succession to public debt national identity, importance 35, 40-1, 213 Arab Charter on Human Rights 395 national liberation movements (NLMs) decolonisation and 245 ECOSOC and 246 international legal personality 245-8 petition to UN, right of 245 PLO as 248 recognition by AU or Arab League, effect 245-6 recognition as state, effect 246 UNGA observer status 245 national security coastal state rights 570 human rights and 357–8, 1181–2 protective principle: see protective principle security zones 584

national treatment, migrant workers' right to 333 nationalisations: see expropriation/ nationalisation of property of foreign national nationalism 27-8 nationality civil jurisdiction and 663 definition 660-1 diplomatic protection and 258, 661, see also nationality of claims dual nationality: *see* dual nationality Hague Convention on the Conflict of Nationality Laws (1930) 660, 812 - 13as link between individual and international law 258, 660-1, 808-9, 813-14 Nationality Decrees in Tunis and Morocco 660, 813 Nottebohm 660, 813-14 obligations of national 660 rights deriving from 659-60 state practice 813-14 nationality, acquisition/grant births on ships and 662 n69 children of diplomatic personnel 661-2 children of enemy aliens 662 civil law practice 661 common law practice 661-2 genuine link, need for 258, 611–13, 643, 660-1, 664, 813-14, 815, 1005, 1006 jus sanguinis 661 jus soli 661 naturalisation 663 in occupied territory 662 right to choose (ICCPR/ICESCR) 1005 state succession and 489 state's right to determine 258, 812 - 13state's right to determine rules relating to 648, 660 nationality as basis of jurisdiction criminal jurisdiction 654, 659-64 territorial jurisdiction and 653 universal jurisdiction and 673

nationality of claims 258, 648, 808-19, see also diplomatic protection companies and 815-18 continuity requirement 810-11, 814 **ICSID 1042** ILC Articles on State Responsibility and 808 nationality of companies 1042 diplomatic protection and 815-17 foreign control, effect 1042 ILC Draft Articles on Diplomatic Protection 817 subsidiary companies incorporated abroad 688 n219 Nationality, European Convention on (1997), state succession and 1005-6 nationality of aircraft 664 ships: see ships (nationality and registration) nationality of married women 662 Convention on the Elimination of Discrimination against Women (1979) and 662 Convention on the Nationality of Married Women (1957) and 662 nationality of children, rights in regard to 662 nationality, right to ACHR 20 275 child (ICCPR 24(3)/CRC 7) 318, 331, 659 n59, 662 European Convention on Nationality (1948) 659 n59 ICCPR 659 n59 illegitimacy 661 indigenous peoples 299 minorities and 295, 296 non-derogation 275 UDHR 659 n59 nationality and state succession 957, 1004 - 8ACY Opinion No. 2 1005 agreement as preferred option 1005-6 applicable law 1004 automatic acquisition of new nationality 1005

cession of territory and 1007 change, presumption of 1004-5, 1006 dual nationality and 1004–5 European Convention on Nationality (1997) and 1005-6 family unity and 1007 genuine link and 1005, 1006 habitual residents 1006, 1007-8 ILC Draft Articles on (1999) 1006-8 merger/dissolution of state and 1007-8 option to retain original nationality and depart 1005 retention of original nationality, provision for 1004-5 right of option 1005, 1007-8 right to a nationality and 1006 rules relating to, obligation of new sovereign to declare 1004 Statelessness, Convention on the Reduction of (1961) and 1005 statelessness, obligation to avoid 1005, 1006 nationals abroad, use of force to protect: see protection of nationals abroad, use of force native peoples, South American Indians 23 NATO 1289-90 collective security and 1290 collective self-defence (UNC 51) and 1137, 1146-7 EAPC and 1290 humanitarian intervention in Kosovo 1156-7 membership 1290 object and purpose 47 origin and purpose 57, 1210, 1289 - 90Partnership for Peace 1290 protection of civilian population in case of armed conflict 1185 n88 September 11 attacks and 1290 n30 Status of Forces Agreement (1951) 184, 658, 776 n448, 1320 n170 structure and organisation 1290 territorial integrity and 1290

UN Security Council and 1210 US Afghanistan operations and 1136 NATO, dispute settlement arbitration (inter-state) 1032 cod war and 1032 conciliation 1032 good offices/mediation 1032 natural boundaries 524 natural law 53-4 absolute values 25 academic writers, influence 112 aggression, prohibition and 54 Catholic Church and 53 equality of states and 215 general principles of law/international law and 99 Greek concept 17, 21 human rights and 54, 258, 266-7 jus cogens/peremptory norms and 125–6, 266–7 *jus gentium* and 17–18 justice and 24, 54 moral principles and 25, 53-4 as moralistic system 25 obligatory character of international law and 23 pacta sunt servanda and 23 positivism and 24-7, 49-54 reason and 24 Renaissance and 22 Roman concept 17–18 Spanish philosophy and 23 state sovereignty and 27, 132 Stoic concept 17 treaties, role 25 natural resources, right to indigenous peoples and 300, 390 moon: see moon natural resources, right to permanent sovereignty over Stockholm Declaration 850 UN Council for Namibia and 248 UNGA resolution 1803 (XVII) 833, 834-5 Natural Resources, UN Committee on 1213 n42 natural rights 26-7 naturalisation 663 naturalism: see natural law

Nauru ICI and 1072 n103 international legal personality 199, 224 n136, 1297 naval exercises, right to conduct on the high seas 610 Nazism minority issues, exploitation of 294 natural law and 54 necessity see also force majeure; military necessity Gabčíkovo–Nagymaros Project 798-9 ILC Articles on State Responsibility 798 Oil Platforms 1141 Rainbow Warrior 798 responsibility for breach of international obligation and 798-9, 1313 n141 Saiga (No. 2) 798-9 self-defence, right to 793, 1131, 1134 n80, 1140-1 state responsibility and 793 negotiation as means of dispute settlement 638, 1014-17, see also exhaustion of diplomatic negotiations arbitration, role in 1054 at request of Security Council 1221 consultation obligation 1015 n22 court's direction for 1016 good faith obligation 1016, 1017 as preliminary to other methods 1015 threat to the peace and (UNC 33) 1017 negotiation as means of dispute settlement, treaty obligation 1015-17, 1070 IMCO (1948) 1016 n25 Manila Declaration on the Peaceful Settlement of International Disputes (1982) (UNGA resolution 37/10) 1013 n17, 1016 n28 MERCOSUR 1038 n165

negotiation as means (cont.) Non-Navigational Uses of International Waterways Convention (1997) 885 Nuclear Non-Proliferation Treaty (1968) 1017 Revised General Act for the Settlement of Disputes (1949) 1016 n25 UNC 33 1017 UNCLOS 283(1) 638, 1015 Netherlands civil jurisdiction 652 customary international law and 173 deep sea mining 630 freedom of the seas and 24 Gulf War and 1253 n246 Indonesia and 1221 international law in municipal courts 172 nuclear power installations 775 n116 recognition of governments 459 n56 treaties/municipal law relationship 172-3 neutral zones 229 n168 neutrality (general) civil war and 1150 development of law of 1121 neutrality zones 584 New Hebrides, status 228-9 new states see also developing countries acquiescence in existing rules of international law 91 international law, impact on 38-42 New Territories (Hong Kong) 539, 1008 New Zealand Antarctic claims 535-6 Cook Islands and 239 customary international law and 167 French nuclear tests: see nuclear tests international law in municipal courts 167 Rainbow Warrior: see Rainbow Warrior recognition of governments 459 n56 unincorporated treaties and 169 NGOs see also Red Cross (ICRC)

