Index

A7D brake fraud 184–5
A.-G.’s Reference (No. 2 of 1999) 197, 199, 207
Abbott, C.C. 161
Abdullahi v Pfizer Inc 139
Abebe-Ira & Ors v Negewo 133
Abeltshauser, T.E. 65
Aberdeen Railway Co v Blaikie Bros 78, 79, 387
accountability 149
AccountAbility 241, 244, 245, 249
Acquah-Gaisie, G. 127
actus reus 126, 140, 195, 201
Adams v Cape Industries plc 111, 132
Addo, M. 290
agency approach 114
agency costs 13
agency problems, and company law 106–7
agency relationships 35
Agent Orange 169
aggregation 153
Ahn, B. 28
Airbus Industries GIE v Patel et al. 131
Aitken, B. 324
Al-Adsani v Kuwait 135
Al-Adsani v UK 135
Alcock, A. 88
Alien Tort Claims Act 133–41
Alomang v Freeport McMoRan Inc 139
Alsop, R. 172
alter ego concept 151–2, 403
American Law Institute 165
Model Penal Code (MPC) 164
American Sugar Refining Company 163
amicus curiae 135, 136, 137
Amnesty International 288, 289, 290, 295, 391
The Amoco Cadiz 128
Anderson, M. 143
Anderson, S. 375
Annan, K. 379
’anomie’ 178, 180
anthropomorphic approach 151
apartheid 140
Aquinda v Texaco Inc 139
Arbouw, J. 30
Argentinian Public Offers of Securities Act 64
Arrowsmith, S. 113, 114
Arthur Anderson 167–9
asset partitioning 13
association theory 11
Attorney General for Hong Kong v Reid 80
attribution
document 194–214
Canada 199–205
history 194–5
UK, common law 195–9
Australia 132
CLERP 9 26
corporate governance developments 44–7
ecological sustainable development (ESD) 216
employees 126
forum non conveniens 142
HIH report, and corporate governance 46
HIH Royal Commission 26
negligence 126
Parliamentary Inquiry into the Code of Conduct Bill 293
Ramsay Report 26
Australian Criminal Code Act 153, 154, 403
Australian Institute of Company Directors 22
Australian Securities and Investments Commission (ASIC) 36
Australian Stock Exchange (ASX) Corporate Governance Council (CGC) corporate principles 26, 46–7
autonomy 149

