Index

Abagninin v AMVAC Chemical Corporation 124
Abdullahi v Pfizer 121
Abu Ghraib abuses 28, 69, 107, 154–155
Acacia Mining 216, 244
access to remedy (UN Guiding Principles) 233, 238, 239–244, 245–246, 251, 255–256
access-to-justice gap (Whytock) 82
Accord on Fire and Building Safety in Bangladesh (2013) 221–222
Act of State doctrine 71–73, 177–179, 201
actus reus see aiding and abetting State wrongful acts
Adams v. Cape Industries plc 180–182
Adidas 166
adjudicative vs. prescriptive jurisdiction 42–44
African Barrick Gold 176, 216, 243–244
African Charter on Human and Peoples’ Rights (ACHPR) 8, 9
African Commission on Human and Peoples Rights 8
Aguinda v. Texaco Inc 62, 64, 66–67, 83–86
aiding and abetting State wrongful acts 4–5, 10, 21–23
law of nations as cause of action, in US 130–141
actus reus 132–134
exhaustion of domestic remedies and 141–142
mens rea 135–141
legal case against van Anraat 38
legal case against von Gagern 37
by TNCs during South African apartheid 74–75
Al Haq 39
Al Shimari v. CACI Int’l, Inc 70, 107–108
Al Shimari v. CACI Premier Technology, Inc 107–108
Al-Aulaqi v. Obama 68
Alford, Roger 166
Alien Tort Claims Act (ATCA) see statutory and ATS causes of actions, in US; United States of America (US)
Alien Torts Statute (ATS) see statutory and ATS causes of actions, in US; United States of America (US)
Alliance for Bangladesh Worker Safety 222
Alstom 209–210
alter ego subsidiary 157–158
Amnesty International 216
Amnesty USA 223
The Amoco Cadiz case 160–161
Annan, Kofi 212
Anraat, Frans van 38
Anvil Mining Ltd. 36, 208
Anvil Mining Ltd. v. Canadian Ass’n Against Impunity 36, 208
Argentina
legal case against Mercedes-Benz Argentina 58–59
Human rights and corporate wrongs

Argentine Republic v. Amerada Hess
Shipping Corporation 67
Argor-Heraeus SA 40
Arrest Warrant case 30, 32
Articles on the Responsibility of States for Internationally Wrongful Acts (ILC) 230
Ashcroft v. Iqbal 108–109
Ashraf Ahmed El-Hojouj v. Harb Amer Derbal et al. 43
Association France-Palestine Solidarite 'AFPS' v. Societe Alstom Transport SA 209–210, 249
Australia
criminal prosecution of corporations/officers 36
Division 268 corporate offence 34
International Criminal Court (Consequential Amendments) Act (2002) 34
Philip Morris Asia (PMA) arbitration 50–51
universal jurisdiction law 27
Autodefensas Unidas de Colombia (AUC) 40
Aziz v. Alcolac 140
Baker v. Carr 73, 75
Balintulo v. Daimler AG 105, 107–108
Bangladesh, garment industry industrial disasters 219–221
Bank of Credit and Commerce International (Overseas) Ltd v. State Bank of Pakistan 62
Barcelona Traction case 12
Barrick Gold Corp 176, 216, 243–244
Banco de Portugal (No. 121) BATCO case 248–249
Bebidas 165
Belgium
Act on the Punishment of Grave Breaches of International Humanitarian Law 25
criminal prosecution of corporations/officers 37
Universal Jurisdiction Act (1993) 37
Belgium v. Spain 12
Belhaj v. Straw 177–178
Beristain, Carlos 84
Berlin Democratic Club case 77
Berlinger, Joe 84
Bhopal explosion (1984) see Union Carbide Corp Gas Plant Disaster at Bhopal, In re
bilateral investment treaties (BITs) 49–52
see also individual treaties
Bil'in (Village Council) v. Green Park Int'l Ltd 5, 206–207
Blair, Tony 219
Blumberg, P. 155
Bodner v. Banque Paribas 110
The Bodo Community v. Shell Petroleum Development Company of Nigeria Ltd 191–192
Boim v. Holy Land Foundation 114–115
Bosnia and Herzegovina v. Serbia and Montenegro 10, 146
Bougainville, events in see Sarei v. Rio Tinto
Bouzari v. Islamic Republic of Iran 5, 45, 206
Boyle v. United Technologies Corporation 69–70
Boys v. Chaplin 190
BP 172
brand and supply chain codes 219–222
Brussels Regulation (EC)
Article 2 43
Article 4 (formerly Art. 2) 173, 174–175
Article 8.1 173–174
Article 63.1 173
Article 63.2 173
No. 44/2001 172
No. 864/2007 193
No. 1215/2012 172
Burma
Total, and human rights violation cases 1, 11–12, 37, 57, 71, 211
Bush, George H.W. 25
Index

