Achille Lauro incident 80–81
ad hoc inquiries 526–8
Adebowale, Michael 541
adjudication of disputes 526
administrative detention 402, 407–8, 499
Afghanistan 167, 173, 175, 213, 215, 345, 542, 670
military trials and courts 275
rendition programme and 497–8
African Charter on Human and Peoples’ Rights 265, 549
African Commission on Human and Peoples’ Rights 377
African Union 7, 735, 749–52
aggression
acts of 42
Agiza, Ahmed 376
aid programmes 168, 171, 315–16, 331–2
capacity building assistance 45, 598–604
general laws and principles 317–18
terrorism-specific laws and 319
humanitarian obligations of terrorist organizations 323–4
misappropriation of aid for terrorism 324–31
protection of aid workers 319–23
United Nations and 678–9
Air India bombing (1985) 58
air transport see aviation terrorism
al Awlaki, Anwar 538
Al Barakaat 189, 614
Al Qaeda 75, 84, 117, 122, 214, 215, 217–21, 275–6, 351, 355, 384, 542, 543, 666, 670
sanctions regime against 128, 189, 596, 608, 625
human rights due process and backlash against 612–17
origins and evolution 609–12
procedural standards in current regime 617–25
Al Shabaab 218, 315–16
Al Taqwa 189
al Zawahiri, Ayman 538, 543
Algeria 379, 741, 743
Alston, Philip 250, 266
Alzery, Mohammed 376
American Civil Liberties Union (ACLU) 369
American Convention on Human Rights (ACHR) 265, 272, 350, 710, 713, 714
American Declaration on Human Rights 376
Ames, Aldrich 456
Amnesty International 383
Annan, Kofi 151, 348, 550, 569, 573, 671
anticipatory self-defence 111, 202–3, 255
appeal of terrorism, countering 577–8
Arab Convention on the Suppression of Terrorism 1998 244
Arab League 185, 238
Arar, Maher 359, 374, 453–4, 461, 468
Argentina, military trials and courts in 273
armed conflict see war and armed conflict
armed forces 147
combatant status 256–7
Comprehensive Convention on International Terrorism (CCIT; Draft) and 160–61
military response to terrorism 39
military trials and courts 229–30, 233, 271–2, 280–81
procedures and practices 277–880
US constitutional restrictions
274–7
occupation by see occupation, law of
Asia-Pacific Economic Cooperation Forum (APEC) 763–4
Asia-Pacific regional cooperation 754, 775
background on counter-terrorism 755–6
challenges
communal and sectarian conflicts 772
criminalizing terrorist organizations 774
cyber domain 774
harmonizing 774–5
international and regional politics 772
lack of capacities and capabilities 770–71
political interference 771
preparatory offences and preventive detention 772–3
weak counter-terrorism laws 770
context 754–5
trends 756–7
see also individual organizations
Assange, Julian 494
asset freezing 82, 121, 128, 130, 131, 132, 347, 582, 604, 619, 628, 636, 690–91
assisting terrorism 70–71
association de malfaiteurs 71–2, 431
Association of Southeast Asian Nations (ASEAN) 549, 757–8
ASEAN Regional Forum (ARF) 762–3
definition of terrorist acts 761
extradition complications 760–61
lack of enforcement mechanisms 758–9
overly cautious approach due to national sensitivities 759–60
safeguarding of nuclear/biological/chemical/radiological materials 762
association with terrorism 482–3
asylum see refugees
Aum Shinrikyo attack 105
Australia
control orders 503
enactment 505–6
end of 519–20
fair process and 514–15
features of scheme 508–12
liberty of individuals and 512
judicial supervision of anti-terrorism laws 523–4, 527, 529
migration and 426
aviation terrorism 57–8, 73, 603
Beijing Convention and 66, 68–9
ancillary and inchoate offences 70–72
jurisdiction 72
new principle offences 69–70
development of UN international terrorism conventions 62–4
hijackings 57–8, 62, 64, 72–3, 557, 737
International Civil Aviation Organization (ICAO) and 61, 65, 67–8
international conventions concerning unlawful acts 58–62
Passenger Name Record (PNR) Agreements 692, 693
Ban Ki-Moon 320, 574
Bank for International Settlements (BIS) 134
banking industry, private initiatives to deter terrorist financing and 132–5
Basel Committee 134
belligerent occupation see occupation, law of
Ben-Gurion, David 463
Bernadotte, Folke 666
Bethlehem Principles 201
Bin Laden, Osama 123, 281, 538, 611
biological weapons 100, 105, 107, 118, 141, 602–3, 762
Black, Cofer 396
blacklisting regime against Al Qaeda 128, 189, 596, 608, 625
human rights due process and backlash against 612–17
origins and evolution 609–12
procedural standards in current regime 617–25
Blair, Tony 419
Boko Haram 543
Bombing Convention see Convention for the Suppression of Terrorist Bombings 1997
border controls 583, 637–8
Bosnia 291–4, 377
genocide in 49–50, 52, 56
Boston Marathon attack 149, 540
Bradbury, Steven 385
Brandeis, Louis 455
Breivik, Anders 539
Brin, David 455
Burkina Faso 580
Burundi 345
Bush, George W. 88, 271, 273, 277
Bybee, Jay 384, 397
Byers, M. 75–6