19th century origin 1283 African Court of Human and Peoples' Rights and 394–5 environmental protection and 846 ESC and 362 human rights and 271, 276 n69 ICJ, standing 1073 minorities and 297 outer space and 546 role 1283 as subjects of international law 261 UNHRC and 315-16 Nicaragua border conflicts 1032 election observers 1229 n122 human rights in 383 indigenous peoples in 300 ONUVEN 1229 Nice Treaty 241 n238 Niger 1253 n246 Gulf War and 1253 n246 Nigeria civil war in 460–1, 526, 1152 n175, 1201, 1233-4 Liberia, involvement in 1276-7 Maroua Declaration (1975): see Maroua Declaration (1975) secession, right to 526 non-aggression principle: see aggression, prohibition non-alignment 57, 1287 non bis in idem principle ECHR Protocol VII 348 ICC 415 ICTR 408 **ICTY 405** non-combatants/persons hors de combat crimes against humanity and 438 non-international armed conflict and (GC, common article 3) 435, 1194-5 non-derogation principle amendment or modification of treaty and 931-2 armed conflict 274, 1197 child, rights of 275 cruel and inhuman treatment 274 family life 275

freedom of thought, conscience and religion 274-5 fundamental rights 125, 126, 275, 1197 habeas corpus 389 jus cogens/peremptory norms 125, 126, 275, 807, 1197 public life 275 slavery 274, 275 torture 274, 275 non-discrimination principle 286-9, see also differential treatment, justifiable; gender discrimination; Human Rights, Sub-commission on the Promotion and Protection of; minorities, protection of; non-discrimination principle; racial discrimination; religious discrimination, prohibition; women, rights of BITs 839 child, rights of 318, 357 customary international law 275, 286 - 7'discrimination' 288, 318 ECHR Protocol XIII 348 equality in fact, need for 288 EU Charter of Fundamental Rights (2000) 371 expropriation and 842 as general principle of law 288 Helsinki Final Act (1975) 373 ICCPR 286, 287-8 ICESCR 286 minorities and 271, 366 MWC provisions 333 racial discrimination: see racial discrimination regional instruments 286-7 rights of the child and 318 **UDHR 286** UNC 55 and 56 286-7 UNHRC General Comment 22 287 n128, 288 n135, 318 WWI peace treaties 271 non-international armed conflict 1194–8, see also belligerents; civil war; rebellions civilians, protection of 435, 1196

Coard v. USA 1197 colonial domination, alien occupation and racist regimes, fights against as international conflicts 1149 n157, 1172, 1173 n30, 1195 n143 common article 3, applicability 1194-5 customary international law 436 Declaration of Minimum Humanitarian Standards 1198 definition/classification as 1194 domestic law in conflict state, continuing applicability 1196 n145 due process/fair trial 1195 Geneva Conventions (1949) and Protocols I and II (1977) and 404-5, 408, 435, 1149-51 Genocide Convention (1948) and 284 hostage-taking 1195 human dignity, respect for 1195, 1196 human rights and humanitarian law, convergence 1197-8 humanitarian law threshold 1198 ICRC draft principles 1202-3 individual criminal responsibility and 404-5 internal disturbances distinguished 1195 international humanitarian law and 404–5, 408, 435 non-combatants/persons hors de *combat* (GC, common article 3) 435, 1194-5 non-combatants/persons hors de combat (Protocol I) 1195–6 in Rwanda 435 terrorism and 1196 torture and 1195, 1196 wounded and sick 1195 non-intervention principle: see intervention in affairs of another state, prohibition non liquet 98–9, 1087, 1189 Non-Proliferation Treaty: see Nuclear Non-Proliferation Treaty (1968)

non-recognition, effect see also recognition (general), legal effects; recognition of states, legal effects and underlying theories acts consistent with forum state's constitution 483 acts not hostile to forum state 483 acts not intended to circumvent forum state policy 484 humanitarian acts and 470 n112 in international law 470-1 in municipal law 471-86 on private rights and obligations 478-9, 483-4 on state's international law rights and obligations 470-1 non-recognition policy 457, 468-70 American Civil War and 482-3 Angola and 482 Bantustans and 469 companies, legal personality 479 definition 468 economic sanctions as response to threat to or breach of the peace (UNC 41) and 470 erga omnes obligation 470 Estonia and 483 ex injuria jus non oritur principle and 468 GDR 455, 471, 477-8, 483-4 Iraqi invasion of Kuwait 469-70 Kellogg-Briand Pact (1928), relevance 468 League of Nations and 468 Lithuania's declaration of independence (1940) 203 Manchuria and 468 Namibia 470 Panama Canal and 457 prohibition on the use of force against territorial integrity 469 Rhodesian UDI (1965) 469 Stimson doctrine 468 title to territory obtained through aggression 470 TRNC and 236, 464, 469-70 USSR annexation of Lithuania (1940) 203

non-retroactivity principle (nullum crimen sine lege) ACHR 9 274 ECHR 7 274, 348 Eichmann 672 ICCPR 15 275 non-derogation 274 universal jurisdiction and 672 non-retroactivity principle (treaties) (VCLT 28) 926 Torture Convention 329 non-self-governing territories human rights and 277 promotion of well-being as a 'sacred trust' 277 Racial Discrimination Committee and 313-14 Western Sahara 237 Noriega, Manuel, status 736, 1151 North Atlantic Fisheries Organisation (NAFO) 626-7 North Korea arms sanctions (UNC 41) 1247 recognition of 445 security zone 584 n139 North Pole, continental shelf 588 North Sea, Declaration on the Co-ordinated Extension of Jurisdiction in 583 North–South divide 41 North Vietnam French mediation 1018 informal contacts 463 recognition of government 455 Northern Ireland CoE's Torture Committee and 363 n115 interrogation techniques in 357 Northern Mariana Islands 225 Norway Antarctic claims 535–6 Arctic territory 535 Gulf War and 1253 n246 minorities in 295 Spitzbergen and 535 straight baselines 559-60 treaties/municipal law relationship 178

Norway/Sweden Union dissolution 980 treaty-making powers 909 nuclear accidents assistance 891-2 Assistance in case of Nuclear Accident Convention (1986) 889, 891-2 balance between interests of sovereignty and the international community 892 Early Notification in case of Nuclear Accident Convention (1986) 890–1 Nordic Mutual Assistance Agreement (1963) 891 Transboundary Effects of Industrial Accidents Convention (1992) 870-1, 897 UNDRO and 891 nuclear activities 888–95 environmental protection and 845 IAEA: see IAEA innocent passage and 574 n95 outer space 547, 858 n72, 881-2 recognition of states and 452 nuclear activities, civil liability 893-5 access to courts of foreign polluter and 893 Civil Liability for Nuclear Damage Convention (1963) 893-5 enforcement of foreign judgments and 895 insurance obligation 894 inter-state claims 895 jurisdiction 895 Maritime Carriage of Nuclear Material, Convention Relating to Civil Liability (1971) 894 n282 Nuclear Ships, Brussels Convention on the Liability of Operators of (1962) 894 n282 operator responsibility 894 state responsibility and 894 strict liability 894 Supplementary Compensation for Nuclear Damage Convention (1997) 894-5 Third Party Liability in the Field of Nuclear Energy (1960) 893-5