Cabello v. Fernandez-Larios 129
CACI Premier Technology, Inc. 107–108
Caci v. Al Shimari 154–155
California
  Transparency in Supply Chains Act (2010) 224
  Unfair Competition Law and False Advertising Law 249–250
Canada
  Canadian State Immunity Act 209
  Charter 206
  Civil Code of Québec 208
  civil suits against State sponsors of terrorism 45–46
Crimes Against Humanity and War Crimes Act 26–27
Criminal Code 208–209
customary international law as cause of action 5, 205–209
Justice for Victims of Terrorism Act (2012) 208–209
legal case against Chevron 84–85
NAFTA 49, 51, 52
Quebec’s moratorium on fracking 51, 52
Canadian Association Against Impunity (CAAI) 208
Cape Industries 3, 180–182, 184–186, 188–191, 194
Cape Products 185–186
Cardona v. Chiquita Brands International Inc 105–106, 109, 252
Carijano v. Occidental Petroleum Corp 63
Cassel, Doug 147–148
Caterpillar Inc 74–75
Central American Free Trade Agreement (CAFTA) 49, 51
Certain Phosphate Lands in Nauru case 48
Chandler v. Cape plc 185, 188–190
Chevron Canada 85
Chevron Corp v. Donziger 83–86
Chad
  crimes of Habré 25
Chevron Corporation 51–52, 89, 158
  see also Aguinda v. Texaco Inc;
  Bowoto v. Chevron Corp
Chevron Nigeria Ltd (CNL) 158, 159–160
Chevron Overseas Petroleum, Inc. (COPI) 158, 160
Childress, Donald Earl, III 60
Chiquita Brands International Inc. 40, 105–106, 109, 252
Choc v. Hudbay Minerals Inc 188, 249
Chowdhury v. Worldtel Bangladesh Holding, Ltd 109, 111, 148–149
Cicippio-Puleo v. Islamic Republic of Iran 113
Cisco Systems Inc 74, 140
Citypass 209–210
Coca-Cola Colombia 123, 165
Coca-Cola USA 165
codes of conduct 249
Coll, Steve 5, 242–243
Colombia
  legal case against Nestlé S.A. 39–40, 247
  legal case against Occidental Petroleum Corporation 76–77, 252
Committee on Economic, Social and Cultural Rights (CESCR) 14
complaint mechanisms
  in Global Compact 213–214
  in OECD Guidelines 217–218
complementarity principle 24
Comprehensive Economic and Trade Agreement (CETA) 49
conflict diamonds/minerals 222–223
Connelly v. RTZ Corporation plc and Ritz Overseas Ltd 183–184, 190, 191, 194
Convention on Human Rights and Medicine 121
Convention on the Rights of the Child (CRC)
Israeli obligation for Palestinian occupation and 8–9
Ugandan obligations for actions in DRC 9
corporate liability, under law of nations 142–151
corporate responsibility to respect human rights (UN Guiding Principles) 232–238
corporate veil see tort claims against TNCs, in US; tort claims against TNCs, in UK
corporations and international law 7–53
corporate responsibility 13–48 aiding and abetting State wrongful acts 21–23
crimes against humanity and 17–19
genocide and 16–17
international crimes and 33–36 prosecutions in national courts 36–40
sovereign immunity and international crimes 30–33, 45–46
torture and 24
universal civil liability 41–48
universal criminal jurisdiction and 24–30
war crimes and 20–21
corporate rights 49–53
home state responsibility 9–13
host state responsibility 7–9
Corrie v. Caterpillar Inc 74–75
Covuras, L.J. 164
CPC International Inc 161–162, 181–182
crimes against humanity 17–19
‘Crude’ (film) 82, 84
customary international law as cause of action 196–211
in Canada 5, 205–209
in France 209–211
in Ireland 204–205
in UK 5, 196–204
Daimler AG v. Bauman 58–59, 251
Danzer Group 37
de facto State organs 9–10
Declaration of Helsinki (1964) 121
Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO) 226
Declaration on Fundamental Principles and Rights at Work (ILO) 215, 233–234
Democratic Republic of Congo (DRC) conflict diamonds/minerals 222–223
human rights violations and TNCs 37, 216
Kilwa, war crimes/crimes against humanity cases and TNCs 36
legal case against Anvil Mining see Anvil Mining Ltd. v. Canadian Ass’n Against Impunity
legal case against Argor-Heraeus SA 40
Democratic Republic of Congo v. Uganda 9
Doe v. Nestle USA (Inc) 108, 133
Doe v. Wal-Mart Stores Inc 165–166, 249
Dole Food Co 80, 88–89, 250
domestic remedies, exhaustion of 141–142
Donziger, Steven 83, 84
Dow Chemical v. Calderon 88–89
Dow Chemicals 87–89, 252–253
Dow Chemicals v. Castro Alfaro 252–253
Draft Articles on Responsibility of States for Internationally Wrongful Acts (ILC) 9–12, 230
Du Daobin v. Cisco Systems Inc 74, 140

Simon Baughen - 9780857934765
Downloaded from Elgar Online at 01/14/2019 01:32:44AM
via free access
Index

Ecuador
Chevron arbitration 51–52, 85–86
Constitution, Article 19(2) 83
Environmental Management Act (1999) 83
legal case against Texaco/Chevron see Againda v. Texaco Inc
Edward Tracy v. The Iranian Ministry of Information and Security 209
Egnep 181
El Salvador
Pacific Rim Mining Corp arbitration 51–52
Energy Charter Treaty (ECT) 49, 51
Equator Principles 215
Erie R. Co v. Tompkins 96, 98
European Centre for Constitutional Human Rights (ECCHR) 39–40
European Convention on Human Rights (ECHR) 7–8, 179
European Court of Human Rights (ECtHR) 38, 45, 119, 179, 199
see also individual cases
European Union (EU)
Accounting Directive 224–225
CETA 49
Clinical Trial Directive 121
national plans for Guiding Principles implementation 245
TTIP 49–50
exhaustion of domestic remedies 141–142
Export Credit Agencies (ECAs) 245
Extractive Industries Transparency Initiative (EITI) 219
Exxon Mobil Oil Indonesia (EMOI) 171
Farben case 47–48, 145
FARC 208
Filartiga v. Pena-Irala 4, 41, 68, 91–92, 93, 96, 102, 103, 119
Firestone Natural Rubber Co 47, 145, 254
Flato, Alisa 113
Flick 21