Cairo Declaration on Human Rights in Islam 721, 728
Canada
Arar case 359, 374, 453–4, 461, 468
judicial supervision of anti-terrorism laws 524, 527, 528, 530, 532, 536
refugees and 481
Cancio Meliá, M. 38
capacity building assistance 45, 598–604
Cartagena Declaration on Refugees 1984 474
case law on terrorism 11
Cassese, A. 310–11
charitable institutions 122–3, 156, 187–8, 189, 582
Chatham House Principles 201, 205
chemical weapons 100, 102, 105, 118–19, 141, 602–3, 762
Cheney, Dick 396
China 84
civil aviation see aviation terrorism
Claude, Inis 571
Cold War period 100, 102–4
Colombia 122, 213, 273
cross-border uses of force to combat terrorism 714–15
colonialism 158, 178, 186, 211, 214, 235, 301, 306–7, 379, 725, 734, 735, 737, 738, 747, 767
commissions of inquiry 374–5
community engagement 167, 175–6, 768
compensation see redress
Comprehensive Convention on International Terrorism (CCIT; Draft) 9, 31–5, 151, 186, 238, 309–10, 316, 564–5, 668
controversy over definitional issue and sectoral approach 153–7
law of occupation and 245–6
overcoming definitional impasse 161–2
rationale for 157
addressing the definition issue 157–9
elements of ‘compromise package’ and its underlying rationale 159–61
Comprehensive Nuclear-Test-Ban treaty 1996 (CTBT) 108
concurrent jurisdiction 60
conflict
armed see war and armed conflict
Counter-Terrorism Implementation Task Force (CTIF) and resolution of 578–9
prevention of 578–9
Congo, Democratic Republic of 345
conspiracy 71–2
control orders 503
enactment 503–6
end of 519–20
fair process and 514–19
features of scheme 507–12
liberty of individuals and 512–14
Convention Against the Taking of Hostages 1979 (Hostages Convention) 62–3, 64, 140, 186, 239, 534–5, 559–60
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (UN Torture Convention) 23, 376, 380, 382, 394, 399, 489, 495
Convention Against Transnational Organized Crime 2000 (Palermo Convention) 71, 125, 491, 705
Protocols 490
Convention for the Creation of an
International Criminal Court 1937 152, 153
Convention for the Prevention and Punishment of Terrorism 1937 152
Convention for the Safety of Life at Sea (SOLAS Convention) 74, 85, 86
drafting process 137–9
key provisions 139–48
practice under 148–9
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation 1971 (Montreal Convention) 61–5, 68, 72, 136, 140, 558
Rome Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation 61
Protocol (2010) 68, 72–3
Convention Governing the Specific Aspects of Refugee Problems in Africa 1969 473
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism 2005 689–90
Convention on Offences and Certain Other Acts Committed on Board Aircraft 1963 (Tokyo Convention) 59
Convention on the Elimination of All Forms of Racial Discrimination (CERD) 440
Convention on the Physical Protection of Nuclear Material 1979 (NMC) 103–4, 107, 109, 110, 141, 491, 595
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 1973 (Internationally Protected Persons Convention) 558–9, 701–2, 703–4
Convention on the Prevention and Punishment of the Crime of Genocide 1948 (Genocide Convention) 52
Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological ( Biological) and Toxin Weapons and on their Destruction 1972 (BWC) 102, 104, 106, 107, 108, 118
Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (Migrant Workers Convention) 489, 490
Convention on the Rights of the Child 729
Convention on the Safety of United
Index

Optional Protocol 320–21
Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation 2010 (Beijing Convention) 66, 68–72, 109, 595
Convention Relating to the Status of Refugees 1951 (Refugee Convention) 471, 472, 473, 476–85, 488, 495
Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance (1971 OAS Convention) 701, 703, 704, 707, 708, 713
Cordier, Cedric 541
Council of Europe 7, 363, 494, 497, 685, 699
response to ‘war on terror’ 689–90, 693
counterfeiting 116, 628, 637
Counter-Terrorism Centre (UNCTC) 571, 589–90, 631–5
coordination of technical assistance within UN system 580
dialogue, understanding and countering terrorism’s appeal 578
legal basis and institutional development 574–5
national and regional strategies 581
promoting and protecting human rights 588
supporting and highlighting victims 589
tackling financing of terrorism 582–3
Counter-Terrorism Implementation Task Force (CTITF) 340, 569, 572, 573, 589–90, 605
coordination of technical assistance within UN system 580
countering use of Internet for terrorist purposes 584, 602
dialogue, understanding and countering terrorism’s appeal 577–8
legal basis and institutional development 573–5
managing borders 583
national and regional strategies 581
outreach 579–80
preventing and resolving conflict 578–9
promoting and protecting human rights 586–8
refocus and new informal fora 575–7
supporting and highlighting victims 588–9
tackling financing of terrorism 582
weapons of mass destruction and 586
courts and trials 418
fair trial standards 533–5
military 229–30, 233, 271–2, 280–81, 432
treaty restrictions 272–3
US constitutional restrictions 274–7
redress for rendition and 368–74
see also individual courts
Covenant on the Rights of the Child in Islam 729
crimes against humanity 187, 472
criminal law 20, 22–3, 35–8
adaptation of domestic criminal prosecution within international law framework 424
adaptations in criminal offences 428–31
adaptations in criminal processes 424–8
future adaptation in terrorism prosecutions 431
future criminal offences 431–2
future criminal processes 432–5
incitement to terrorism and 440–3
international core crimes versus treaty–based crimes 23–7
Organization of American States (OAS) and international cooperation in criminal matters 707–9