nuclear activities, treaties and other international instruments relating to see also nuclear accidents; Nuclear Non-Proliferation Treaty (1968) bilateral agreements 866 n116 Nordic Mutual Assistance Agreement (1963) 891 Nuclear Safety Convention 892-3 Nuclear Test Ban Treaty (1963) 471, 610, 888-9 Nuclear Non-Proliferation Treaty (1968) good faith negotiations obligation 1017 Iran and 1247 legality of nuclear weapons and 889 prohibition of use of nuclear weapons and 1189 recognition of states and 452, 976 nuclear power installations 890 n254 bilateral agreements relating to 866 n116 EIAs 866 n116 environmental protection and 850, 866, 889 Nuclear Safety Convention (1994) 892-3 nuclear-powered ships 225, 574 n95 Nuclear Safety Convention (1994) 892-3 compliance obligations 892-3 licensing obligation 893 non-binding provisions 893 reporting obligations 892-3 responsibility for safety 892, 893 Nuclear Ships, Brussels Convention on the Liability of Operators of (1962) 894 n282 Nuclear Test Ban Treaty (1963) China and 888 France and 888 third parties and 610, 888-9 nuclear tests customary international law 610 environmental protection and 889 freedom of the high seas and 610

nuclear waste High Seas Convention (1958) and 620, 889 n251 IAEA Code of Practice on the International Transboundary Movement of Radioactive Waste (1990) 893 n277, 896-7 IAEA Principles of Radioactive Waste Management (1995) 893 n277, 897 n302 Safety of Spent Fuel and Radioactive Waste Management Convention (1997) 893 n277, 897 n302 nuclear weapons absence of prohibition 1188-9 balance of terror and 43 CIS 1291 crimes against humanity and 317 environmental protection and 793 international law, effect on 43 Iran 1247 legality 99 n112, 889 non-proliferation obligations: see Nuclear Non-Proliferation Treaty (1968)outer space 545 regional treaties 610 n297 right to life and 317 self-defence, right to (UNC 51) and 99 n112, 1142-3 **UNHRC General Comment 6** and 317 Nuremberg Charter (1945)/Tribunal aggression 400, 439 annexation of territory, effect 501 - 2composition 399-400 conspiracy and 399 crimes against humanity and 399, 400, 436 crimes against peace and 399, 400 as customary international law 400 heads of state and 735 individual criminal responsibility 46, 399-401, 669, 735, 1200 superior orders defence 400 UNGA resolution 95 (I) and 400 universal jurisdiction 669-70

war crimes and 399, 400, 434–5 website 1339

# OAS

see also ACHR (1969); Economic, Social and Cultural Rights, Inter-American Protocol (1985); Forced Disappearances of Persons, Inter-American Convention on (1994); IAComHR, IACtHR; Torture Convention (Inter-American) (1985); Women, Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against (1994)American Declaration on Indigenous Peoples 300 as collective security system 1292 collective self-defence and 1291-2 establishment (1948) 1291-2 EU powers distinguished 1292 Haiti, involvement in 1275–6 Helms-Burton legislation, Judicial Committee Opinion on 693-4 immunities 1319 n169 Inter-American Treaty of Reciprocal Assistance (Rio Treaty) 1291-2 mediation 1019 n42 object and purpose 47, 1290 Pan American Union and 1291 Privileges and Immunities of the OAS Agreement (1949) 1319 n169 recognition of states and 451, 458 n49 as regional arrangement (Chapter VIII) 1274 n343, 1275-6 structure and organisation 1292 treaty status 389 website 1340 OAS Charter (1948) 1291-2 American Declaration of the Rights and Duties (1948) and 382, 389, 469 dispute settlement provisions 1030 Protocols amending 381 n219, 1292 recognition of states, legal effects 448

OAS, dispute settlement 1030–1 Bogotá Charter (1948) 1030-1 Bogotá Pact (1948) (Treaty of Pacific Settlement) 1023, 1032 Costa Rica-Nicaragua frontier incidents 1031 Inter-American Committee on Peaceful Settlement 1031 Inter-American Peace Committee 1031 International Verification and Follow-up Commission 1031 OAS Permanent Council 1031 OAU: see African Union obscene publications, individual criminal responsibility and 399 occupation (acquisition of territory) 448, 491, 495, 502-11, see also belligerent occupation; territorial title/territorial sovereignty, evidence of including effectivités Arctic 535 continental shelf 587 definition 503 Falkland Islands 532 Pacific Islands 512 terra nullius and 503 occupied territory see also Israel occupied territories East Timor 425 ECHR and 350 ICCPR and 322 state responsibility for acts in 350 Oder-Neisse (FRG-Poland) border 228, 965 ODIHR Monitoring Section 377 role 377 OECD environmental protection and 889 Guidelines for Multinational Enterprises 250 hazardous waste and 896 Marshall Plan and 1288 n21 'polluter pays' principle 870 pollution and 870, 871 purpose 1288 n21

website 1338, 1340 OECS, treaty (1981) as basis for US intervention in Grenada 1183 n79, 1276 n355 OECS/CSCE, conciliation 1022 n65, 1023 Office for Democratic Institutions and Human Rights (OSCE) 1289 offshore installations 90, 589-90, 609 'oil for food' scheme (SC resolution 778 (1992)) 1046 oil pollution 809–901, see also marine pollution Gulf War oil spillage 1190 'polluter pays' principle 870 Torrey Canyon 621, 798, 900 n322 oil resources, maritime delimitation and 602 oil rigs 589-90 Okhotsk, Sea of, straddling stocks 625 n358, 627 older persons, rights ESC 361 n102 General Comment (UNCESCR) 6 310 Oleron, Rolls of 19 Oman 1253 n246 ONUC 1226-7 ONUMOZ 1229 n122 ONUVEN 1229 OPEC 1292 n43 Operation Turquoise 1263 opinio juris 74-6, 84-9 codification treaties and 88-9 creation of new rule and 86-8 definition 84 evidence of 87-9 ILC reports and 88-9, 120-1 as marker of existence of rule 68 n89 outer space and 544 UNGA/SC resolutions and 88, 115, 116-17, 254, 544 USSR and 34 opinio juris, jurisprudence Lotus 84 Nicaragua 86, 87, 96 North Sea Continental Shelf cases 85-6, 87-8, 96

Organisation of African Unity: see African Union Organisation of the Islamic Conference as regional arrangement (Chapter VIII) 1275 n348 Somalia and 1275 n348 OSCE/CSCE see also Charter of Paris (1990); Helsinki Final Act (1975); Human Dimension of the CSCE (Moscow Mechanism) Bosnia, supervision of elections 377 n201, 1033-4, 1274 n343, 1289 Chairman-in-Office 1289 as Chapter VIII regional organisation 1274 n343 as conflict prevention organisation 1289 Council of Europe and 378 CSCE period 372–7 development following the end of the Cold War 1289 dispute settlement missions 1289 domestic jurisdiction principle (UNC 2(7)) and 375-6 election-monitoring role 1289 environmental rights 847 High Commissioner on National Minorities: see Minorities, OSCE High Commissioner on National human rights and 372-8 institutionalisation of Helsinki Act process 375 Media, OSCE Representative on the Freedom of 377 minorities, protection of 298 Office for Democratic Institutions and Human Rights 1289 organisation 1289 origin and development 1289 Permanent Council 377 as regional arrangement (Chapter VIII) 376, 1274 n343, 1275 n348 Religion or Belief, Advisory Panel of Experts on the Freedom of 377 n201 Roma and 376 structure 1289 as successor to CSCE 377