Canada
attribution, doctrine of 199–205
Bill C-45 195, 197, 201, 202–5, 210
and crimes of negligence 204
definition of ‘senior officer’ 205–6
and positive change 205–9
corporate liability rules 154
directing mind’ 198
Westray mine disaster 202
Canadian Aero Service v O’Malley 79
Canadian Dredge & Dock Co. v The Queen 196, 198, 200, 201, 202, 204, 205, 206
Carmichael v United Technologies Corp 140
Carroll, B. 228
Carter, C. 29, 30
Case 21/76 Handelskwekerij GJ Bier BV v Mines de potasse d’Alsace SA 130
Case concerning the Arrest Warrant of 11 April 2002 (Democratic Republic of Congo v Belgium) 136
Cavanagh, J. 375
Centre for Corporate Accountability (CCA) 189
Certain Phosphate Lands in Nauru (Nauru v Australia) 132
Chalmers, D.M. 162
Chandler, G. 288, 290
Chapman, B. 59
Charan Lal Sahu & Ors v Union of India 131
Cheffins, B.R. 105
children
and codes of conduct 305–7
employment of 286, 287, 310
in the textile industry 302–15
Chile 320
China, and the WTO 29
City Code on Takeovers and Mergers 76
civil liability 127
Clark, G.A. 162
Clay, T.R. 167
cleaner production strategy 351–2, 353
CLERP 9, Australia 26
climatic change 374–5
Coase, R. 12, 14
codes of conduct 304–9, 327
and children 305–7
and women 307–9
Coffee, J.C. 155, 160, 405
Cohen Committee Report 115
Cole, S. 23, 25, 35
Colley Jr., J. 28
Combined Code on Corporate Governance 76, 250
Combined Code of the Financial Reporting Council, UK 26
Commission of the European Communities v Portugal, France, Belgium 114
Commission on Human Rights 295
companies, structure of 73–4, 75
Companies Act 1980 (Aus) 92
Companies Act 1985 (UK) 75, 78, 83, 89, 91, 92, 94, 96, 100, 110–11, 388
Companies (Tables A to F) Regulations, 1985 82
company 8
definition of 7
as a term for real entity 10
company culture theory 150
Company Directors Disqualification Act 1986 (UK) 84, 118, 119
Company Law Reform White Paper 101
Company Law Review, UK 8, 73, 75, 88, 238
and employees 93–5
Comprehensive Environmental Response Compensation and Liability Act, US 127
concession theory 11, 14, 74
Confederation of British Industry (CBI) 191, 373
Conger, J. 29
Connelly v RTZ Corp plc 132
contractual theory 11
Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, OECD 398
Convention of the Council of Europe on the Protection of the Environment through Criminal Law 340–42
Cook v Deeks 79
Cooper, K 299
Cooter, R. 64
Corbet, G.
corporate accountability
definition 372
emergence of movement 382–3
EU legislation 386–7
foreign direct liability 388–9
international frameworks 383–6
and NGOs 372–94
UK legislation 287–90
and whistleblowers 254–70
corporate capacity 114–15
corporate citizenship, and the Global Compact 355–7
corporate collapses 20–21, 25–6, 48
corporate criminal liability, in the United States 159–76
corporate corruption, Enron/Anderson case 167–9
due diligence cases 165
enforcement patterns 163–6
penalties 166
railroads 162–3
respondeat superior standard 164–5
Sarbanes–Oxley Act 169–71
corporate criminal responsibility 147–58
accountability principle 149
aggregation 153
alter ego (identification theory) 151–2
autonomy 149
common law jurisdiction 154
concepts of blame 148–50
holistic theories 152–3
manslaughter 154–5
punishing corporations 156–7
rationality 149
reactive fault 153–4
responsibility attribution 150–54
systems theory 153
vicarious liability 150–51, 152
corporate deviance 179
corporate environmental liability, EU 330–55
corporate environmental responsibility 350–55
corporate environmental and social responsibility (CESR) 349
corporate governance
and alignment 25
Anglo-Saxon model 36
Australian developments 44–7
and Australian HIH report 46
concept of 21–2, 40
contemporary literature 28–35
and corporate performance 34–5
definition of 23
dimensions of 23
European model 36
formal and informal factors 33
models 29–30, 35–8
in the private sector 22
risk management in 24–5
roles and responsibilities in 24
transnational regulatory issues 27–8, 30
Corporate Governance International 44
corporate governance reforms 20–21, 25–8
Australia 26
USA 26
corporate groups, rules on 111
‘corporate killing’ 199
corporate law, as standard terms 13
corporate law theory 3
and corporate social responsibility 16–17
corporate liability, and corruption 395–412
‘for the benefit of the legal person’ criterion 400–401
industry standards 407–9
‘leading person’ criterion 401–2
sanctions 405–9
corporate manslaughter 154–5, 177–93
directors’ safety responsibilities 191
duty of care 190
‘identification’ doctrine 185, 187
legal position in England and Wales 185–9
and moral indifference 181–5
policy reform in England and Wales 189–91
political economy of 178–81
UK 154–5
Corporate Manslaughter Bill, US 155
corporate ownership, and corporate responsibility 35
corporate performance 20, 21
and corporate governance 34–5
non-financial 42–3
corporate personality approach 395–412
corporate power
and the media 380–81
rise of 380–82

corporate punishment 156–7
corporate reporting, and corporate
responsibility 239–40
corporate responsibility
civil regulation 248
and corporate ownership 35
and corporate reporting 239–40
and globalisation 246–7
international agreements and legally
binding regulation 250–51
and James Hardie Industries 44–5
and legal responsibility 235–53
'principle based' 245–6
and shareholders 241
'single issue' 242–3
towards shareholders and stakeholders
38–44
under the law of torts 125–46
and United Nations Environmental
Programme 349–71
USA 236
Corporate Responsibility Coalition
(CORE) 239
proposals on corporate accountability
387–9
corporate social responsibility 41–3,
226, 227, 319, 326–7, 331, 349,
355, 363, 373
and corporate law theory 16–17
and voluntary initiatives 378–80
within the EU 345–7
corporation 3, 10–11
'directing mind' 195–6
as fiction 10–11
as a gestalt entity 12
meaning of 5
theories of 10–16
use of term 10
corporations
application of international legal
standards to 142
and criminal law 147–8
Corrupt Practices Act 1883 396
corruption, and corporate liability
167–9, 395–412
Council of Europe 335