Flomo v. Firestone Natural Rubber Co
47, 145, 254
Flores v. Southern Peru Copper Corp
62, 63, 117–118, 121–122
forced labour 4, 37, 123–124
foreign sovereign immunity, abstention in US federal courts and 67–70
immunity of foreign states 67–68
immunity of officials of foreign states 68
immunity of US and its officials 68–70
foreign squared/cubed cases 43, 56–59, 98–99, 103, 117, 177
forum non conveniens 3, 5, 43
abstention in US federal courts and 60–67
alternative forum 62–64
balance of private/public interest factors 64–67
environmental tort claims 175
in UK courts 174–175, 177
Forum Non Conveniens and Enforcement of Foreign Judgments (Whytock) 82
forum shopping 2–3, 80–81
Fox, Hazel 200–201
France
Civil Code, Article 1382 210
Code of Criminal Procedure 29
criminal prosecution of corporations/officers 37
customary international law as cause of action 209–211
two-tiered system of universal jurisdiction 29–30
Franks, Tommy 25
Gadaffi, Muammar 31
Gagern, Olof von 37
Gallagher v. Neil Young Freedom Concert 125
GAP 222
garment industry 219–222
Geneva Conventions (1949) complementarity principle 24–25
Fourth, Article 49 210
Fourth, Article 49(6) 206
human rights and corporations,
introduction 1–6
customary international law as cause
of action 5
environmental tort claims 3–4
forum shopping 2–3
globalisation and governance gaps
1–2
jurisdiction 2–3
law of nations as cause of action 4
soft law 5–6
summary conclusion 251–256
TNCs and world GDP 1
universal civil liability 4–5
Human Rights Reporting and Assurance
Frameworks Initiative (RAFI) 247
Human Rights Watch 218
Hussein, Saddam 38

IG Farben 21
India
Bhopal, and legal case against Union
Carbide see Union Carbide
Corp Gas Plant Disaster at
Bhopal, In re
complaints against Vedanta
Resources 218–219

Indonesia
Aceh, and legal case against Exxon
Mobil for human rights abuses
see Doe v. Exxon Mobil
Corporation
termination of BITs 53

IndustriALL 221
Inter-American Court of Human Rights
7–8
International Bill of Human Rights
233–234
International Code of Conduct for
Private Security Service Providers
(ICOC) 245
International Court of Justice (ICJ)
Article 38(1), rule of customary
international law 118
on de facto State organs test 10
on Israeli obligation for Palestinian
occupation 8–9
on sovereign immunity 46

Habré, Hissène 25
Hague Convention (1907/1954) 210
Hamas 115

Harding v. Wealands 193–194
Hizbollah 115, 208
home state responsibility 9–13
host state responsibility 7–9
Hudbay Minerals Inc 188, 249
Index

on Ugandan obligations for actions in DRC 9
see also individual cases
International Covenant on Civil and Political Rights (ICCPR) 118–119, 233–234
Article 27
Article 7, norm of customary international law 121, 122
Israeli obligation for Palestinian occupation and 8–9
Ugandan obligations for actions in DRC 9
International Covenant on Economic, Social and Cultural Rights (ICESCR) 8–9, 13
International Criminal Court (ICC) Article 25(3)(c) 135–136
Article 30(2) 138, 139, 140
Article 30(3)(c) 139–140
crimes against humanity by non-State actors 19
jurisdiction 16, 33
International Criminal Tribunal for Rwanda (ICTR) 4, 15, 17, 18–19, 22, 29, 33, 140
International Criminal Tribunal for the former Yugoslavia (ICTY) 4, 10, 15, 17, 18–19, 21–23, 29, 33, 140, 141
see also individual cases
International Finance Corporation (IFC) 52–53, 215
International Labour Organisation (ILO)
Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) 226
Declaration on Fundamental Principles and Rights at Work 215, 233–234
Forced Labour report (2005) 124
International Law Commission (ILC)
Draft Articles on Responsibility of States for Internationally Wrongful Acts 9–12, 230
international law and civil liability 4–5, 41–48, 196–211
International Maritime Organisation Collision Regulations 120
International Military Tribunal (IMT) on corporate civil liability 47–48
Nuremberg tribunals (1945) 17–18, 21, 22, 31, 33
Tokyo tribunals (1949) 18, 31
International Shoe Co v. Washington 56
international terrorism, US definition 114
International Tin Council (ITC) 198–199
investor-state dispute settlement (ISDS) 49–50
Iran
listed as State sponsor of terrorism 209
see also Bouzari v. Islamic Republic of Iran; Cicippio-Puleo v. Islamic Republic of Iran; Edward Tracy v. The Iranian Ministry of Information and Security
Iraq
legal case against CACI see Al Shimari v. CACI Int’l, Inc
legal case against van Anraat 38
Ireland
Constitution, Article 29 204–205
custody of international law as cause of action 204–205
International Criminal Court Act (2006) 30
Oireachtas 205
Israel
High Court of Jerusalem 206–207
international law obligations for Palestinian occupation and 8–9
legal case against Citypass 209–210
legal case against Riwal 39
legal suit against Caterpillar Inc for abuses in demolition of Palestinian homes 74–75
Human rights and corporate wrongs