Terrorism, Ministerial Declaration and Plan of Action on Combating (2001) 1164 Troika 1289 website 1340 Yugoslavia, involvement in 1275 n348 OSCE/CSCE, dispute settlement 1032-4 arbitral tribunals 1033 Conciliation and Arbitration Convention (1992) 378, 1033 conciliation commissions 1033 Dispute Settlement Mechanism 1032-3 Missions 375, 1033 rapid and equitable solution of disputes in good faith obligation 1032 Sanctions Assistance Missions 1033 n141 Valletta Report (1991) 1032-3 Ottoman Empire, dissolution 293, 1000 n235 minorities, protection of 293 state succession to public debt 999 outer space 541-52, 881-2, see also airspace; space objects as common heritage of mankind 488, 545,881-2 criminal jurisdiction 548 n323 customary international law/state practice 544 débris 547 n321, 882 Débris, ILA Draft Instrument on the Protection of the Environment from (1994) 347 n321, 882, 1016 n28 definition and delimitation 543-4 demilitarisation 548 exploration 543 geostationary orbit 552 innocent passage, exclusion 542 international environmental damage, state responsibility and 853 international law, role 45 international regulation of activities in 544-6 jurisdiction 548 n323

- Moon Treaty (1979) 548–9, 881–2 nuclear activities 547, 858 n72, 881–2 private activities 548 n323 remote sensing 551–2 as *res communis* 492, 544 'Star Wars' and 545 n314 telecommunications and 549–52 UN Committee on Peaceful Uses of Outer Space 545 n314
- UNESCO and 550
- websites 1337
- Outer Space, Committee on the Peaceful Uses of 545 n314, 550, 551–2
- outer space conventions and other international instruments relating to
  - ILA International Instrument on the Protection of the Environment from Damage Caused by Space Debris (Buenos Aires 1994) 347 n321, 1016 n28
  - International Liability for Damage caused by Space Objects (1972) 546–7
  - Principles Governing Activities of States in the Exploration and Use of Outer Space (1967) 545–6
  - Principles Relevant to the Use of Nuclear Power Sources in Outer Space (UNGA resolution 47/68) 547, 881 n206
  - Registration of Objects Launched into Outer Space (1976) 547
  - Rescue of Astronauts, Return of Astronauts and the Return of Objects Launched into Outer Space (1968) 547
  - UNGA resolution 1962 (XVII) (Declaration on Outer Space) 544
- Outer Space Treaty (1967) 545–6, 881, see also Moon Treaty (1979) common heritage of mankind and 488 n8, 545 international organisations and 546, 1312 n138 NGOs 546
  - nuclear weapons, exclusion 545 peaceful purposes limitation 545–6
  - state responsibility 545-6, 859

overflight, right of archipelagic states 542 n304, 568 EEZ 582 high seas 609, 636 straits 576, 577, 578 n115 ozone depletion 845, 875-81 developing countries and 869 n132 GEF and 846, 871 n168 halons 876-7 precautionary principle 867-8 state responsibility and 857 Ozone Layer Convention (1985) 'adverse effects' 857, 876 n176 CFCs 876-7, 878 conciliation 1022, 1024 co-operation obligation 876 disputes settlement 876 entry into force 876 as framework agreement 876 'ozone layer' 857, 875 protective measures 876 state responsibility and 855 n50 UNEP and 846 Ozone Layer, Helsinki Declaration on (1989) 877 Ozone Layer, Montreal Protocol on Substances that Deplete (1987) 846, 869 n132, 876-8 Adjustments and Amendments (1990) 877 Adjustments and Amendments (1992) 877-8 controlled substances 876-7 dispute settlement 877 Implementation Committee 877–8

Multilateral Fund 877–8

Pacific Clarion–Clipperton Ridge 630–1 ESCAP (UN Economic and Social Commission for Asia and the Pacific) 1213 straddling stocks 627 pacific blockade, as measure short of war 1121 Pacific Islands Trust Territory 1214 n45 self-determination, right of 225 as special arrangement 224 Pact of Paris (1928): see Kellogg-Briand Pact (1928) pacta sunt servanda as general principle of law 29, 94, 103, 903-4, 966-7 natural law and 23 as non-consensual obligation 10, 29, 50 - 1positivism and 10, 29, 50-1, 52 rebus sic stantibus doctrine and 950 Pakistan see also Bangladesh; Bangladesh–Pakistan boundary; India-Pakistan relations divided territory 200 Gulf War and 1253 n246 as new state 960 State Immunity Ordinance 1981 707 n53, 745 n257 state succession and 985 UN Good Offices Mission 1228 UN membership 985 UN mission 1228 UNMOGIP 1226 n108 Palau 225, 1214 Palestine see also PLO, status Conciliation Commission (1948) 1024 General Assembly Special Session on 1212 n33 international legal personality 247-8 partition (1947) 230 recognition (1988) 199 self-determination, right of 1181 as threat to the peace (SCR 54 (1948)) 1237 Uniting for Peace resolution and 1273 Palestine Conciliation Commission (UNGA resolution 194 (III)) 1024 Palestine People, Special Committee on the Inalienable Rights of 303 Palestinian Authority international legal personality 247-8 PLO distinguished 247, 248 powers and responsibilities 247 Palestinian Interim Self-Government Authority 247

Pan-African Parliament 1294 Pan-American Union 1291-2 Panama 'clean state' approach 971 Contadora negotiating process 1031 n125 flags of convenience 611–12 secession from Colombia (1903) 971, 975, 998-9 US intervention (1989) 1144, 1151, 1189 WMD measures 620 Panama Canal non-recognition policy and 457 servitudes 540 Panama Canal Zone jurisdictional rights 658 n34 lease 539 transfer of sovereignty to Panama 539 papacy, role and status 19, 20, 609 Papal Bulls (1493 and 1506) 609 papal states 243–4 Paraguay human rights in 383 indigenous peoples in 300-1 Paris Conference (1856) 1283 parliamentary supremacy 50 Partnership for Peace 1290 Framework Document 1290 Pashukanis, Evgeny 32–3 passive personality principle 664-6 Achille Lauro 665 Congo v. Belgium (Arrest Warrant) case 666 Cutting case 664–5 Eichmann 664 n77 Hostages Convention (1979) and 665 Internationally Protected Persons Convention (1973) and 665 Lotus 665 terrorist offences and 666 n91 Third US Restatement 666 n91 UK/US and 665-6 PCA 1049-50 arbitration and 1058 composition of tribunals 1051 election of ICJ judges and 1059