prohibitions on and criminal liabilities for terrorism in armed conflict

substantive provisions 225–9

trial and prosecution of terrorists 229–30

prosecution of terrorists under 418–24, 435–6

protection of aid workers and 322

redress for rendition and 370–71

terrorism as crime under customary international law

affirmative statement by Special Tribunal for Lebanon’s Appeals Chamber 27–30

UN Draft Comprehensive Convention 31–5

UN Resolutions 30–31

United Nations Office on Drugs and Crime (UNODC) and 601–2

see also war crimes

Cuba: Guantánamo Bay base 277–8, 345, 349, 364, 377, 386, 387, 398, 402, 420

customary law 20–21

definitions of terrorism and 11, 27, 28, 35–6, 76, 309

law of the sea and 77–8

obligation to prevent terrorism and 43–4

terrorism as crime under customary international law

affirmative statement by Special Tribunal for Lebanon’s Appeals Chamber 27–30

UN Draft Comprehensive Convention 31–5

UN Resolutions 30–31

WMD terrorism and 117

cyber-terrorism 119–20, 774

Cyprus 344


death penalty 432

defence, problem of 535–6

definitions of terrorism 18–19, 188, 283, 570

Association of Southeast Asian Nations (ASEAN) and 761

Comprehensive Convention on International Terrorism (CCIT; Draft) and 153–9

overcoming definitional impasse 161–2

customary law 11, 27, 28, 35–6, 76, 309

domestic statutes and case law 9–11

international treaties and 6–9, 316

League of Nations and 6, 152–3

legal literature 12–13

other international practice 11–12

possible contours of core definition 14–18

South Asian Association for Regional Cooperation (SAARC) and 766–7

Special Tribunal for Lebanon (STL) and 651–65

uses and abuses of term ‘terrorism’ 3–6

derogation from human rights law 350–52, 507

detention of terrorists/suspects 224–5, 401–3

administrative detention 402, 407–8, 499

capacity to challenge lawfulness of detention 408–10

in declared emergency 410–15

human rights law and 405–6

ill-treatment of detainees 395–7

preventive detention 406–7, 772–3

prolonged detention 524–5

relevance of international human rights law 403–17

see also interrogation of suspects

development assistance see aid programmes

Dhahran attacks (1996) 137–8, 143

Dhaussy, Alexandre 541

diplomatic immunities 371

diplomatic initiatives against WMD terrorism 114–16
diplomatic premises 143
discrimination 171, 342, 551
dispute settlement adjudication 526
    Counter-Terrorism Implementation Task Force (CTIF) and 578–9
    International Convention for the Suppression of Terrorist Bombings 1997 (Terrorist Bombings Convention) and 147–8
    state responsibility and 49, 51, 52–4, 56
domestic violence 170
Draft Comprehensive Convention see Comprehensive Convention on International Terrorism
    drone strikes see targeted killings and drone strikes
    drugs 121, 481
due diligence obligations 43–4
duress 482
    East African Community 549
    economic development assistance see aid programmes
    Ecuador 714–15
    Egmont Group 134
    Egypt 243, 543, 737–8
    emergency situations
    applicability of human rights law in 346–50
    detention of terrorists/suspects during 410–15
    Emmerson, Ben 270, 544
    England, Lynndie 395
    Entebbe hijacking (1976) 738–9
    Essy, Amara 748
    European Arrest Warrant (EAW) 688, 695
    European Banking Federation (EBF) 133
    European Convention on the Suppression of Terrorism 1977 686, 689, 700
    European Court of Justice (ECJ) 340, 688, 700
    European Union (EU) 685, 699–700
    aid programmes and 325–8, 331, 332
    blacklisting regime and 614
    counter-terrorism cooperation in 686–7
    financing of terrorism and 125, 130–31
    incitement to terrorism and 439, 445
    refugees and 474
    response to ‘war on terror’ 688–9, 690–3
    Stockholm Programme 694–5
    Action Plan 695–8
    expression, freedom of 438–9
    incitement to terrorism and 443–5, 452
    causal link to probable harm 449–50
    mens rea 450–51
    object of incitement 445–6
    type of speech and 446–9
    extradition of terrorism suspects 63, 154–5, 493–5
    Association of Southeast Asian Nations (ASEAN) and 760–61
    International Convention for the Suppression of Terrorist Bombings 1997 (Terrorist Bombings Convention) and 144–6
    state responsibility and obligation to extradite or submit to prosecution 45–7
    extraordinary rendition see rendition programme
    extraterritorial application of human rights law 343–6
fair process
control orders and 514–19
fair trial standards 533–5
family life rights, financing of terrorism and 130–32
Farer, Tom 273
Financial Action Task Force (FATF) 114, 116, 122, 125–7, 705
financing of terrorism 42, 114–16, 121–2, 135
Counter-Terrorism Implementation Task Force (CTIF) and Counter-Terrorism Centre (UNCCT) and 582-3
European responses 689–92
Financial Action Task Force (FATF) 114, 116, 122, 125–7, 705
freezing of assets 82, 121, 128, 130, 131, 132, 347, 582, 604, 619, 628, 636, 690–91
gender issues and 165–6
human rights considerations and 130–32
law of occupation and 241–4
misappropriation of aid for terrorism 324–31
money laundering 116, 122, 125, 126, 582, 690
private initiatives to deter terrorist financing 132–5
UN Office on Drugs and Crime (UNODC) and strengthening international cooperation in criminal matters 604–5
UN sanctions committees and 129
UN Ombudsperson 608, 617–25, 675–77, 691
UN Security Council Resolution 1373 and 127–8, 636–7
United Nations Office on Drugs and Crime (UNODC) and 604
Fissile Material Cut-Off Treaty (FMCT) 108
force, use of 42, 195–7, 207, 305
authorized by UN Security Council 199
international law on 197–8
law of occupation and 247–8
OAS and cross-border uses of force to combat terrorism 714–15
self-defence see self-defence right
targeted killings and drone strikes 251–5
US policy standards and procedures (2013) 205–6
France 431
judicial supervision of anti-terrorism laws 525, 528
Rainbow Warrior incident and 48
Franzen, Jonathan 465
freedom of expression see expression, freedom of
freezing of assets 82, 121, 128, 130, 131, 132, 347, 582, 604, 619, 628, 636, 690–91
Fujimori, Alberto 710
gender issues 163, 176
explaining gender in international law's response to terrorism 169–72
reimagining gender in international law response to terrorism 172–6
tracing gender in international law response to terrorism 164–9
genocide 25, 49–50, 52, 56
Germany
human rights law in 341, 344
judicial supervision of anti-terrorism laws 528
military trials and courts 276
Munich Olympics attacks (1972) 153, 557, 737
rendition programme and 373, 375
Glaser, Max 331
Global Counter-Terrorism Forum (GCTF) 669, 679–81
Gonzales, Alberto 384
Graner, Charles 395
Gray, Christine 255
Grenada 344
Guantánamo Bay base 277–8, 345, 349, 364, 377, 386, 387, 398, 402, 420
Hamas 188
Hariri, Rafik 27, 546, 651
health regulations, weapons of mass destruction (WMDs) and 113–14
Heyns, Christof 270
Hicks, David 228
hijackings
aviation terrorism 57–8, 62, 64, 72–3, 557, 737
maritime terrorism 80–81
Hoffman, Bruce 180
hostages 62, 64–5, 239, 557
Hostages Convention (Convention Against the Taking of Hostages 1979) 62–3, 64, 140, 186, 239, 534–5, 559–60
Human Rights First 387, 395
human rights issues 335–6
applicability of human rights law 340–41
in crisis, conflict or emergency 346–50
extraterritoriality 343–6
personal scope of human rights obligations 341–2
control orders and 504–6, 516, 517, 518
derogation from human rights law 350–52, 507
detention of terrorists/suspects and 403–5, 415–17
acceptability of preventive detention 406–7
administrative detention 402, 407–8
capacity to challenge lawfulness of detention 408–10
concept of detention in international human rights law 405–6