John Roe v. Bridgestone Corporation 123–124
Jones v. Government of Saudi Arabia 5, 45, 179, 199–200, 201–202
Joseph, Sarah 125
jurisdiction and US lawsuits 54–90
claims in state courts 78–80
enforcement of foreign judgments 80–90
Ecuador oil pollution claims 83–86
Nicaragua DBCP claims 86–90, 152
jurisdiction in federal courts 54–59
diversity cases 54–55, 153
service of proceedings 55–59
prudential grounds of abstention in federal courts 59–77
Act of State doctrine 71–73
combatant exception waiver 69
comity doctrine 75–76
field vs. conflict pre-emption 76–77
foreign affairs doctrine 76–77
foreign sovereign immunity 67–70
forum non conveniens 60–67
Head of State immunity 68
indispensable parties 71
political question doctrine 73–75
State secrets doctrine 70
suits by non-resident aliens 77
transitory tort claims 78–80
 Jurisdictional Immunities of the State (Germany v. Italy) 46
 jus cogens norms 12–13, 72, 209–210
 see also non-state actor liability for violations of law of nations
Keab, Caroline 139
Kasky v. Nike, Inc 249–250
Keitner, Chimène I. 128
Kenyatta, Uhuru 31
Kesabo v. African Barrick Gold plc 176, 216
Khulumani v. Barclay Nat. Bank Ltd 120–121, 136, 139

The Kimberley Process Certification Scheme (2003) 222
Kiobel II case 149, 251
Kiobel v. Royal Dutch Petroleum Co 5, 46–47, 48, 56, 57, 59, 77, 93,
Kouwenhoven, Guus 38–39
Krupp 21
Kuwait see Al Adsani v. Government of Kuwait

Laderer v. Dole Food Co. Inc 250
Lago Agrio case see Aguinda v. Texaco Inc
law of nations as cause of action, in US 117–151
aiding and abetting State wrongful acts 130–141
actus reus 132–134
exhaustion of domestic remedies and 141–142
mens rea 135–141
under ATS 4, 5, 92
corporate liability 142–150
the law of nations, explanation of 117–122
non-state actor liability for violations of 122–129
tertiary liability of parent corporations 150–151

The Law of State Immunity (Fox) 200–201
Leigh Day 172, 174, 176, 183, 194
Liberia legal case against Kouwenhoven 38–39
Libya see Tel-Oren v. Libyan Arab Republic
Licci ex rel. Licci v. Lebanese Canadian Bank 148–149
Linde v. Arab Bank plc 115–116
Livni, Tzipi 28
Lone Pine 51, 52
Lotus case 43–44
Lubbe v. Cape 3, 190–191, 194
Lubbe v. Cape Plc (No 2) 184–185
Index

Maclaine Watson v. Dept of Trade and Industry 198–199
Marcos, In re estate of, Human Rights Litigation 97, 103
Mares, Radu 162–163
Martinez v. Dow Chemicals 87
Matar v. Dichter 68
Mayan Q’eqchi’ 188
Meeran, Richard 194
Mejia v. Dole Food Co 89
mens rea see aiding and abetting State wrongful acts
Mercedes-Benz Argentina (MB Argentina) 58–59
Mercedes-Benz USA, LLC (MBUSA) 58–59
Mexico
NAFTA 49
Milovanovic, Gillian 222
MNE Declaration see Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO)
MOGE (Burma) 67–68, 71, 169
Mohamad v. Palestinian Authority 112
Mohamed v. Jeppesen Dataplan 70
Monterrico 186–187, 191
Motto & Ors v. Trafigura 174
Mujica v. Airscan 109, 252
Mujica v. Occidental Petroleum Corp 76–77, 252
multilateral investment treaties 49–50 see also individual treaties
multinational corporations see tort claims against TNCs, in US; individual corporations
Munyaneza, Désiré 27
Mwani v. bin Laden 107
Myanmar see Burma

National Action Plans (NAPs) (UN Guiding Principles) 242, 245–247, 251, 256
Nehrlich, Volker 47
Nestlé S.A. 39–40, 247
Nestlé USA 108, 133

The Netherlands
criminal prosecution of corporations/officers 37–39
International Crimes Act (2003) 30, 39
New Zealand
Ngcobo v. Thor Chemicals Ltd 183, 190
Nicaragua
legal cases against DBCP use 86–90, 152
Nicaragua v. United States of America 10, 206
Nigeria
Nigerian Oil Pipelines Act (1990) 191–193
Nigerian National Petroleum Company 158
Nike 249–250
non-state actor liability for violations of law of nations 122–129
North American Asbestos Company (NAAC) 181–182
North American Free Trade Agreement (NAFTA) 49, 51–52
nuclear power moratoriums 51
Nuremberg Code 121, 122

Occidental Petroleum Corporation 63, 76–77, 252
Office of the United Nations High Commissioner for Human Rights (OHCHR) 227–228, 243–244
Ogoniland
suppression of protests against Shell Oil 1, 5
Okura & Co Ltd v. Forsbacka Jernverks Aktiebolag 182
Oppenheimer v. Louis Rosenthal & Co. AG 43
Organization for Economic Co-operation and Development (OECD)
due diligence framework 222–223
Guidelines for Multinational Enterprises 6, 217–219, 232

Simon Baughen - 9780857934765
Downloaded from Elgar Online at 01/14/2019 01:32:44AM
via free access
Human rights and corporate wrongs

Osorio v. Dole Food Co 88
Ott Chemical Co (Ott II) 161–162
Owusu v. Jackson 174
Oxfam America 216