Criminal Law Convention on
Corruption 398
Council Framework Decision on the
Protection of Environmental Law
through Criminal Law 344–5
Cox, E. 40
Coyle, M. 143
Cranworth, Lord 78
Craswell, R. 58
criminal law, and corporations 147–8
Criterion Properties plc v Stratford
Properties LLC 78
Crown Prosecution Service 178
cross-channel ferries 188–9
Cullen, F.T. 163
cultural attitudes 229–30
Curragh Resources Inc. 292
Currency Transaction Report Act 165
Dagi & Ors v BHP Minerals Pty and Ok
Tedi Mining Ltd 129
Dalton, D.R. 4, 16
Daniels v Daniels 84
Dartmouth College v Woodward 7, 162
Davies, K.G. 159
Davies, P.L. 94
Davis, C. 191
De Bow, M.E. 88
Deakin, S. 42
Dean, J. 101
'defensive asset partitioning' 108
degraded management 35
demandable diligence standard 66
Demsetz, H. 59
Denning, Lord Justice 185, 196
Department for Environment, Food and
Rural Affairs (DEFRA) 21, 217, 221
Department of Trade and Industry 330,
377
Dershowitz, A.M. 159
Deutsch v Turner Corp 134
Dewey, J. 12
DHN Food Distributors Ltd v Tower
Hamlets London Borough Council
111
Dicey, A.V. 4–5
Dickerson, C.M. 307
Dilhorne, Viscount 1885, 196
Diller, J. 324, 327
DiMento, J.F.C. 164, 171, 173
Dine, J. 73
Diokno-Pascual, M.T. 299
Diplock, Lord 200
‘directing mind’, of the corporation 195–6, 198, 202, 208
Director of Public Prosecutions v Kent and Sussex Contractors Limited 195
directors, independence of 28, 31, 67
directors’ duties 54–72
bribes 80
competing directorships 80–81
content of 82
delegation 82
duty of care 54, 57, 59, 388
duty of diligence 55, 59
‘duty of independence’ 67
duty of loyalty 54, 55, 57, 60–61, 62–3, 95
implications for employees 95–6
duty not to fetter discretion 77
duty to act in good faith 77, 79
duty to exercise care and skill 81, 84
duty to exercise power for a proper purpose 78
duty of transparency 63–4
enforcing 82–4
fiduciary duties 76, 77, 83–4, 116
historical evolution 76
no conflict rule 78–81, 83
obligations to employees 89–90
reforms to law 84–5
‘shareholder argument’ 73
‘stakeholder argument’ 73
and supplier protection 115–17
UK 73–87
directors’ liability 54–72, 56–9
breach incentives 6–7
and error risk 58–9
excesses of litigation 68
excesses of sanction 68–9
exemption clauses 61
and firm’s value 56
joint and several liability rule 68
liability for disloyalty 59–65
for negligence 65–9
and over-compliance 59
personal liability 43–4
safety responsibilities 191
subjective extension of liability 62
and uncertainty 58–9
Dirk, W. 324
Disability Discrimination Act 242
disclosure requirements 110
disgorgement 64–5
disloyalty 60
burden of proof for 64
liability for 59–65
Dodd, E.M. 88
Dodd Jr., E.M. 74
Doe v Islamic Salvation Front 137
domicile approach 130
Donaldson, T. 29, 42
Dovey v Cory 82
Dow Chemical Co v Castro Alfaro 131, 134
Dow Chemical Company 169
D.P.P. v Kent & Sussex Contractors, Ltd 401
Draft Companies Bill 73, 76, 77, 80, 81, 82
Drahos, P. 28
Drincqbier v Wood 82
Drury, R.R. 110
Dugdale, A. 110
Dunfee, T. 29, 42
Dunlop, I. 22
Durkheim, E. 178
Dutch Corporate Governance Code (Tabaksblat Code) 271–85
aims of 278–9
compliance and enforcement 279
history 276–7
as interactive legislation 281–3
as self-regulation 280–81
Eade, D. 299
Earthrights International 139
Easterbrook, F.H. 57, 61, 64
Eastman Kodak Company v Kavlin 140
EC Regulation 44/2001 129
ecological sustainable development (ESD), Australia 216
Economic and Social Council Resolution 1985/72 141
Economic and Social Research Council (ESRC) 216
Edward, C. 140

Index

419

Edwards v Halliwell 83
Eisenberg, M.A. 14, 66
Elkington, J. 29, 41, 350
Elkins Act 163
employees 14, 75, 267, 402
Australia 126
and Company Law Review, UK 93–5
dead to 177
and the duty of loyalty 95–6
UK 88–104
enforcement substitutability 57–8
Engels 180
Engineering and Construction Industry
Anti-Bribery Principles 407–8
English Court of Appeal (Criminal Division) 199
‘enlightened shareholder value’ approach 75, 94, 98
Enron/Anderson case 167–9
enterprise 3–4, 5–6, 9, 15
and legal entity 7
entities see legal entity; real entity
Environment Act 1995 219
Environment Agency 229
Environment Protection Act 1990 219
environmental campaigning 243
environmental criminal liability 340–45
Convention of the Council of Europe on the Protection of the Environment through Criminal Law 340–42
Council Framework Decision on the Protection of Environmental Law through Criminal Law 344–5
European Commission proposal for a directive on protection of the environment through criminal law 342–4
environmental harm, liability for 362–3
environmental legislation, and SMEs 229
environmental liability directive defences 338–9
EU 334–6
liability rules 338
nature of regime and temporal application 339
scope and purpose 336–7
Environmental Protection Act 1990 (EPA) 215
environmental uncertainty 179
Ermann, D.M. 163
Estate of Rodriguez v Drummond Co. 134
Estey, Justice 200, 204
ethical consumerism 376–8
Ethical Consumerism Report 376
Ethical Trading Initiative (ETI) 241, 248, 307
European Commission 336, 342, 346
proposal for a directive on protection of the environment through criminal law 342–4
sanctions and corporate liability 344
European Communities Act 1972 220
European Community, Sixth Environmental Action Programme 334
European Council 344
European Court of Justice 114, 130
European Framework for Corporate Social Responsibility (Green paper) 346
European Parliament 346
European Union (EU) 148
Batteries Directive 219
corporate environmental liability 334–48
corporate social responsibility 345–7
Directive on Integrated Pollution Prevention and Control 219
Directive on Waste Electrical and Electronic Equipment 219
environmental liability directive 334–6
Landfill Directive 219
legislation on corporate accountability 386–7
Packaging Directive 219
Second Protocol 398
Sixth Environmental Action Programme 217
Waste Framework Directive 218
Waste Incineration Directive 219
European Waste Catalogue (EWC) 221
Evans, G. 288
Evans v Brunner Mond & Co Ltd 116
executive remuneration 27
external outcomes 4, 5
Extractive Industries Transparency Initiative 297, 298