evolving relationship between security and human rights on the international level 347–9
financing of terrorism and 130–32
gender issues and 166
interplay with humanitarian law 354–6
judicial supervision of anti-terrorism laws and 522
law of occupation and 247
legal framework and its sources 336–40
limitation clauses 352–4
migration and 500–502
Organization of American States (OAS) and 709–14
Organization of Islamic Cooperation (OIC) and 727–30
process and backlash against blacklisting regime and 612–17
rendition programme as complex human rights violation 364–7
targeted killings and drone strikes 264–9
towards responsibility and accountability in context of terrorism and counter-terrorism 356–60
United Nations and 339, 346–50, 675–8
Commission on Human Rights 389
Counter-Terrorism Centre (UNCCT) and 588
Counter-Terrorism Implementation Task Force (CTIF) and 586–8
High Commissioner for Human Rights 467, 615, 672
Human Rights Committee 269, 273, 343, 376, 391, 447, 615
Human Rights Council 219, 552
SC Resolution 1373 on World Trade Centre attacks (2001) and 638–9, 675
Special Rapporteur on Human Rights and Counter-Terrorism 171, 270, 338, 352,
states’ Security Council obligations and 349–50
WMD terrorism and 111
Human Rights Watch 216, 387
human shields 258
human trafficking 173, 174, 490, 493
humanitarian aid see aid programmes
humanitarian law 9, 10, 11, 69, 208–9, 230–31, 299, 300
classification of status of terrorists in armed conflict 222–5
classification of terrorism as armed conflict 209
geographical scope of hostilities 217–21
international conflicts 209–12
non-international conflicts 212–22
temporal duration of conflict 221–2
transnational situations 214–17
Comprehensive Convention on International Terrorism (CCIT; Draft) and 160, 162
detention of terrorists and 224–5
interplay with human rights law 354–6
law of occupation see occupation, law of
obligations of terrorist organizations 323–4
prohibition of torture and 381, 382
prohibitions on and criminal liabilities for terrorism in armed conflict
substantive provisions 225–9
trial and prosecution of terrorists 229–30
protection of aid workers and 322
refugees and 471
self-determination and 304–8, 311–12
targeted killings and drone strikes 223–4, 256–64
immunities
redress for rendition and 371–3
surveillance operations and 463
incitement to terrorism 431, 437–8, 451–2
criminalization under international law 440–3
freedom of expression and 443–5, 452
causal link to probable harm 449–50
mens rea 450–51
object of incitement 445–6
type of speech and 446–9
India 106, 213, 766
individual criminal responsibility 34
Indonesia 543, 755, 757
influenza virus A (H5N1) 118
inquiries 526–9
intelligence on terrorism 453, 454–5, 458–60
aggregation of data 456–7
intelligence versus law enforcement 458–61
intelligence/evidence divide 529–32
making connections 456
privacy protection 454, 456–7, 465–9
safeguards 461–2
consequence-sensitive 464–5
legal 463–4
public 462–3
surveillance 692
intentions behind terrorism 9, 12, 14–15, 16, 32, 35
Inter-American Commission on Human Rights (IACHR) 703, 709, 710, 711, 716
Inter-American Committee on Terrorism (CICTE) 702, 703, 705, 711, 716
Inter-American Convention against Terrorism 2002 548, 703, 704, 705, 707, 708, 715
Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials 1997 706
Inter-American Court of Human Rights (IACtHR) 703, 712, 713
Inter-American Treaty of Reciprocal Assistance (Rio Treaty) 703
International Air Transport Association (IATA) 67
International Atomic Energy Agency (IAEA) 67, 103
International Civil Aviation Organization (ICAO) 44, 61, 65, 67–8, 558
International Code for the Security of Ships and of Port Facilities (ISPS) 85–6
International Court of Justice (ICJ) 21, 49, 50, 51–2, 54, 56, 340
refugees and 479
targeted killings and drone strikes 252, 253
International Covenant on Civil and Political Rights (ICCPR) 228, 265, 266–7, 269, 272, 273, 345, 350, 376, 391, 407, 420, 438, 440, 447, 467, 495, 522, 533, 547, 616, 728
International Criminal Court (ICC) 22, 23–7, 36, 153, 237, 282–3, 421
applicable legal framework 283–4
prosecution of war crimes 296–7, 421
general overview 284–5
new possibilities in light of recent jurisprudence 291–6
terrorism as non-specific war crime 288–91
terrorism as specific war crime 288–95
redress for terrorist crimes and 545
International Criminal Police Organization (Interpol) 67, 585
International Criminal Tribunal for Rwanda (ICTR) 286
International Criminal Tribunal for the Former Yugoslavia (ICTY) 26, 50, 227, 282, 291–7, 630
International Health Regulations (IHR) 113–14
international humanitarian law see humanitarian law
International Labour Organization (ILO) 486, 491
International Law Association (ILA) 305
International Law Commission (ILC) 556
Articles on State Responsibility 40, 41, 48, 49, 51, 53, 56, 95, 96
International Maritime Organization (IMO) 44, 74, 85–8
Internet 692
countering use of Internet for terrorist purposes 584, 602
interrogation of suspects 165
arguments that enhanced interrogation is not torture
interrogation methods authorized after 9/11 383–8
interrogation methods constituting torture or ill-treatment 388–94
invocation hearings 523–4
invocation of state responsibility 51–2
Iran 106, 121, 185, 186
Iraq 107, 167, 204, 213, 268, 344, 345
torture in 385, 386–7, 395
Ireland 122, 212, 687
detention of terrorists/suspects 413–14
torture in 379, 392
Islam 11, 135, 166, 177–9, 189–91
approaches to international terrorism 186–9
relationship between jihad, holy war and international terrorism 181–5
terrorism and 179–81