Pacific Rim Mining Corp 51–52
Papua New Guinea
Bougainville, and legal case against
Rio Tinto see Sarei v. Rio Tinto
para-statal bodies 9–10
parent corporation liability, in Canada
156–57, 255
parent corporation liability, in UK
156–57, 173–76, 186–87, 194, 255
parent corporation liability, in US
155–166, 255
Patrickson v. Dole Food Co 80
Permanent Court of International
Justice (PCIJ) 43–44
Pertamina 74
Peru
legal case against SPCC 79–80,
117–118
pesticide dibromochloropropane
(DBCP), injuries due to 86–90,
152, 252–253
Philip Morris Asia (PMA) 50–51
pillage 21, 40
Pinchet (No 3) case 31–32, 33,
196–197, 200
Piper Aircraft v. Reyno 61, 64
Porgera Joint Venture (PJV) 243–244
Presbyterian Church of Sudan v.
Talisman Energy 47, 56, 57, 63,
94, 129, 132, 136–137, 139, 142,
144, 156–157
Prest v. Petroleo 182
presumption of extra-territorality see
statutory and ATS causes of
actions, in US
‘Principles Without Justice, The
Corporate Takeover of Human
Rights’ (RAID) 216, 244
‘Private Empire’ (Coll) 5, 242–243
prosecutions in national courts 36–40
Prosecutor v. Charles Ghankay Taylor
133
Prosecutor v. Furundzija 22, 127, 132,
133
Prosecutor v. Lubanga 138
Prosecutor v. Nikola Sainovic 22–23,
135, 141
Prosecutor v. Perišic 22, 133, 140–141
Prosecutor v. Tadić 21, 23, 129
Prosecutor v. Taylor 22, 141
Prosecutor v. Vasiljevic 132–133
‘Protect, Respect, and Remedy’
framework (Ruggie) 1–2, 228
see also UN Guiding Principles and
voluntary codes
Puhl, Emil 135
R v. Hape 205–206
R v. Jones (Margaret) 197
R v. Knuller 197
Rana Plaza disaster 219–221
Rasche, Karl 134, 135, 137
Ratner, Steven R. 164–165
In re see name of party
reverse state action (Joseph) 125
Rights and Accountability in
Development (RAID)
‘Principles Without Justice, The
Corporate Takeover of Human
Rights’ 216, 244
Rio Blanco 186–187
Rio Declaration (1992) 119
Rio Tinto 1, 3, 56, 63, 66, 72, 98, 140,
141, 145–146
Rivera v. Dole Food Co 89
Riwal 39
Roberts, Alan 221
Robertson, David 80–81
Rome II Regulation 190, 193–194,
202–204
Rome Statute (1998) see International
Criminal Court (ICC)
Romero, Luciano 39–40
Romero v. Drummond 142–143, 147
Rossing Uranium Ltd (RUL) 183–184
Rothstein v. UBS AG 115
Royal Dutch Petroleum see Kiobel v.
Royal Dutch Petroleum Co; Wiwa
v. Royal Dutch Petroleum Co
RTZ Corporation 183–184
<table>
<thead>
<tr>
<th>Index</th>
<th>267</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ruggie, John 1–2, 13–14, 52–53, 228</td>
<td></td>
</tr>
<tr>
<td>Rumsfeld, Donald 25, 27–28</td>
<td></td>
</tr>
<tr>
<td>Rylands v. Fletcher 90</td>
<td></td>
</tr>
<tr>
<td><strong>Sahu v. Union Carbide (Sahu I)</strong> 163–164</td>
<td></td>
</tr>
<tr>
<td><strong>Sahu v. Union Carbide (Sahu II)</strong> 164</td>
<td></td>
</tr>
<tr>
<td>Saleh v. Titan Corporation Ltd 69</td>
<td></td>
</tr>
<tr>
<td>Salomon v. Salomon 180</td>
<td></td>
</tr>
<tr>
<td>Sarei v. Rio Tinto 1, 3, 56, 63, 66, 72, 98, 140, 141, 145–146</td>
<td></td>
</tr>
<tr>
<td>Saro-Wiwa, Ken 1, 5</td>
<td></td>
</tr>
<tr>
<td>Saudi Arabia see Jones v. Government of Saudi Arabia</td>
<td></td>
</tr>
<tr>
<td>Scheffer, David 139</td>
<td></td>
</tr>
<tr>
<td>security operations of TNCs 5, 11–12, 37</td>
<td></td>
</tr>
<tr>
<td>see also Voluntary Principles on Security and Human Rights</td>
<td></td>
</tr>
<tr>
<td><strong>Sexual Minorities Uganda v. Lively</strong> 106–107</td>
<td></td>
</tr>
<tr>
<td><strong>Seymour v. Hull &amp; Moreland Engineering</strong> 157</td>
<td></td>
</tr>
<tr>
<td>Sharon, Ariel 25</td>
<td></td>
</tr>
<tr>
<td>Shell Nigeria 57</td>
<td></td>
</tr>
<tr>
<td>Shell Oil 1, 5, 191</td>
<td></td>
</tr>
<tr>
<td>Shell Petroleum Development Company of Nigeria (SPDC) 188–189</td>
<td></td>
</tr>
<tr>
<td>Shell UK 188–189</td>
<td></td>
</tr>
<tr>
<td>SIFORCO 37</td>
<td></td>
</tr>
<tr>
<td><strong>Sinaltrainal v. The Coca-Cola Company</strong> 123, 165</td>
<td></td>
</tr>
<tr>
<td>single economic entity 160–161</td>
<td></td>
</tr>
<tr>
<td>Sithole v. Thor Chemicals Ltd 183, 190</td>
<td></td>
</tr>
<tr>
<td>SLORC (Burma) 71</td>
<td></td>
</tr>
<tr>
<td><strong>Smith v. Littlewoods Ltd</strong> 185–186</td>
<td></td>
</tr>
<tr>
<td><strong>SMUG</strong> case 108</td>
<td></td>
</tr>