Facia Footwear (in administration) v Hinchliffe 117
Factory Acts 180
Fairtrade 376
False Claims Act 259–60
Farrar, J. 28
Farrell, R. 180
Fatino, J.F. 165
fault, and blame 149–50
Faure, M. 343
Federal Court Claims Act 135
Federal Election Campaign Act, US 396
feminist theory 74
Ferguson, G. 403
fiction, corporation/firm as 10–11, 14
Fien, C.M. 197
Filartiga v Pena-Irala 133, 138, 139
financial services 365
Financial Times 249, 358
Finkelstein, S. 29
Fischel, D.R. 57, 59, 61, 64, 66
Fishel, D. 28, 29
Fisse, B. 126, 152, 403, 405
Fleming, J.G. 126
Flores v Southern Peru Copper Corporation 139
food industry 375
Ford Motor Company, Pinto model 163, 180
Foreign Corrupt Practices Act 397
foreign direct liability 388–9
Foreign Sovereign Immunity Act (US) 136
Forest Stewardship Council 377
Forti, G. 173
Forti v Suarez-Mason 138
forum non conveniens 125, 129–33, 138, 139
Australia 142
Foss v Harbottle 90, 115
Fox, L. 167
France
limited liability 159
social report 330
Frankental, P. 289, 291
fraud 55, 58, 62, 254
volume of sanctions 64
‘free-riders’ 297
Freedman, B.J. 64
Freedman, J. 108
Freedman, B. 292
Freedman, M. 290, 298
Freedman, R. 107
French, P. 153
Friedman, M. 21, 226, 327
Friends of the Earth International 292, 329, 372–3, 374, 375, 384
proposals for convention on corporate accountability 384–5
Frostell, K. 311
Fullham Football Club Ltd & Ors v Cabrera Estates plc 77, 91
Fussler, C. 357
Gamble, J. 288, 292
Garratt, B. 28, 29
Geis, G. 160, 164, 167
General Slocum (steamboat) 164
German Government Panel on Corporate Governance 63
gestalt entity, corporation as 12
Gilles, J. 31
Glashack, H. 169
Global Compact, UN 246, 292–3, 297, 328, 347, 350, 351, 360, 379, 407, 410
and corporate citizenship 355–7
Performance Model 357
Resource package 356
global e-sustainability initiative 357
global markets 30
Boundaries Protocol 363
globalisation 246–7, 375
Goddard, R. 81, 84
golden shares 113–14
governance, concept of 21
governance mechanisms 57–8
government procurement 112–13
Grabosky, P. 359
Graham, C. 113
Graham, C. 113
Grandhame, R. 25, 55
<table>
<thead>
<tr>
<th>Name</th>
<th>Page(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graymore, D.</td>
<td>329</td>
</tr>
<tr>
<td>Greenfield, K.</td>
<td>268</td>
</tr>
<tr>
<td>Gribben, R.</td>
<td>377</td>
</tr>
<tr>
<td>Griffiths, J.</td>
<td>272, 273</td>
</tr>
<tr>
<td>Griffiths, N.</td>
<td>379</td>
</tr>
<tr>
<td>Gross, E.</td>
<td>180, 183</td>
</tr>
<tr>
<td>Group Josi Reinsurance Co v Universal General Insurance Co</td>
<td>129</td>
</tr>
<tr>
<td>groups, organised and unorganised</td>
<td>4–5</td>
</tr>
<tr>
<td>The Guardian</td>
<td>191, 243, 251</td>
</tr>
<tr>
<td>Guillen, M.</td>
<td>30</td>
</tr>
<tr>
<td>Guinness v Saunders plc &amp; Anor</td>
<td>79</td>
</tr>
<tr>
<td>Gunnigham, N.</td>
<td>359</td>
</tr>
<tr>
<td>Gwyer v London Wharf (Limehouse) Ltd</td>
<td>117</td>
</tr>
<tr>
<td>Hager, M.</td>
<td>12</td>
</tr>
<tr>
<td>Hague Conference on Private International Law</td>
<td>130</td>
</tr>
<tr>
<td>Haldane, Viscount</td>
<td>151, 195</td>
</tr>
<tr>
<td>Hale v Henkel</td>
<td>163</td>
</tr>
<tr>
<td>Hamilton, R.W.</td>
<td>166</td>
</tr>
<tr>
<td>Hamilton, V.L.</td>
<td>160</td>
</tr>
<tr>
<td>Hanford Joint Council for Resolving Employee Concerns</td>
<td>263–4, 270</td>
</tr>
<tr>
<td>Hanley v Automotive, Food, Metals, Engineering, Printing &amp; Kindred Industries Union</td>
<td>126</td>
</tr>
<tr>
<td>harmonisation, transnational and international</td>
<td>148</td>
</tr>
<tr>
<td>Hart, O.</td>
<td>13</td>
</tr>
<tr>
<td>Hart, S.</td>
<td>366</td>
</tr>
<tr>
<td>Hartt Interactive</td>
<td>172</td>
</tr>
<tr>
<td>Harvard Business Review on Corporate Ethics</td>
<td>29</td>
</tr>
<tr>
<td>Harvard Business Review on Corporate Governance</td>
<td>28</td>
</tr>
<tr>
<td>Harvard Business Review on Corporate Responsibility</td>
<td>29</td>
</tr>
<tr>
<td>Harvard Business Review on Measuring Corporate Performance</td>
<td>29</td>
</tr>
<tr>
<td>Hatfield train disaster</td>
<td>191</td>
</tr>
<tr>
<td>Haufler, V.</td>
<td>327</td>
</tr>
<tr>
<td>Haward, D.</td>
<td>163</td>
</tr>
<tr>
<td>Hawkins, K.</td>
<td>166</td>
</tr>
<tr>
<td>Health and Safety at Work Act 1974 (UK)</td>
<td>150, 388</td>
</tr>
<tr>
<td>Health and Safety Executive (HSE)</td>
<td>177, 178</td>
</tr>
<tr>
<td>Heimann, F.</td>
<td>397</td>
</tr>
<tr>
<td>Hely-Hutchinson v Brayhead Ltd &amp; Anor</td>
<td>79</td>
</tr>
<tr>
<td>Henderson v Bank of Australia</td>
<td>116</td>
</tr>
<tr>
<td>Hennes &amp; Mauritz (H&amp;M) code</td>
<td>307, 308</td>
</tr>
<tr>
<td>Hemming, P.J.</td>
<td>163</td>
</tr>
<tr>
<td>Hepple, B.</td>
<td>326</td>
</tr>
<tr>
<td>Hernandez-Uriz, G.</td>
<td>292</td>
</tr>
<tr>
<td>Heron International Ltd. v Lord Grade</td>
<td>116</td>
</tr>
<tr>