establishment 28, 111, 1049, 1057-8 examples of use 1049-50 International Bureau 1049 Optional Conciliation Rules (1998) 1023 n68 Optional Rules for Arbitrating Disputes between Two States (1992) 1050 Optional Rules for Conciliation of Disputes Relating to Natural Resources and the Environment (2002) 1023 n68 Optional Rules for Fact-Finding Commissions of Inquiry (1997) 1022 n62 panels, composition, qualifications and nomination procedure 1049 PCIJ, effect on 1054 Permanent Administrative Council 1049 role 1049, 1057-8 website 636 n410, 1338 PCII compulsory jurisdiction, optional clause declarations 1083 decisions as source of international law 110 establishment 31, 1058 ICJ as successor 31, 1058, 1080-1, 1083 peace, see also collective security; dispute settlement; peacekeeping operations; use of force peace and security, right to 268, 302 Banjul Charter 393 recognition of states and 452 peace treaties Israel-Egypt (1979) 1228 n117 Israel–Jordan (1994) 657–8 Japan (1951) 234 WWI 259, 271, 294 n162 WWII 227, 228, 294 peaceful co-existence 215–16 AU and 215-16 Bandung Conference (1955) 215 as basic premise of international law 44 China and 37, 215 definition 34-5

equality of states and 215, 216 Five Principles of Peaceful Co-existence (1954) 215 good faith and 216 India and 215 non-aggression obligation 216 non-intervention principle and 215 state sovereignty and 34, 215 territorial integrity and 215, 216 Third World and 215-16 UNGA resolutions 215 USSR and 33-6, 216 peacekeeping operations 1224-33 Abkhazia 1230 African Union 1265-6 as alternative to UNC 43 force contributions 1224, 1266-7 AMIS 1266, 1280 AMISOM 1279 Angola 1228–9, 1233–4 Arab League 1292–3 'armed conflict', whether 1232-3 Congo 1226-7, 1273 consent of host state, need for 1227, 1234, 1235, 1267, 1275, 1321 Croatia 1229 Darfur 1230 n132, 1265-6 definition and scope 1225, 1226, 1234 - 5East Timor 1230 enforcement action distinguished 1227 equality of treatment 1235 Eritrean independence plebiscite 1229 evaluation 1227-8, 1233-5 fact-finding missions 1234-5 Georgia 1230 Haiti 1230 history 1224, 1226–31 IFOR 1260, 1279-80 impartiality, need for 1234 Interim Emergency Multinational Force in Bunia 1280 n371 international humanitarian law, applicability 1232-3 international organisations, responsibility for activities of members 1313-14

peacekeeping operations (cont.) jurisdiction in relation to 418, 1232, 1314 KFOR: see KFOR Lebanon 1212 n33, 1230-1 Liberia 1276-8 Middle East, withdrawal 1216 MINURSO 1229 MONUC 1154, 1262-3, 1264-5 Mozambique 1229 as non-enforcement actions 1272-3 ONUC 1226-7 ONUMOZ 1229 n122 ONUVEN 1229 Operation Turquoise 1263 'Peace Operations 2010' 1235 Peace Operations Panel review 1234-5 Peacekeeping Commission 1218 n67 privileges and immunities 1231 refocusing of role from policing to rule of law and human rights 1235 regional organisations (Chapter VIII) 1275 resources, insufficiency 1228 Rwanda 1233 n143, 1263-4 Safety of UN Personnel Convention (1994) 1231-2 SC authority to establish 1224-5 SC measures under UNC 42 and 1224-5 Sierra Leone 418 Somalia 1260-2, 1279 South African elections (1994) 1229 status of forces agreements 1231, 1233, 1314 status of forces/state responsibility and 350-1, 787-8, 1231, 1312 n140 status as UN organs 1231 subsidiary organ status (UNC 29) and 1224 Sudan 1265-6 Timor-Leste 1230 truce-supervision activities 1226-7 UN Interim Force (Lebanon) 1212 n33 UN International Police Task Force (Yugoslavia) 1260

UN Iran–Iraq Military Observer Group 1228 UN Secretary-General and 1216, 1225, 1226-7 UNAMIC 1129 n124 UNAMID 1266, 1267 UNAMIR 1262-3 UNAMIS 1265, 1280 UNAMSIL 1263-4 UNAVEM I 1228-9 UNC provisions relevant to 1224-5 UNCRO 1259 UNEF 1226, 1228, 1272 UNEF II 1227, 1228 n117 UNGA and 1225, 1271–3 UNIKOM 1229 Uniting for Peace (UNGA resolution 377 (V)) 1212, 1222 n90, 1272-3 UNMIS 1265-6 UNMOP 1229-30 UNOMIL 1277 UNOMUR 1262 UNOSOM II 1261-2 **UNPREDEP** 1259-60 UNPROFOR 1257-60 UNSCOB 1226 UNSMIH 1230 UNTAES 231 n177, 1229-30 UNTAG 231 n177, 1229 use of force, exclusion 1234, 1235 USSR and 8, 33-5 Yugoslavia 1257–60 Penghu 235 'people' 256–7, 392 indigenous 'peoples' 298 peremptory norms: see jus cogens/peremptory norms perestroika 36, 46-7, 1209 Permanent Mandates Commission 271 persecution on political, racial or religious grounds, as crime against humanity 408, 436 Persian Gulf, continental shelf 584 persistent organic pollutants (POPs) 874 personality before the law: see juridical personality/personality before the law, right to

Peru amnesty laws, compatibility with IACHR 372 n35, 390 continental shelf 585 Pescadores 234 Philadelphia Declaration (1994) 338 Philippines, ASEAN membership 1294 pillage 403, 1196, 1198 as 'grave breach' 403, 1196 pillars (EU), international legal personality 241-2 pipelines: see submarine cables and pipelines piracy attempts to commit offence, sufficiency 398 definition 398, 615 GCHS 15 615 n323 high seas and 614, 615–16 individual criminal responsibility 262, 397 internal waters, territorial sea and archipelagic waters 616 as international crime 397 jure gentium 270, 398 jurisdiction 614, 615-16 as jus cogens/peremptory norm 126 as municipal law offence 398 Regional Co-operation in Asia Agreement (2005) 616 terra nullius and 398, 615-16 third parties acting in good faith and 616 UNCLOS 101 615 universal jurisdiction and 270, 397, 615-16,668 PLO, status see also Palestinian Authority; Palestinian Interim Self-Government Authority agreements with Israel on Palestinian Authority 247-8 international legal personality 246-8 Israel–PLO Declaration of Principles on Interim Self-Government Arrangements (1993) and 199 n17, 246-7as NLM 248

state responsibility for internationally wrongful act and 683 UN mission office 165 UN observer status 246 USA and 165 poisoned gas 1188 Pol Pot 421, 757 Poland see also Chorzów Factory principle/restitutio in integrum Austro-Hungarian Empire, dissolution and 980 n131, 1002 borders with Germany 228, 965, 1002 deep sea mining 630 n383 EU Charter of Fundamental Rights (2000) 371 n172 German Settlers 100, 1002 international law and 173, 178 n252 minorities 293 n164 recognition post-WWI 448, 475-6 UDHR and 278-9 USSR intervention in 57 WMD and 620 n341 polar regions 534-8, see also Antarctica; Arctic territory, claims to police powers, state immunity and 715, 716,732 policy-oriented approaches to international law 58-63, 64, 267 Polisario 236 political offences 667, 686-7 European Convention on the Suppression of Terrorism (1977) and 687 n211 political question doctrine 189-92, 683 political rights, minorities 366 politics 19th century developments 27-8 international law and 11-13, 24, 38, 44, 67-8, 79-80, 488-9 recognition of states/governments and 445, 447, 450, 455, 456, 457-8, 465, 468, 471 UNCHR and 306 'polluter pays' principle EU and 870 as general principle of international environmental law 870-1 hazardous activities 870, 896