<tr>
<td>soft law 5–6, 248–250</td>
<td></td>
</tr>
<tr>
<td><strong>South Africa</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Black Economic Empowerment policy</strong> 53, 230</td>
<td></td>
</tr>
<tr>
<td>claims of aiding and abetting of US corporations during apartheid 74–75</td>
<td></td>
</tr>
<tr>
<td>termination of BITs 53</td>
<td></td>
</tr>
<tr>
<td><strong>South African Apartheid Litigation, In re</strong> 74–75, 128–129, 130, 131, 133–134, 137, 139, 149, 150–151, 156</td>
<td></td>
</tr>
<tr>
<td>Southern Peru Copper Corp. (SPCC) 62, 63, 79–80, 117–118</td>
<td></td>
</tr>
<tr>
<td>sovereign immunity and international crimes 30–33, 45–46</td>
<td></td>
</tr>
<tr>
<td>Spain</td>
<td></td>
</tr>
<tr>
<td>universal jurisdiction law 25–26</td>
<td></td>
</tr>
<tr>
<td>Special Court for Sierra Leone (SCSL) 15–16, 141</td>
<td></td>
</tr>
<tr>
<td><strong>Spiliada Maritime Corp v. Cansulex</strong> 174</td>
<td></td>
</tr>
<tr>
<td>stabilisation clauses 52–53</td>
<td></td>
</tr>
<tr>
<td>Standard Fruits 252–253</td>
<td></td>
</tr>
<tr>
<td>Standard Oil 160–161</td>
<td></td>
</tr>
<tr>
<td>State duty to protect human rights (UN Guiding Principles) 228–232</td>
<td></td>
</tr>
<tr>
<td>statutory and ATS causes of actions, in US 91–116</td>
<td></td>
</tr>
<tr>
<td>Alien Torts Statute (ATS) (1789) 91–110</td>
<td></td>
</tr>
<tr>
<td>after <strong>Kiobel</strong> 104–110</td>
<td></td>
</tr>
<tr>
<td><strong>Kiobel v. Royal Dutch Petroleum Co</strong> 93, 98–104, 105, 108</td>
<td></td>
</tr>
<tr>
<td><strong>Sosa v. Alvarez-Machain</strong> 95–98, 103, 106, 107, 110</td>
<td></td>
</tr>
<tr>
<td>terrorism, and US nationals 112–116</td>
<td></td>
</tr>
<tr>
<td>Anti-Terrorism Act (ATA) (1992) 114</td>
<td></td>
</tr>
<tr>
<td>Flatow Amendment 113</td>
<td></td>
</tr>
<tr>
<td><strong>Torture Victims Protection Act (TVPA) (1991)</strong> 92, 94, 111–112</td>
<td></td>
</tr>
<tr>
<td>Stora Enso 247</td>
<td></td>
</tr>
<tr>
<td>subsidiary as agent 158–160</td>
<td></td>
</tr>
<tr>
<td>supply chain codes 219–222</td>
<td></td>
</tr>
</tbody>
</table>
supply chains and parent corporation liability 164–166
survival clauses 53
Survival International (SI) 218–219
Switzerland
criminal prosecution of corporations/officers 39–40
Syria 209
‘Taking the Human Rights Walk’ (Nestlé S.A.) 247
Talisman Energy see Presbyterian Church of Sudan v. Talisman Energy
Taylor, Charles 31
Teléz v. Dole Food Co 89
Tel-Oren v. Libyan Arab Republic 96–97, 253
terrorism, and US nationals 112–116
Tesch, Bruno Emil 134
Texaco see Aguinda v. Texaco Inc.; Chevron Corporation
Tex-Pet 83–86
Thompson v. Renwick Group Ltd 188
tobacco packaging laws 50–51
Tokyo Charter (1946) 18
The Toledo case 204–205
Torres, Gilberto 172
Torres v. Southern Peru Corporation 79
tort claims against TNCs, in US 152–171
applicable law 153–155
human rights violations and 166–171
parent corporation liability 155–166
alter ego subsidiary 157–158
direct liability 161–164
single economic entity 160–161
subsidiary as agent 158–160
supply chains 164–166
tort claims against TNCs, in UK 172–195
choice of law 190–194
corporate veil 179–190
concealment principle 182
direct liability 183–190
evasion principle 182
vicarious liability/piercing the veil 180–182
establishing jurisdiction 172–179
funding of litigation 194–195
torture 24, 179, 196–197
Total Myanmar Exploration & Production 168
Total SA 1, 11–12, 37, 57, 168, 211
Trafigura Beheer BV 174
Trafigura Ltd 174
Transatlantic Trade and Investment Partnership (TTIP) 49–50
Transport 160
Trendtex Trading Corp v. Central Bank of Nigeria 197–198
TRIAL 40
Trial of Bruno Tesch and Two Others (The Zyklon B Case) 134, 135
Tyler 1 cases 181–182
Tyler 2 cases 181
UBS AG 115
UCIL 2–3
Uganda
ATS suit against US individual for aid and abetting crimes against humanity 106–107
international law obligations for actions in DRC 9
Ukraine challenges to Australia’s tobacco packaging laws and PMA support for 51
UN Convention on Law of the Sea (UNCLOS) 72
UN Draft Norms for Transnational Corporations and Other Business Enterprises with Regard to Human Rights (2003) 13, 226–228, 244
UN Educational, Scientific and Cultural Organization (UNESCO)
Index 269