<td>Herz, R.L.</td>
<td>140</td>
</tr>
<tr>
<td>Hicks, A.</td>
<td>119</td>
</tr>
<tr>
<td>Hilaú v Estate of Marcos</td>
<td>139</td>
</tr>
<tr>
<td>Hilton Hotel chain</td>
<td>165</td>
</tr>
<tr>
<td>Hines Jr., J.R.</td>
<td>397</td>
</tr>
<tr>
<td>Hinkley, R.</td>
<td>43</td>
</tr>
<tr>
<td>H.L. Bolton (Engineering) Co. Ltd v T.J. Graham &amp; Sons</td>
<td>185, 196</td>
</tr>
<tr>
<td>Hoffman, Lord</td>
<td>5</td>
</tr>
<tr>
<td>Hogg v Cramphorn Ltd &amp; Ors</td>
<td>78</td>
</tr>
<tr>
<td>holistic theories</td>
<td>152–3</td>
</tr>
<tr>
<td>Hollis v Vabu Pty Ltd (the Bicycle Couriers case)</td>
<td>126</td>
</tr>
<tr>
<td>‘Holy Grail syndrome’</td>
<td>14</td>
</tr>
<tr>
<td>Home Office</td>
<td>189, 190</td>
</tr>
<tr>
<td>Hopu and Bessert v France</td>
<td>132</td>
</tr>
<tr>
<td>Hornblow, D.</td>
<td>380</td>
</tr>
<tr>
<td>Horrigan, B.</td>
<td>28</td>
</tr>
<tr>
<td>Horwitz, M.J.</td>
<td>12</td>
</tr>
<tr>
<td>House</td>
<td>289</td>
</tr>
<tr>
<td>House of Commons Environment, Food and Rural Affairs Committee</td>
<td>220</td>
</tr>
<tr>
<td>House, F.</td>
<td>289</td>
</tr>
<tr>
<td>Howard Smith Ltd v Ampol Petroleum Ltd.</td>
<td>78</td>
</tr>
<tr>
<td>Howard, T.</td>
<td>126</td>
</tr>
<tr>
<td>Hudson River case</td>
<td>163</td>
</tr>
<tr>
<td>Hufbauer, G.C.</td>
<td>136</td>
</tr>
<tr>
<td>human rights</td>
<td>242, 286–301</td>
</tr>
<tr>
<td>and foreign direct investment</td>
<td>286–8</td>
</tr>
<tr>
<td>NGOs’ publications</td>
<td>289</td>
</tr>
<tr>
<td>voluntary codes</td>
<td>302</td>
</tr>
<tr>
<td>voluntary obligations and international law</td>
<td>309–12</td>
</tr>
<tr>
<td>Human Rights Watch</td>
<td>288</td>
</tr>
<tr>
<td>Hutton v West Cork Railway Company (1883)</td>
<td>77, 88</td>
</tr>
<tr>
<td>Hutton, W.</td>
<td>185</td>
</tr>
</tbody>
</table>
Iacobucci, Justice 196, 200
ICI Ltd v Commission of the EC
(Dyestuffs Case) 128
IDC v Cooley 80
identification doctrine 19, 196, 198–9, 401, 403
identification liability 152
ILO 133, 148, 291, 303, 304, 305, 310, 321–6, 324, 327, 356
decisions of Governing Body 324–5
declaration on multinational enterprises 319–33
In Plus Group Ltd v Pyke 81
In re ‘Agent Orange’ Product Liability Litigation 139
In re Austrian and German Holocaust Litigation 134
In re South African Apartheid Litigation 140
In re Union Carbide Corporation Gas Plant Disaster at Bhopal, India 131
In re World War Two Era Japanese Forced Labour Litigation 134
incentive-setting strategies 117–19
‘incorporated’, meaning of 8
India, Union Carbide Disaster 131
individual responsibility 75
Industrial and Provident Societies Act 1965 (UK) 112
industry standards 407–9
insider control and influence 36
insolvency 76, 84, 116–17
Insolvency Act 1986 (UK) 81, 84, 117, 118
insolvency practitioners 119
Institute for Labour Studies 324
institutional investors 268
institutional theory 11
interactive legislation 273–5
intergovernmental organisations (IGOs) 246, 247
intermediary accountability 240–41
internal outcomes 4, 5
Internal Revenue Service (IRS) 173
International Chamber of Commerce (ICC) 294, 359, 397
International Convention on the Suppression and Punishment of the Crime of Apartheid 141
International Council on Human Rights Policy 287, 330
International Court of Justice 132
International Declaration on Cleaner Products 351
International Federation of Consulting Engineers (FIDIC) 408
International Labour Organisation see ILO
International Organisation of Employers (IOE) 294
investor ownership 35
involuntary manslaughter 186, 189
Ireland, P. 108
Island Export Finance Ltd v Umunna 80
Iwanowa v Ford Motor Co 134
Jackall, R. 4
Jackson, D. 44
Jacobs, A. 306, 310
Jacobs, M. 217
Jalley, E.M. 173
Jama v Immigration and Naturalization Service 134
James Hardie Industries 44–5
Japan, corporate criminal liability 160
Jenkins, R. 290
Jensen, M.C. 14
Jochnick, C. 287
Johannesburg Summit see World Summit on Sustainable Development (WSSD)
John Doe & Ors v Exxon Mobil Corp & Ors 137
John Doe I v Unocal Corp 135
Johnston, J.S. 12
joint and several liability rule 68
Joint Stock Companies Act 1844 (UK) 108
joint-stock companies 159
Jones, D. 378
Jorgensen, N.H.B. 407
Jota v Texaco Inc 139
jus standi 125
Kadic v Karadžić 13
Kagan, R.A. 166
Kamminga, M.T. 128
Karlinger, J. 379
Kasky et al. 133
Kay, J. 108
Kearney, N. 325
Keay, A. 116
Kelly, G. 107
Kelly, M. 39
Keong Low, C. 28
Keshub Mahindra v State of Madhya Pradesh 131
Khair, S. 307
Khana, V.S. 166
Khulumani v Barclays 140
Kiel, G. 25, 29
Kimberley Process Certification Scheme 249
Klein, N. 313, 380
Knott, D. 37
Koh, H.H. 137
Koh, P. 78
Kohn, S.N. 257, 258
Korten, D. 380
Kraakman, R. 13, 28, 30, 35, 106, 110, 114
Kramer, E.W. 166
Kregor v Hollins 77
Ku, C. 288, 292
Kuwait 135
Kuwait Asia Bank EC v National Mutual Life Nominees Ltd. 116