## INDEX

'polluter pays' (*cont.*) international watercourses 884 OECD and 870 Rio Declaration (1992) 870 polluting substances nitrogen oxides 873 POPs (persistent organic pollutants) 873 sulphur emissions 873 'pollution' 871-2, 886 n233 pollution-free zones 583, see also atmospheric pollution; marine pollution Ponsonby rule 152–3, 912 POPs (persistent organic pollutants) 874 population expansion ports jurisdiction 556-8 landlocked states' right to equality of treatment 607-8 servitudes and 539 straddling stocks obligations 626 Portugal closed seas concept 24, 553-4, 609 Guinea-Bissau and: see Guinea-Bissau international law in municipal courts 173 nuclear power 775 n116 Portugal, African colonial territories ILO Convention on Forced Labour (1930) and 340 NLM participation in UNGA Fourth Committee 245 positivism 49-53 19th century 29-30, 46, 49, 270 academic writers and 28, 113 consent as basis of international law 131 customary international law and 51, 75 development of international law, as brake on 51 domestic jurisdiction principle and 270 equality of states and 215 fundamental norms, dependence on 49-51

general principles of law/international law and 99 human rights and 266, 267, 270 individual as subject of international law and 258 intellectual basis 21–2 international law as law and 52 just war and 1120 monism and 51, 131 moral principles and 29, 49 municipal and international law, interrelationship 131 natural law and 24-7 pacta sunt servanda and 10, 29, 50–1, 52 as political concept 50 sovereignty and 29, 46, 75, 131 state succession and 957 state/statehood and 29, 267 transformation doctrine 139 USSR and 33-4 Zouche, Richard and 25 post, telegraph and telephone services (PTT) see also ITU; UPU as sovereign power 217 Pound, Roscoe 52 poverty European Social Charter (1961) (as amended) 361 n104 ILO and 338 power politics 12, 55, 79-80, 215, 489, 1206 Praetor Peregrinus 17 precautionary measures: see provisional measures precautionary principle 867-8, see also sustainable development principle Bergen Ministerial Declaration (1990) 867-8 climate change and 869 Energy Charter Treaty (1994) and 850 international watercourses and 884 Rio Declaration 867 straddling stocks 625 precedent/stare decisis doctrine 141, 145, 174, 706-7 ECtHR and 352

interrelationship between different tribunals 1116 state immunity cases 706-7 preclusion 516, 796, see also estoppel preliminary objections: see ICJ, preliminary objections prerogative 137, 149 justiciability and 181-2 prescription as means of territorial acquisition 491, 495, 504-7, 532, *see also* territorial title/territorial sovereignty, evidence of including effectivités acquiescence/absence of challenge 505-6 acquisitive prescription 517 de Visscher's views on 507 definition 504-5 Falkland Islands 532 high seas 609 occupation distinguished 505 peaceful and uninterrupted possession, need for 505-6, 517 n171 reasonable period 506-7 requirements (Botswana/Namibia) 504-5 press, freedom of, OSCE Representative on 377 Prevention of Discrimination and the Protection of Minorities, Sub-Commission on: see Human Rights, Sub-commission on the Promotion and Protection of Prevlaka peninsular UNMOP 1229-30 UNPROFOR 1257 printing, importance 20 prisoners, treatment of, codes of practice relating to 327 prisoners of war 19th century treaties on 270 Bangladeshi treatment of Pakistani prisoners 669 combatants in irregular warfare 1173 definition 1172-3 disciplinary offences 1176 doubts about status 1174

exchange of 1201 Geneva Convention (1949) 1169-70, 1172 - 6history and development 270 humane treatment 1175 Indian treatment of Pakistani prisoners 1199 individual criminal responsibility for ill-treatment 1200 medical treatment 1176 obligations of 1175-6 obligations towards 1175-6 release and repatriation 1176 religious activities 1176 reprisals 1175, 1186 Taliban fighters/Al-Qaida operatives 1174 n33 torture 1175 UK Military Manual 1174 n32 US Law of Land Warfare 1174 n32 war crimes committed by 1176 privacy, freedom from unlawful interference child (CRC 24) 331 CIS Convention 378 ECHR 8 348 UDHR 12 279 private international law: see conflict of laws privileges and immunities: see consular privileges and immunities; diplomatic immunities (personal); diplomatic privileges (personal); international organisations, privileges and immunities; peacekeeping operations, privileges and immunities Privy Council, state responsibility and 788 prize law 79 prompt hearing, right to anti-terrorist measures and 357-8 ECHR 5(3) and 6(1) 357-8 ICC 416 ICCPR 9(4) 322 military discipline cases, applicability to 322 prompt release proceedings (UNCLOS 292) 642-3

'property' 830 Harvard Draft Convention on the International Responsibility of States for Injuries to Aliens (1961) 830 Liamco 830 property rights see also expropriation/nationalisation of property of foreign national; state succession to property, archives, assets and liabilities ACHR 21 390 Arab Charter on Human Rights 395 Bosnia and Herzegovina Human Rights Chamber and 380 ECHR Protocol I 348, 829 indigenous peoples 300, 390-1 as natural right 27, 266 proportionality balance between damage to individual and benefit 1182 balance between goal and means 1182 belligerent occupation and 1182 countermeasures 794, 795 due diligence and 861 least harmful means requirement 1182 Legality of Nuclear Weapons 1141, 1142 Oil Platforms 1142 protection of civilian population during hostilities and 1184-5 protection of nationals abroad 1144-5 remedies 802-3, 806 reprisals 1186 self-defence, right to (UNC 51) 1131, 1134 n80, 1139, 1140-3, 1188 state responsibility and 793 US bombing raid in Libya 1144-5 US invasions in Panama and Grenada 1144-5, 1183 n79 use of force and 1120 prostitution 326 Suppression of Traffic in Persons and Exploitation of Prostitution Convention (1949) 303

protected persons, unlawful deportation or transfer, as 'grave breach': see deportation or transfer of protected persons (GC IV, 49) protected states 216-17 Protecting Powers 1199 protection of nationals abroad, use of force 1143-5 'armed attack', need for 1143-4 in Cambodia 1144 Entebbe 680, 1144 Grenada, US intervention in 1144 Libya, US bombing attack on 1144-5 Panama, US intervention in 1144 permission of government of territory concerned 1144 proportionality, need for 1144-5 rescue of hostages in the Congo 1144 UK views on 1145 US action 1144-5 protective measures: see provisional measures protective principle 666-8 definition and scope 666-7 Hostages Convention (1979) 668 Joyce v. DPP 667 risk of abuse 667 treaty usage 668 US practice 667 n97 vital interests and 667 protectorates 216-17 protest, effect: see acquiescence, failure to protest as provisional measures African Commission 393-4 assurances regarding non-repetition of act complained of 643 avoidance of irreparable harm and 352 n37, 386, 641, 1094-5 binding effect 1095-6 on Court's own initiative 1095 ECtHR (RoP 39) 352 n37 Enforced Disappearances Committee 335 Guantanamo Bay detention centre and 386 IAComHR 384, 385-6 IACtHR 384, 387, 391 ICJ: see ICJ, provisional measures