Universal Declaration on Bioethics and Human Rights 121
UN Global Compact 5, 212–214, 226–227, 242, 245, 249
UN Guiding Principles and voluntary codes 212–250
Guiding Principles on Business and Human Rights 1–2, 6, 227–244
  access to remedy 233, 238, 239–244, 245–246, 251, 255–256
  corporate responsibility to respect human rights 232–238
GP 1 228–229
GP 2 228–229
GP 3 229–230, 256
GP 4 230
GP 5 230
GP 6 230
GP 7 231
GP 8 231
GP 9 231–232
GP 10 232
GP 11 234
GP 12 233–234
GP 13 234
GP 14 234–235
GP 15 235
GP 16 235
GP 17 235
GP 18 236
GP 19 233, 236
GP 20 237
GP 21 237
GP 22 233, 236–238, 241
GP 23 238, 242
GP 24 238
GP 25 239, 240
GP 26 233, 239, 255–256
GP 27 240
GP 28 241
GP 29 241
GP 30 241
GP 31 238, 241
history of 226–227
implementing of 245–248
National Action Plans (NAPs) 242, 245–247, 251, 256
Reporting Framework (RAFI) 247
State duty to protect human rights 228–232
from soft law to hard law 248–250
voluntary codes 212–225
brand and supply chain codes 219–222
corporate reporting legislation 222–225
Extractive Industries Transparency Initiative (EITI) 219
Global Compact 5, 212–214, 226–227, 242, 245, 249
OECD Guidelines for Multinational Enterprises 6, 217–219, 232
UN Human Rights Council 247–248
2007 report (Ruggie) 13–14
'Protect, Respect, and Remedy’ framework (Ruggie) 228
UN Security Council
  genocide, defined 17
  referrals to ICC 16
  Resolution 827 29
  Resolution 955 29
UNI Global 221
Union Carbide 2–3, 62–63, 64, 152, 163–164
Union Carbide Corp Gas Plant Disaster at Bhopal, In re 62–63, 64, 66–67, 90, 152
Union Carbide India Limited (UCIL) 163–164
United Kingdom (UK)
  Accreditation Service (UKAS) 245
  Act of State doctrine 177–178, 201
    adjudicative vs. prescriptive jurisdiction 42–43
  attribution of knowledge 35
  Brussels Regulation, Article 2 43
  Companies Act (2006) 177, 224–225
  complaints regarding OECD Guideline violations 218–219
Human rights and corporate wrongs