La Porta, R. 55
labour standards 291
Lacey, N. 187
Lafont, J.J. 14
Lagan, A. 43
Lampf v Gilbertson 170
landfill 218, 219
hazardous waste 221
UK legislation on 220
Landfill Directive, EU 219
landfill tax 220–21
Latin America
law reform 54–72
Peruvian General Company Act 60
Lauffer, W.S. 126, 165
Law Commission 189
‘law of nations’ 138, 140
Lawler, E. 28, 34
Lawrence, A. 288
Leblanc, R. 31
Lee, D.R. 88
Lee, M.T. 163
legal entity 3, 6–7, 7, 8, 16
assets 13
development of idea 9–10
and enterprise 7
legal personality 9, 11, 12, 147
‘legal persons’, definition of 398–9
legal responsibility, and corporate responsibility 235–53
Lennard’s Carrying Company, Limited v Asiatic Petroleum Company, Limited 152, 195, 402
Levi-Strauss, code of conduct 304
Lewis, O. 163
lex artis 59
lex loci actus 128
lex loci delicti 128
Liebot Majo, J.O. 65
limited liability 108
France 159
liquidation 76, 84, 92
Liquidator of West Mercia Safetywear v Dodd 75, 117
Litman, D.S. 162
Litman, R.C. 162
Liubicic, R.J. 109
Lizée, M. 4
local development 366–9
London and Mashonaland Exploration Co Ltd v New Mashonaland Exploration Co Ltd 81
Lonrho v Shell 116
Lorsch, J. 29, 30
Louis K. Leggett Co. v Lee 162
Lubbe & Ors v Cape plc 132
Luck, K. 30
Luhmann, N. 14
Lyme Bay canoe incident 187
McAuley, I. 42
McConough, J. 165
Machado Plazas, J. 68
McIntosh, M. 41, 360
Macintyre, E. 387, 388
McKinsey, Global Investor Opinion survey 42
Macneil, I.R. 110
McSweeny, T. 170
Magnan, I. 41
Maine, H. 161