see also Organization of Islamic Cooperation (OIC)
Israel 187, 211, 216, 343, 681, 737–8
attack on Iraqi nuclear plant 204–5
derogation from human rights law in 352
Entebbe hijacking (1976) and 738–9
intelligence services 463
targeted killings and 250, 254, 258, 259–60
torture and 379, 389, 392
Italy, rendition programme and 370–73, 399
Japan 105
Jemaah Islamiyah (JII) 757, 773
Jordan 242
judicial supervision of anti-terrorism laws 521, 537
challenges for 529
intelligence/evidence divide 529–32
problem of deference in fog of war 535–6
safeguarding conventional fair trial and other protocol standards 533–5
forms of judicial oversight
civil law democracies 525
common law democracies 522–5
investigative hearings 523–4
prolonged detention 524–5
forms of judicial review 526
inquiries 526–9
nature of 521–2
jurisdictional issues
aviation terrorism and 60, 72
concurrent jurisdiction 60
International Convention for the Suppression of Terrorist Bombings 1997 (Terrorist Bombings Convention) 142–3
maritime terrorism 96–8
Kadi, Yasin Abdullah Ezzedine 614
Kashmiri, Ilyas 538
Khadduri, Majid 182, 184
Khan, Samir 538
Khokhar, Riaz 767
Kirsche, Philippe 138
Koh, Harold 252
Korea (North) 75, 106, 118
Kretzmer, David 266, 267
Lauterpacht, Hersch 664–5
law enforcement 458–61
League of Nations 6, 81, 152, 306
Lebanon 216–17
Special Tribunal for Lebanon (STL) 11, 27–30, 36, 117, 421, 545–6, 651–65
legal literature, definitions of terrorism and 12–13
legal status see status of terrorists in armed conflict
Leiden Policy Recommendations on Counter-terrorism and International Law 201
Levin, Daniel 385
liberation movements 33–4, 153–4, 186, 211, 242, 303–4, 308–9, 313–14
Liberation Tigers of Tamil Eelam (LTTE) 75, 213, 231, 755
Libya 76, 121, 186, 669, 674
Lockerbie bombing (1988) and 65–6, 738, 739–41
Lieber Code 304–5
Lockerbie bombing (1988) 58, 64, 65–6, 432, 433, 738, 739–41
Lomborg, Bjorn 542
‘lone wolf’ terrorists 539–41, 551
Macedonia, rendition programme and 367, 373–4, 377, 497–8
McVeigh, Timothy 539
Malaysia 759, 760, 773
Manningham-Buller, Eliza 423
margin of appreciation 44
maritime terrorism 74–7, 98–9, 603
justification for interdiction under general international law 91–6
law of the sea and 77–82
NATO and 84–5
piracy 25, 79, 80, 81
Proliferation Security Initiative (PSI) 74, 76, 88–91
question of jurisdiction 96–8
role of International Maritime Organization (IMO) 85–8
United Nations Security Council and 82–4
membership of proscribed organizations 430
mental illness 482
Merah, Mohammed 539
Mexico 213
migration law 486–8
additional legal powers 492–6
human rights challenges 500–502
international framework 488–92
use of migrant status in respect of terrorism 496–500
Milanović, Marko 268
military see armed forces
military occupation see occupation, law of
Mill, John Stuart 444
miscarriages of justice 432
Mohammed, Binyam 434
Mohammed, Fazul Abdullah 538
money laundering 116, 122, 125, 126, 582, 690
Morrison, Danny 427
mosaic effect 530–1
Mubarak, Hosni 744–5
Muhammad, Prophet 180–81, 183
multiple jurisdiction 60
Munich Olympics attacks (1972) 153, 557, 737
Musharraf, Pervez 189
national law
definitions of terrorism and 9–11
necessity doctrine 94–5, 202
Nepal 352
New Zealand: Rainbow Warrior incident 48
Nicaragua, contra campaign in 49, 50
Nigeria 543, 580
Non-Aligned Movement (NAM) 153, 158, 668
non-refoulement principle 365, 477, 484, 667
North Atlantic Treaty Organization (NATO) 84–5, 201
Norway 539–40
Nowak, Manfred 388, 394, 444
Nuclear Non-Proliferation treaty (NPT) 1968 102, 104, 106, 107
nuclear weapons 100, 102–6, 108, 109, 110, 118, 141, 602–3, 762
Nuremberg Tribunal 284, 291
Obama, Barack 205, 272, 279, 349, 357, 388, 397, 420, 542
occupation, law of 232–5, 248–9
acts of terror in occupied territory international conventions on suppression of terrorism 238–46
as war crimes 237–8
counter-terrorism measures by occupying power 246–8
terrorism in laws of occupation 235–7
Ong Keng Yong 758
Organization for Economic Cooperation and Development (OECD) 125
Organization of African Unity (OAU) 734–6
Convention on the Prevention and Combating of Terrorism 746–7
counter-terrorism practices after 1992 742–9
non-action policy on terrorism (1963–92) 736–42
see also African Union
Organization of American States (OAS) 7, 201, 558, 701–3, 715–16
cross-border uses of force to combat terrorism 714–15
human rights issues and 709–14
obligations to prevent acts of terrorism 703–6
obligations to suppress terrorist offences
human rights remedies and prosecution 709–10
international cooperation in criminal matters 707–9
Organization of Islamic Cooperation (OIC) 158, 185, 238, 245, 717–18, 732–3
Convention on Combating International Terrorism 1999 244, 726–7, 730–2, 733
Covenant on the Rights of the Child in Islam 729
hard law 730–32
soft law 718–19
human rights and 727–30
Islamic peremptory norms 719–21
resolutions, declarations and final communiqués 722–4
self-determination right 724–7
originator control 461, 531–2
Pacific Island Forum (PIF) 768–9
Pakistan 106, 118, 175, 185, 543, 766–7
Palestine Liberation Organization (PLO) 187, 724
Pan-Africanism 734–6, 752–3
responses to terrorism and 736
counter-terrorism practices after
1992 742–52
OAU non-action policy (1963–92)
736–42
Passenger Name Record (PNR)
Agreements 692, 693
Pejic, Jelena 245
Peru 213, 710, 712
Philippines 213, 543, 755, 759, 760, 761
piracy 25, 79, 80, 81
political dimension of terrorism 9, 10,
12, 14–15, 155, 495
Popular Front for the Liberation of
Palestine 57
Portugal 674
Posner, Richard 457
pre-emptive (anticipatory) self-defence
111, 202–3, 255
Prevent programme 175–6