Inter-American Forced **Disappearances** Convention (1994) 384 ITLOS 637-8, 640-1, 643, 644 **NAFTA 1039** non-aggravation or extension of dispute and 283-4, 1095 non-compliance as violation of treaty obligations 320 object and purpose of relevant treaty provision and 1095-6 preservation of the evidence 1095 preservation of parties' rights 641, 1094 - 5prima facie jurisdiction and 1093-4 request to take measures to stop challenged conduct 283-4 Seabed Disputes Chamber 640 n444 'serious and urgent', requirement 384 n237, 386 Torture Committee (UN) 328-9 UNHRC 320 urgency 335, 386, 641, 1094-5 psychology and the law 52-3, 55 public debt see also state succession to public debt classification of 997 definition 997 public international law: see conflict of laws; international law public life, right to participate in see also elections, right to free; information and participation in public debate, right to; public life, right to participate in ACHR 23 275, 381 **CEDAW** General Recommendation 8 324 **CERC** General Recommendation 21 293 CIS Convention 378 ICCPR 25 292-3 non-derogation 275 Public Life, OSCE Guidelines on the Effective Participation of National Minorities in (1999) 376 n194 public policy see also political question doctrine

municipal courts and international law 139 publicists: *see* academic writers as source of international law (ICJ 38(1)(d)) Pufendorf, Samuel 25, 112 punishment, collective 1196, 1198 punishment/penalty in case of criminal responsibility compensation to victims 416 financial penalty 416 ICC and 416 ICTY and 404, 406 imprisonment, limitation to 406 maximum term 416 punitive damages 804–5

Quebec 255, 291 n151, 293, 295, 523

racial discrimination as 'grave breach' 401 individual criminal responsibility 401 prohibition: see racial discrimination, prohibition SFRY and 312 Zionism and 395 n298 **Racial Discrimination** Committee 311–14 conciliation commissions 313 confidentiality of proceedings 313 early warning measures 312, 337 establishment 311-12 evaluation of 313-14 exhaustion of local remedies 273 financing and budgetary arrangements 336 general recommendations: see General Recommendations (CERD) ILO/UNESCO, co-operation with 313 individual right of petition 313 individual's standing 259 inter-state complaints 313 meetings 313 membership 312 powers 312 reporting obligations 312-13, 314

Racial Discrimination (cont.) reporting obligations, improvements to procedures 314 role and activities 312-14 trust/non-self-governing territories and 313-14 urgent procedures 312, 337 Racial Discrimination Convention (1965)ad hoc Conciliation Commission 313 compromissory clause (ICJ) 1079 conclusion/entry into force 280, 286 federal state compliance 221-2 individual's rights under 259 'racial discrimination' 288 treaty succession 983 n144 racial discrimination, prohibition see also non-discrimination customary international law and 286–7 as erga omnes obligation 124 as jus cogens/peremptory norm 808 n198 state sovereignty/domestic jurisdiction principle and 213 Vienna Declaration and Programme of Action (1993) 280 racist regimes, applicability of Geneva Conventions in struggles against 1149 n157, 1172, 1173 n30, 1195 n143 Radbruch, Gustav 53 radioactive materials, safety considerations 881, 889 dumping at sea 620 nuclear power installations and 643, 893-4 outer space 547, 881 n206 Transboundary Movement of Nuclear Waste, IAEA Code of Practice (1990) 896-7 Rainbow Warrior Chorzów Factory principle/restitutio in integrum 803 damages, measure of 803 material breach of treaty 948 state responsibility 779, 786, 797-8, 800 termination of treaty and 946

Rameses II 14 rape as crime against humanity 408, 436 Darfur 1265 n311 Declaration of Minimum Humanitarian Standards 1198 definition in international law 409 ethnic cleansing and 433 Geneva Conventions, Protocol I and 1196 as genocide 670 as 'grave breach' 403, 1196 realism and the law 49, 53, 55-6 rebellions see also civil war aid to rebels, exclusion 1152-8 Declaration on Principles of International Law (1970) 1152-3 as internal matter 1149, 1195 use of force, right 1126 rebus sic stantibus: see fundamental change of circumstances/rebus sic stantibus (VCLT 62(2)) reciprocity as basis for compliance with law 7, 40,44 as essential element in obligations between states 751-2, 754, 764, 1082-3, 1169, 1318-19, 1326 recognition (general) 444-5 as discretionary act 450, 453, 471 executive certificates, role 471, 472-3, 477-8, 480-1, 482, see also executive certificates as executive responsibility 471, 473 of fishing zone claims 581-2 judicial role 471, 482 non-recognition policy: see non-recognition policy political considerations 445, 447, 450, 455, 456, 457-8, 465, 468, 471 recognition as what? 445, 453 as responsibility of individual state 444, 450-1, 466 territorial sovereignty over the high seas 609 recognition (general), legal effects see also non-recognition, effect contracts, enforceability 473

*de facto/ de jure,* distinguishability 453-4, 472-8, 483 - 4diplomatic privileges and immunities and 453, 454, 471-2 diplomatic relations and 457, 458, 460, 471 effect on state itself 456 enforcement of international rights and obligations and 457 as evidence of factual situation 449 in municipal law 460 property outside territory of recognised state and 473-4, 483 recognition and enforcement of foreign law, right to 471–3, 483 retroactivity 454, 473, 475-7, 485 right to sue and be sued 449, 471, 480 - 1state immunity and 453, 454, 455, 471,704 state practice 450 succession to property belonging to predecessor state and 472-4 successive de jure governments and 475, 476 territorial acquisition, role 492-3, 494-5, 516-17, 520-1, 533 as undertaking to deal with recognised entity as governing authority 454–5 recognition of governments 454-68 approval of government distinguished 458, 1151 automatic recognition (Estrada doctrine) 457-8 civil war and 460 constitutionality of government and 481 constitutive/declaratory theories compared 458 *de facto/ de jure* 454, 457, 459–60, 466-7, 472-3 effective control, need for/sufficiency 455-6, 460, 477, 481, 1151 Estrada doctrine 457–8 formal recognition, abandonment of practice 458-9, 481

international legal personality and 457 legitimacy doctrine (Tobar doctrine) 457 legitimacy of government, need for 455-6 nature of forum states' dealings with, relevance 481 recognition by non-forum states, relevance 481 recognition of state and 456-7 recognition as what? 454 Tobar doctrine 457 UK practice 193-4, 455, 458-9, 467, 472 - 81unconstitutional change of government, limitation to 454 US practice 162, 458, 467 USSR (1921/1924) 460 Wilson doctrine 457, 458 recognition of governments, withdrawal 466-8 break of diplomatic relations as alternative 467 of de facto recognition 466 recognition of successor government and 466-7 recognition, jurisprudence Adams v. Adams 478 Arab Monetary Fund v. Hashim 479 n139 Arantzazu Mendi 474-6 Autocephalous Church of Cyprus v. Goldberg 484 Caglar v. Bellingham 478–9 Carl Zeiss Stiftung v. Rayner and Keeler Ltd (No. 2) 445, 477–8, 480–1, 482 Civil Air Transport Inc. v. Central Air Transport Corporation 476–7 Gdynia Amerika Linie v. Boguslawski 475–6 Gur Corporation v. Trust Bank of Africa 480 Haile Selassie v. Cable and Wireless Ltd (No. 2) 473 Hesperides Hotels Ltd v. Aegean Turkish Holidays 478 Kunstammlungen zu Weimar v. Elicofon 484