Research handbook on corporate legal responsibility

Maitland, F.W. 252
Mallin, C. 28
Malmö Declaration 354
Mannesmann Anlagenbau Austria AG v Strohal Rorationsdruck GesmbH 114
Marine Stewardship Council 377
Mark, G.A. 12
Marshall, C.J. 5–6
Marshall, J. 162
Martimort, D. 14
Martinex Machuca, P. 55
Marx, K. 180
Materiality Report, UNEP 365
Matten, D. 355
Matthews, R.C.O. 56
May, L. 16
Mayson 98
Means, G. 12
Means, G.C. 74
Meckling, W.H. 14
Meeran, R. 132
Mendonca v Tidewater Inc 139
mens rea 126, 140, 200, 402
of involuntary manslaughter 186
Meridian Global Funds Management Asia Ltd. v Securities Commission 154, 198, 199, 200, 209
Merme, M. 244
Merton, R.K. 178, 179
Meterlogic Inc v Copier Solutions Inc 128
Metzger, M.B. 4, 16
Micklethwait, J. 235
Miguel, A. 62
Million, J. 73, 75
Mills, M. 25
mineral resource extractions 134
Minow, N. 28, 30
Mitrokoskostas, N.K. 136
Model Penal Code, US 150
Modern Company Law: the Strategic Framework 94
Modern Company Law, Final Report 2001 89, 94, 97, 99
Modernising Company Law 73, 76, 77, 80, 81, 82, 89, 97, 99, 238
Modernity and the Holocaust 182
Mooes case 166–7
Monbiot, G. 380
money laundering 396
Monks, R. 28, 30
Monoghan, P. 239
Moodie, G. 126
Moore, S. 273
Moore v I. Bresler Ltd. 197, 402
moral fault 148
moral indifference 181–5
Morphitis v Bernasconi and Others 117
Morris, Lord 196
Morrissey, O. 324
Movitex Ltd v Bulfield & Ors 78
Muchlinski, P. 130, 131, 294, 297
Mueller, G.O.W. 164
Muirhead, S.A. 236
Mukherjee, A. 322
Multilateral Agreement on Investment, OECD 292
multinational enterprises compliance with transnational regulatory standards 27, 30 and human rights 330
ILO declaration 319–33
multilateral regulation instruments 328–30
multistakeholder initiatives 328
private sector initiatives 326–30
reporting requirements 330
‘social labelling’ 327–8
Murphy, D.E. 165
Myanmar 133
Nader, R. 74
Nadler, D. 28
Namibia 140–41
National Coalition Gov’t of the Union of Burma v Unocal Inc 135
natural and legal persons 404–5
Needelman, C. 179
Needleman, M. 179
negligence 55, 57, 59, 65–9
and disloyalty 59
liability for 65–9
Nelson, J. 236, 358
Netherlands corporate governance 275–6
Dutch Corporate Governance Code 278
Downloaded from Elgar Online at 12/17/2018 06:12:12AM via free access
anonymous reporting procedures 265–6