prevention of conflict 578–9
preventive detention 406–7, 772–3
prisoners of war 290
privacy protection 454, 456–7, 465–9,
687–8
privateering 81
profiling of suspects 499–500
Proliferation Security Initiative (PSI)
74, 76, 88–91, 99, 113
property rights, financing of terrorism
and 130–32
proportionality of countermeasures
53–4
prosecution of terrorists 63, 154–5,
229–30, 418
adaptation of domestic criminal
prosecution within international
law framework 424
adaptations in criminal offences
428–31
adaptations in criminal processes
424–8
criminal prosecution 418–24, 435–6
future adaptation in terrorism
prosecutions 431
future criminal offences 431–2
future criminal processes 432–5
prosecution of war crimes in ICC
296–7, 421
general overview 284–5
new possibilities in light of recent
jurisprudence 291–6
terrorism as specific war crime
285–8
state responsibility and obligation
to extradite or submit to
prosecution 45–7
see also courts and trials
provocation to commit terrorist offence
439, 445, 447, 449, 452
public-private partnerships 172
Rabita Trust 189
Rahman, Atiya Abdul 538
Rainbow Warrior incident 48
Red Cross (ICRC) 224, 258, 261, 262,
263, 306, 323, 386, 395, 494
principles of humanitarian aid and
317–18
redress
rendition programme 368
domestic courts and 368–74
international litigation 375–7
non-judicial remedies 374–5
terrorist crimes 544–5, 550–52
contribution of UN HRC Special
Rapporteur on Human
Rights and Counter-Terrorism 546–8
international criminal courts and
tribunals 545–6
limitations of domestic
frameworks 549–50
regional and sub-regional
developments 548–9
refoulement, prohibition of 365, 477,
484, 667
refuges 299, 470–71, 485, 486, 488
exclusion from refugee status
476–85, 488–9
terrorism and refugee status in
international law 471–6
Regional Maritime Security Initiative
(RMSI) 89
Regulations Respecting the Laws and
Customs of War on Land 1907
(Hague Regulations) 232–3
remedies see redress
rendition programme 335, 345, 358,
361, 362–4, 378, 399, 496–9
as complex human rights violation 364–7
redress 368
domestic courts and 368–74
international litigation 375–7
non-judicial remedies 374–5
restrictions on individuals see control orders
reverse burdens of proof see control orders
Rigby, Lee 541
Rizzo, John 384
Rumsfeld, Donald 386, 397
Russia 100, 106, 119, 213, 250, 344
Rwanda 345
Salim, Salim Ahmed 745
Saudi Arabia 185, 543
Dhahran attacks (1996) 137–8, 143
Scheinin, Martin 487, 676, 677
sea see maritime terrorism
searches of premises 523
security measures 541–2
managing borders 583, 637–8
sedition 432
self-defence right 91–2, 93, 200
anticipatory self-defence 111, 202–3, 255
attacks by non-state actors and 200–202
imminence of attack and 203–5
pre-emptive (anticipatory) 111, 202–3, 255
targeted killings and drone strikes 251–5
self-determination 34, 298, 300–4, 313–14
humanitarian law and 304–8, 311–12
liberation movements 33–4, 153–4, 186, 211, 242, 303–4, 308–9, 313–14
national law and 308–13
Organization of Islamic Cooperation (OIC) and 724–7
Severino, Rodolfo C. 758
Shanghai Cooperation Organization (SCO) 769–70
Shia Islam 181
Shils, Edward 455
shipping see maritime terrorism
Sierra Leone 294–6
Singapore 757, 773
slavery 79
soft law 89, 100, 107, 114, 116, 117, 680, 705
Organization of Islamic Cooperation (OIC) and 718–19
human rights and 727–30
Islamic peremptory norms 719–21
resolutions, declarations and final communiqués 722–4
self-determination right 724–7
Somalia 213, 218, 315–16, 543
South Africa 738
South Asian Association for Regional Cooperation (SAARC) 7, 764–5
ambiguity in definition of non-discrimination 767
community engagement 768
definition of terrorism 766–7
lack of institutionalized responses 765–6
regional sensitivities 768
Southern African Development Community 549
sovereignty 35
Spadi, F. 89
Special Court for Sierra Leone 294–5
Special Tribunal for Lebanon (STL) 11, 27–30, 36, 117, 421, 545–6, 651–65
speech, freedom of see expression, freedom of
Sri Lanka: Liberation Tigers of Tamil Eelam (LTTE) 75, 213, 231, 755
standing judicial inquiries 528–9
state responsibility 55–6
action or omission attributable to state 47–50
basic framework 40–41
doctrine of necessity and 94–5
elements of internationally wrongful act 41
breach of international obligation of the state 42
obligation to extradite or submit to prosecution 45–7
obligation to prevent terrorism 42, 43–5
implementation 51
countermeasures 52–5
invocation of responsibility by injured state 51–2
state terrorism 4, 33, 42, 187, 472
Comprehensive Convention on International Terrorism (CCIT; Draft) and 158, 161
pre-emptive self-defence and 111
Rainbow Warrior incident 48
StateWatch 694–5
status of terrorists in armed conflict 222–3
detention of terrorists in armed conflict 224–5
targeted killings and drone strikes 223–4
stereotyping 171
Stockholm Programme 694–5
Action Plan 695–8
straits, transit passage through 78–9
Sudan 121, 186, 669, 744–5
suicide attacks 75, 243, 437
Sunni Islam 181
surveillance 454–5, 458–60, 692
aggregation of data 456–7
making connections 456
privacy protection 454, 456–7, 465–9
safeguards 461–2
consequence-sensitive 464–5
legal 463–4
public 462–3
Sweden 376, 529
Switzerland 615
Syria 33, 121, 186, 542
Taliban 122, 128, 275, 384, 670
blacklisting regime 609–12, 617
targeted killings and drone strikes 198, 219, 220, 250–51, 269–70, 276, 342, 348–9
human rights law and 264–9
international humanitarian law and 223–4, 256–64
law on use of force and 251–5
self-defence right and 251–5
telecommunications systems 456, 463, 464, 529, 692
Terrorist Finance Tracking Programme (TFTP) Agreements 692