Corporate Manslaughter and Corporate Homicide Act (2007) 35
customary international law as cause of action 5, 196–204
doctrine of incorporation 196, 197–198, 201
doctrine of transformation 196–197
Geneva Conventions Act (1957) 28, 207
Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) (2012) 194, 246
Modern Slavery Act (2015) 225
qualified one way costs shifting (QOCS) 194–195, 251
Schedule to the Interpretation Act (1978) 34
Slave Trade Act (1843) 29
UN Guiding Principles, Good Business plan 245–246
War Crimes Act (1991) 28–29
see also tort claims against TNCs, in UK
United Nations
Commission on Human Rights 226, 227
Commission on Transnational Corporations 226
Draft Norms for Transnational Corporations (2003) 13, 226–228, 244
human rights treaties 7
non-binding Declarations of 119
Sub-Commission on the Promotion and Protection of Human Rights 13
Working Group on business and human rights (UNWG) 245, 247, 255–256
see also UN Guiding Principles and voluntary codes
United Nations Conference on Trade and Development (UNCTAD) 1
United States of America (US)
Act of State doctrine 71–73, 177–179, 201
American Declaration of the Rights and Duties of Man (1948) 119
attribute of knowledge 34
civil liability for violations of international law 41–42
civil suits against State sponsors of terrorism 45–46
color of law principles 92, 111–112, 124–125
complaints regarding OECD Guideline violations 218
criminal prosecution of corporations/officers 40
Dodd-Frank Act 222–224
Environmental Protection Agency 87
Federal Rules of Civil Procedure, Rule 19
Federal Tort Claims Act (FTCA) (1948) 68–70
First Amendment rights 223
Flatow Amendment 113
Foreign Sovereign Immunity Act 45, 67
Genocide Accountability Act (2007) 30
Military Commissions Act (MCA) 70
NAFTA 49
nonratification of Rome Statute 30
Proxmire Act (1988) 30
Racketeer Influenced and Corrupt Organisations Act (RICO) 84
respondeat superior doctrine 34
<table>
<thead>
<tr>
<th>Index</th>
<th>271</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Securities and Exchange</strong></td>
<td></td>
</tr>
<tr>
<td>Commission (SEC) 222–224</td>
<td></td>
</tr>
<tr>
<td><strong>State Department, Statements of Interest</strong></td>
<td></td>
</tr>
<tr>
<td>72, 74–75, 76–77</td>
<td></td>
</tr>
<tr>
<td><strong>State Sponsor of Terrorism list</strong> 113</td>
<td></td>
</tr>
<tr>
<td><strong>Torture Victims Protection Act (TVPA) (1991)</strong> 61, 65, 92, 94,</td>
<td></td>
</tr>
<tr>
<td>111–112</td>
<td></td>
</tr>
<tr>
<td><strong>TTIP 49–50</strong></td>
<td></td>
</tr>
<tr>
<td><strong>UN Guiding Principles and 251</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Uniform Foreign Money Judgment Recognition Act (1962)</strong> 81–82,</td>
<td></td>
</tr>
<tr>
<td>88</td>
<td></td>
</tr>
<tr>
<td><strong>Uniform Foreign-Country Money Judgments Recognition Act</strong> (2005)</td>
<td></td>
</tr>
<tr>
<td>81–82</td>
<td></td>
</tr>
<tr>
<td><strong>see also</strong> jurisdiction and US lawsuits; statutory and ATS causes</td>
<td></td>
</tr>
<tr>
<td>of actions, in US; tort claims against TNCs, in US; US</td>
<td></td>
</tr>
<tr>
<td>Supreme Court</td>
<td></td>
</tr>
<tr>
<td><strong>United States v. Krauch</strong></td>
<td>47–48</td>
</tr>
<tr>
<td><strong>United States v. Krupp</strong></td>
<td>47–48</td>
</tr>
<tr>
<td><strong>United States v. Reynolds</strong></td>
<td>70</td>
</tr>
<tr>
<td><strong>United States v. Von Weizsacker (The Ministries Case)</strong> 134, 135,</td>
<td>137</td>
</tr>
<tr>
<td>137</td>
<td></td>
</tr>
<tr>
<td><strong>universal civil jurisdiction, defined</strong> 200</td>
<td></td>
</tr>
<tr>
<td><strong>universal civil liability 4–5, 41–48</strong></td>
<td></td>
</tr>
<tr>
<td><strong>universal criminal jurisdiction 24–30</strong></td>
<td></td>
</tr>
<tr>
<td><strong>universal criminal liability 4, 15–16</strong></td>
<td></td>
</tr>
<tr>
<td>215, 233–234</td>
<td></td>
</tr>
<tr>
<td><strong>Universal Declaration on Bioethics and Human Rights (UNESCO)</strong> 121</td>
<td></td>
</tr>
<tr>
<td><strong>Unocal (2002)</strong> 132</td>
<td></td>
</tr>
<tr>
<td><strong>Unocal Corporation</strong> 11–13, 57, 67–68, 71, 72–73, 78, 94, 103–104,</td>
<td></td>
</tr>
<tr>
<td>125, 126–127, 167–170, 203</td>
<td></td>
</tr>
<tr>
<td><strong>US Central Intelligence Agency (CIA)</strong> 70</td>
<td></td>
</tr>
<tr>
<td><strong>US Constitution</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Article III, federal court jurisdiction</strong> 54, 59, 78, 152</td>
<td></td>
</tr>
<tr>
<td><strong>due process requirements 55–56</strong></td>
<td></td>
</tr>
<tr>
<td><strong>US Supreme Court</strong></td>
<td></td>
</tr>
<tr>
<td><strong>on FISA 67</strong></td>
<td></td>
</tr>
<tr>
<td><strong>on forum non conveniens 60–61</strong></td>
<td></td>
</tr>
<tr>
<td><strong>on jurisdiction in federal courts 56–58</strong></td>
<td></td>
</tr>
<tr>
<td><strong>on sovereign immunity 45</strong></td>
<td></td>
</tr>
<tr>
<td><strong>see also</strong> statutory and ATS causes of actions, in US; individual</td>
<td></td>
</tr>
<tr>
<td>cases</td>
<td></td>
</tr>
<tr>
<td><strong>Vattenfall</strong> 51</td>
<td></td>
</tr>
<tr>
<td><strong>Vedanta Resources</strong> 218–219</td>
<td></td>
</tr>
<tr>
<td>**Voelio 209–210</td>
<td></td>
</tr>
<tr>
<td><strong>voluntary codes see UN Guiding Principles and voluntary codes;</strong></td>
<td></td>
</tr>
<tr>
<td><strong>individual codes</strong></td>
<td></td>
</tr>
<tr>
<td>**Voluntary Principles on Security and Human Rights 5–6, 214–216,</td>
<td></td>
</tr>
<tr>
<td>242–243</td>
<td></td>
</tr>
<tr>
<td>**Wal-Mart 165–166, 222</td>
<td></td>
</tr>
<tr>
<td>**war crimes 20–21, 36, 39, 147</td>
<td></td>
</tr>
<tr>
<td>**Weinbacher, Karl 135</td>
<td></td>
</tr>
<tr>
<td>**Whytock, Christopher 82</td>
<td></td>
</tr>
<tr>
<td>**Wiwa v. Royal Dutch Petroleum Co 56–57, 59, 61, 62, 64–65, 120,</td>
<td>251</td>
</tr>
<tr>
<td>215</td>
<td></td>
</tr>
<tr>
<td>**World Bank Group 215</td>
<td></td>
</tr>
<tr>
<td>**World Medical Association 121</td>
<td></td>
</tr>
<tr>
<td>**World Trade Organization (WTO) 49, 50–51, 232</td>
<td></td>
</tr>
<tr>
<td>**XE Services, In re 123</td>
<td></td>
</tr>
<tr>
<td>**Xuncax v. Gramajo 110</td>
<td></td>
</tr>
<tr>
<td>**Young v. Anglo-American 173</td>
<td></td>
</tr>
<tr>
<td>**Yousuf v. Samantar 68</td>
<td></td>
</tr>
<tr>
<td>**Zhang v. Zemin 45</td>
<td></td>
</tr>
<tr>
<td><strong>Zimbabwe</strong></td>
<td></td>
</tr>
<tr>
<td><strong>conflict diamonds and KP certification 222</strong></td>
<td></td>
</tr>
</tbody>
</table>