## INDEX

recognition, jurisprudence (cont.) Luther v. Sagor 472-3, 483 The Maret 483, 485 Ministry of Defense of the Islamic Republic of Iran v. Gould 484 National Petrochemical v. M/T Stolt Sheaf 484-5 Republic of Panama v. Citizens & Southern International Bank 484-5 Republic of Somalia v. Woodhouse Drake 481 Salimoff v. Standard Oil Co. 483, 485 Sokoloff v. National City Bank of New York 483 Tinoco 455-6 Transportes Aeros de Angola v. Ronair 482 UK 472-81 Upright v. Mercury Business Machines 483-4 USA 482-6 recognition of Albania pre-WWI 199 belligerent status 245, 444, 453, 1149 - 50Bosnia and Herzegovina 201, 461-2 Croatia 201, 461 liberation movements 245, 246 Palestine (1988) 199 SADR 236 TRNC 236, 464, 469-70 recognition of states 445-54 boundary disputes and 199 EU practice 451-2 FRG–GDR relationship and 463 n79, 964 OAS and 448, 451, 458 n49 post-WWI 448 premature recognition 460-2 recognition of government and 456-7 state succession and 959 title to territory, legality of acquisition and 470, 492-3, 494, 500, 521 UK practice 447, 451, 464 US practice 162, 445, 446–7, 450–1, 452 recognition of states, collective 465-6 by international organisation 465-6

EU recognition of Yugoslav Republics and 465 recognition of states, conditional 465 criteria, changes in distinguished 465 Litvinov Agreement (1933) and 465 non-fulfilment of conditions, effect 465 recognition of states, criteria other than those relevant to statehood see also state/statehood, criteria boundaries, respect for and 451, 452 Charter of Paris and 451 democracy, respect for 452 disarmament obligations and 452, 976 EU Guidelines (1991) 207, 451-2, 461 free trade, respect for 452 Helsinki Final Act (1975) and 451 human rights 451, 461 independence, wish for on part of state to be recognised 452 minorities and 451, 461 non-proliferation obligations and 452, 976 nuclear safety and 452 OSCE/CSCE commitments and 451 peaceful settlement of succession and regional disputes, commitment to 452 recognition as compensation for failure to fulfil criteria 462 rule of law and 207, 451 security commitments, acceptance 452 UN Charter and 451 recognition of states, implied 462-5 accidental recognition, risk of 462-3 bilateral treaty and 463 claims by state against unrecognised entity, effect 464 consular exequatur and 463 disclaimer 462-3, 464 establishment of diplomatic relations as 463 informal diplomatic contacts, whether 463

intention to recognise, need for 453-4 international conference, participation in 464 message of congratulation to new state as 463 Montevideo Convention on the Rights and Duties of States (1933) and 462 n73 multilateral treaty negotiations and signature 464 recognition of government 457 state practice 465 recognition of states, legal effects and underlying theories 444-5, 470-86, see also non-recognition, effect ACY Opinion No. 1 198, 210, 448 ACY Opinion No. 8 449 ACY Opinion No. 13 958, 991-2 ACY Opinion No. 18 450 constitutive theory 207, 261, 445-6, 447, 448–50, 471, 492–3, 494–5 de facto and de jure recognition distinguished 453-4 declaratory theory 207, 446-8, 449 Institut de Droit International (1936 resolution) 448 international law theories and 449 international legal personality/subject of international law status and 220-1, 261-2, 449, 1302-3 Lauterpacht doctrine 449-50 OAS Charter (1948) 448 opposability bilaterally 445, 449, 453 opposability erga omnes 445, 453 statehood and, 198, 200, 201, 202, 207-8, 246, 261-2, 445-6, 448, 453, see also state/statehood UN membership and 201, 453, 461-2, 464, 466 WWI Peace Treaties and 448 Red Crescent, protection of 1172 Red Cross (ICRC) in Afghanistan 1201 Declaration of Minimum Humanitarian Standards (1990) 1198 establishment (1863) 28, 1283

exchange of prisoners of war and 1201 food aid, supervision of 1243 Geneva Conventions (1949) and Protocols I and II (1977) and 28, 1200 humanitarian role 1200-1 international legal personality 244 n244, 261-2 in Iraq 1201, 1243 Iraq prisoners of war and 1175 Israel and 1201 membership 1200 Middle East and 1201 in Nigeria 1201 principles (general) 1201–2 principles (non-international armed conflicts) 1202–3 role 28, 1200–1 in Rwanda 1201 in Somalia 1201 in Sri Lanka 1201 treaty-making power 28, 262 website 1339 in Yugoslavia 1201 Red Diamond, protection of 1172 Red Sea servitudes 540 referenda, role 201 n24, 962, 1229 refugees see also asylum African Commission Special Rapporteur 392-3 children and (CRC 22) 331 IAComHR and 383 Internally Displaced Persons, ILA Declaration of International Law Principles (2000) 287 n129 International Refugee Organisation, dissolution 1330 n214 property, right to recover 380 n212 Refugees Convention (1951) and Protocol (1967) conclusion 303 n203 implementing legislation 185 Refugees, UN High Commissioner for (UNHCR) establishment 1213 UNGA reporting obligation 303 UNPROFOR and 1258

## INDEX

regional arrangements for the maintenance of international peace and security (UNC Chapter VIII) 1024–6, 1273–80, see also individual organisations Agenda for Peace and 1274 n346 AMIS 1280 CIS as 1274 n343 concurrent jurisdiction 1026 conflict with UNC obligations 1025 consent and 1275 consistency with UNC Principles and Purposes requirement (UNC 52) 1273 ECOWAS as 1276-9 'enforcement action' for purposes of 1274 enforcement action, SC authorisation (UNC 53(1)) 1025, 1030, 1273, 1274 - 5**EUFOR 1280** flexibility of definition 1274 IGAD as 1279 Interim Emergency Multinational Force in Bunia 1280 n371 **ISAF 1280 KFOR 1280** Liberia and 1276-9 Manila Declaration on the Peaceful Settlement of International Disputes (1982) (UNGA resolution 37/10) 1026 n78 notification to SC requirement (UNC 54) 1274 OAS as 1274 n343, 1275-6 OSCE as 376, 1274 n343, 1275 n348 peaceful settlement of disputes before resort to SC 1275 primacy of UNC obligations (UNC 103) 1274 SC authorisation/approval 1274-5 SC and UNGA roles and 1025-6 UN co-ordination with 1274, 1277-8 UN Standby Arrangements System and 1275 n346 UNAMIS 1280 regional human rights bodies, common practices

inter-state complaints 352, 354, 382 procedure 382 regional international law 92-3 burden/standard of proof 77, 92 consensus and 93 development of 48 Latin America and 2, 27, 76-7, 92 lex specialis derogat legi generalis and 92-3 USSR and 35 regional international law, jurisprudence Asylum case 76-7, 78, 92 Right of Passage 92–3 regional organisations 1287-96, see also Arab League and individual organisations regional organisations Africa 1293-4 Americas 1291-2 Arab League 1292-3 Asia 1294-5 Europe 1288-91 globalisation and 1287 good offices/mediation 1019 growth in 1287 proliferation 47-8 UN Economic Commissions 1213 UN Secretary-General and 1223-4 universality of international law and 48 websites 1340 Reisman, W. M. 60 religion, freedom of: see freedom of thought, conscience and religion; religious discrimination, prohibition religious activities, prisoners of war 1175 religious communities, Helsinki Final Act (1975) 373 religious discrimination, prohibition see also freedom of thought, conscience and religion customary international law 287 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 287 n128, 305