Thomas, Richard 469
threats 70
admissibility of evidence obtained by 534–5
arguments that enhanced interrogation is not torture
interrogation methods authorized after 9/11 383–8
interrogation methods constituting torture or ill-treatment 388–94
investigation, punishment and accountability 394
ill-treatment of detainees 395–7
international accountability 398–9
reliance on ‘torture memos’ 397–8
Torture Convention (Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984) 23, 376, 380, 382, 394, 399, 489, 495
transit passage through straits 78–9
treason 432
treaties 39
definitions of terrorism and 6–9, 316
human rights treaties 337
international criminal law and international core crimes versus treaty-based crimes 23–7
trials see courts and trials
Tsarnaev, Dzhokhar 149, 540
Tsarnaev, Tamerlan 540
Tunis Declaration on a Code of Conduct for Inter-African Relations 743–4
Turkey 213
military trials and courts 273, 432
Uganda 345, 738
Entebbe hijacking (1976) 738–9
ultra vires conduct 47–8
United Kingdom 687
community engagement in 167, 175–6
control orders 503
enactment 503–5
end of 519
fair process and 515–19
features of scheme 507–8, 510
liberty of individuals and 512–14
courts and trials 271, 424, 432
detention of terrorists/suspects 405, 410, 411, 413–15, 524–5
human rights law in 342
derogation from 350–51, 352
extraterritoriality 346
intelligence services 463
judicial supervision of anti-terrorism
laws 527, 529, 531–2, 536
Lockerbie bombing (1988) 58, 64, 65–6, 432, 433, 738, 739–41
prosecution of terrorists 419, 421–4, 436
adaptations in criminal offences 429–30
adaptations in criminal processes 424–8
future criminal offences 431–2
future criminal processes 432–5
refugees and 474–6, 479
self-determination and 312–13
torture and 379, 393, 501, 535
civil litigation 398
use of force and 207
self-defence right 200, 203
United Nations 3, 11, 29, 37, 190, 212, 230
aid programmes and 317
misappropriation of aid for terrorism 324
protection of aid workers 320–23
Al Qaeda sanctions regime 128, 189, 596, 608, 625
human rights due process and backlash against 612–17
origins and evolution 609–12
procedural standards in current regime 617–25
Alliance of Civilizations (UNAOC) 578
aviation terrorism and
development of international terrorism conventions 62–4
Security Council Resolutions 64–6
challenges in counter-terrorism
coordination 666–9, 681–2
from antagonism to ambiguity 669–72
balloon effect beyond the UN 679–81
balloon effect inside the UN 674–9
politics of 672–4
Charter 39, 42, 56, 66, 92, 93, 100, 132, 185, 197, 199, 200, 202, 251, 253, 299, 301, 303, 305, 306, 313, 492, 555, 556, 570, 595, 609, 629–31, 675, 703
Commission on Crime Prevention and Criminal Justice (CCPCJ) 592, 601
control orders and 503
Counter-Terrorism Centre (UNCTC) 571, 589–90, 631–5, 673
coordination of technical assistance within UN system 580
dialogue, understanding and countering terrorism’s appeal 578
legal basis and institutional development 574–5
national and regional strategies 581
promoting and protecting human rights 588
refocus and new informal fora 575–7
supporting and highlighting victims 589
tackling financing of terrorism 582–3
Counter-Terrorism Committee (CTC) 44, 45, 339, 716
Counter-Terrorism Executive Directorate (CTED) 578, 580, 582, 605, 606, 632–40, 642, 643, 647, 648, 649, 666, 672
Counter-Terrorism Implementation Task Force (CTITF) 340, 569, 572, 573, 589–90, 605, 666, 672–3
coordination of technical assistance within UN system 580
countering use of Internet for terrorist purposes 584, 602
dialogue, understanding and countering terrorism's appeal 577–8
legal basis and institutional development 573–4
managing borders 583
national and regional strategies 581
outreach 579–80
preventing and resolving conflict 578–9
promoting and protecting human rights 586–8
refocus and new informal fora 575–7
strengthening protection of vulnerable targets 585
supporting and highlighting victims 588–9
tackling financing of terrorism 582
weapons of mass destruction and 586
definitions of terrorism and 6, 7–8, 11, 30–5, 316
Department of Peacekeeping Operations (DPO) 672
Development Programme (UNDP) 672
Economic and Social Council (ECOSOC) 592
Educational, Scientific and Cultural Organization (UNESCO) 578
financing of terrorism and 123, 127–8, 129
sanctions committees 129
Security Council and 123, 127–8, 129
gender issues and 164, 166, 171
General Assembly 21, 29, 37, 178, 323, 339, 348, 592, 668, 671, 676, 725
assessment 570–71
background 556–7
Global Counter-Terrorism Strategy 348, 569, 572–5, 577, 579, 581, 582, 583, 593, 594, 596, 632, 668, 671, 672, 674, 679
international conventions and 7, 136, 138, 139, 157, 159, 310, 557–66
as international legal actor 555–6
Resolutions and Declarations 30, 82, 162, 254, 309, 316, 317, 337, 491, 566–70, 573
human rights and 339, 346–50, 675–8
Commission on Human Rights 389
Counter-Terrorism Centre (UNCTT) and 588
Counter-Terrorism Implementation Task Force (CTIF) and 586–8
High Commissioner for Human Rights 467, 615, 672
Human Rights Committee 269, 273, 343, 376, 391, 447, 615
Human Rights Council 219, 552
SC Resolution 1373 on World Trade Centre attacks (2001) and 638–9, 675
states’ Security Council obligations and 349–50
humanitarian aid and 678–9
incitement to terrorism and 45s, 437–8, 441, 443, 445–6, 448, 450, 451
International Convention for the Suppression of Terrorist Bombings 1997 (Terrorist Bombings Convention) and 138
Interregional Crime and Justice Research Institute (UNICRI) 578, 585
marine terrorism and 78, 82–4, 92
military trials and courts and 273
Office of Legal Affairs 615
pre-emptive self-defence 111
privacy protection 465, 467
prosecution of terrorists 418–19, 433
surveillance in 456–7, 458–60
safeguards 462
targeted killings and drone strikes 252, 254, 263–4, 276
torture and 379, 383–8, 389–90, 399–400
ill-treatment of detainees 395–7
international accountability 398–9
reliance on ‘torture memos’ 397–8
use of force and 205–6
self-defence right 200, 203, 204
World Trade Centre attacks see World Trade Centre attacks (2001)
Universal Declaration of Human Rights 438, 480, 487, 728, 730
universal jurisdiction 34
Universal Postal Union (UPU) 67
Uruguay 343
Vermeulen, Mathias 487
victims of terrorism 10, 11, 12, 16
Counter-Terrorism Centre (UNCCT) and 589
Counter-Terrorism Implementation Task Force (CTIF) and 588–9
redress for terrorist crimes 544–5, 550–2
contribution of UN HRC Special Rapporteur on Human Rights and Counter-Terrorism 546–8
international criminal courts and tribunals 545–6
limitations of domestic frameworks 549–50
regional and sub-regional developments 548–9
Vieira de Mello, Sergio 666
Waldheim, Kurt 557
war and armed conflict 209, 283
classification of status of terrorists in 222–5
communal and sectarian conflicts in Asia-Pacific region 772
crimes during see war crimes
detention of terrorists in armed conflict 224–5
international conflicts 209–12
non-international conflicts 212–14
geographical scope of hostilities 217–21
temporal duration of conflict 221–2
transnational situations 214–17
in occupied territories 234–5
prevention of 578–9
prohibitions on and criminal liabilities for terrorism in armed conflict
substantive provisions 225–9
trial and prosecution of terrorists 229–30
targeted killings and drone strikes 223–4, 256–64
see also force, use of war crimes 12, 187, 227, 283
acts of terror in occupied territory as 237–8
definitions 284–5
prosecution in International Criminal Court (ICC) 296–7, 421
new possibilities in light of recent jurisprudence 291–6
as non-specific war crime 288–91
as specific war crime 285–8
warrants
European Arrest Warrant (EAW) 688, 695
for searches 523
weapons of mass destruction (WMDs) 100, 116–20
Counter-Terrorism Implementation Task Force (CTITF) and 586
diplomatic initiatives against WMD terrorism 114–16
during Cold War period 102
‘dual use’ problem 104
international law and terrorism 103–4
international law and WMD proliferation 102–3
emergence of WMD terrorism and impact on international law
international law and new WMD terrorism concerns 106–7
transformation of security concerns about WMD terrorism 104–6
maritime transport of 74–80, 82, 98–9
justification for interdiction under general international law 91–6
Proliferation Security Initiative (PSI) 74, 88–91
question of jurisdiction 96–8
new international legal landscape concerning WMD terrorism 107
adapting and applying existing international law to WMD terrorism 107–10
exercise of Security Council legal powers against WMD terrorism 112
International Health Regulations 113–14
new approaches to WMD terrorism in international law 111–14
Proliferation Security Initiative (PSI) 113
policy responses 100–101

Proliferation Security Initiative (PSI) 74, 76, 88–91, 99, 113
Wolfsberg Principles 133
World Health Organization (WHO) 113–14
World Trade Centre attacks (2001) OAU response to 747–9
UN SC Resolution 1373 on 626, 648–50, 670, 704, 707
Chapter VII of Charter as legal basis of SC’s legislative powers 629–31
content 626–9
establishment of legislative framework 635–6
evaluation of achievements and shortcomings 644–7
financing of terrorism and 127–8, 636–7
follow-up 633–5
human rights and 638–9, 675
institutional architecture 631–3
maintenance of effective border controls 637–8
sanctions for failures to comply 642–4
technical assistance 639–41

Yemen 75, 542
Yoo, John 397