cost–benefit analysis of 29

whistleblower provisions 257–8, 260–61, 264–5

Sarei v Rio Tinto plc 137

Saul, J.R. 29

Scholz, J.T. 166

Schuck, P.H. 169

Schultheiss, M. 62

Schwartz, M. 167

Scott, K.E. 57, 62

Scott, W.R. 108

Sealy, L.S. 76

Secretary of State For Trade and Industry v Collins and Others 119

‘selection bias’ 59

self-dealing transactions 59

self-regulation 271–3

definition of 272–3

Dutch Corporate Governance Code (Tabaksblat Code) as 280–81

interactive legislation 273–5

semi-autonomous social field (SASF) 273

Seguihua v Texaco Inc 139

Shannon, H.A. 159

‘shareholder argument’ 73

‘shareholder primacy’ 38, 39, 43, 100–101, 116, 267–8

shareholders 20, 21, 22, 35, 96, 267

and corporate responsibility 241

corporate responsibility towards 38–44

and executive remuneration 26

director liability action 63

rights 55

and stakeholders 36, 42

Shaughnessy, M. 109

Sheen inquiry 188–9

Shenin, M. 311

Shell, in Nigeria 288

Shleifer, A. 62

Shorter Oxford English Dictionary 5, 7, 11

Shtultz, S. 29

Silberson, A. 108

Sillanpaa, M. 237

Simmonds v Heffer 115

Simms, A. 375, 380

Sinaltranal v Coca-Cola Co. 134

Singer, P. 39

Sithole & Ors v Thor Chemical Holdings Ltd 132

Sixth Environmental Action Programme, European Community 334

Slapper, G.J. 177, 178, 180, 181, 183, 187

SMEs and environmental legislation 229

and UNEP 368

Smith, C.H. 322

Snider, L. 181

‘social audits’ 237

social capital 40

Social Economic Council Report, Netherlands 275

Social Investment Forum 328

‘social labelling’ 327–8

social norms 13

‘social partnership’ 236

socially responsible investment 328

Sonnenfeld, J. 28

Sosa v Alvarez-Machain et al. 135, 137, 138, 140, 142, 143

South Africa 132

vicarious liability 150

South Sea Bubble Act 159

Southall tragedy 199

Spain 55, 65

Provincial Court in Cordova 66

Spanish Commercial Code 66

Special Commission on Jurisdiction, Recognition and Enforcement of Foreign Judgements in Civil and Commercial Matters 130

Spilada Maritime Corporation v Cansulex Ltd 131–2

Squires, S.E. 168

‘stakeholder argument’ 73

stakeholder model in law 114–19

stakeholders 40, 74, 98

and British company law 238–9

definitions of 237–8, 278

and shareholders 36, 42

suppliers as 107–8

Stamhuis, J.N. 274

State Immunity Act 1978 (UK) 136

State v The Olivers 160

Statoil 395–6

Stephen Tully - 9781845428280

Downloaded from Elgar Online at 12/17/2018 06:12:12AM via free access
statutory informational rights 110
Stock Exchange Listing Rules 76
Stout, L. 20, 37, 39
strict liability 149
Stuart, D. 200
Sullivan, R. 289, 290, 291, 296
supplier protection
and company law 105–8
and directors’ duties 115–17
formal company law protections 114–19
golden shares 113–14
government procurement 112–13
gratuitous transactions 115
historical development 108–9
incentive-setting strategies 117–19
legal regulation 110–11
purchasers’ self-regulation 109
relational transacting 109–10
structuring the parties to the transaction 111–14
suppliers, as stakeholders 107–8
suppliers’ cooperatives 112
SustainAbility 362, 364
sustainability reporting 359–61
‘sustainable consumption and production’ 353
sustainable development 215
and waste 216–18
sustainable waste management, Wales 215–31
Sweeney, J.M. 138
Swigert, V. 180
systems theory 153
Tabaksblat Code see Dutch Corporate Governance Code
Taekema, S. 274
Taylor, Lord 186
Taylor v Walker 80
team production model 13, 37–8
Tel-Oren v Libyan Arab Republic 137
tertium genus 67
Tesco Supermarkets Ltd v Nattrass 152,
185, 195, 196, 198, 200, 201, 209, 402
Teubner, G. 14
textile industry
codes of conduct 305
gender segregation 311–12
women and children in 302–15
tort law 125–46
as a mechanism for corporate responsibility 125–9
Torture Victim Protection Act 137
Tour Operators’ Initiative for Sustainable Development 357
tourism 375
Toxic Release Act, US 250
Toxic Substances Control Act, US 127
trade unions 94
transaction costs 12
transnational corporations 27–8, 30, 375
and human rights 286–8, 290, 299, 312–13
Tort litigation against 127–9
Transparency International 397
Transvaal Lands Co v New Belgium Dev Co 84
Treaty of the European Community 345
Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, historical background 319–21, 322–6
Trustees of Dartmouth v Woodward 7, 162
Tsang, D. 42
UK
Combined Code of the Financial Reporting Council 26
common law on attribution 195–9
company law, and stakeholders 238–9
Company Law Review 8, 73, 75, 88, 93–5, 238

directors’ duties 73–87
employees 88–104
legislation, corporate accountability 287–90
manslaughter 154
supplier protection 105–22
UK Law Commission 154
ultra vires 115, 116
UN 248, 322
Commission on Transnational Corporations 329
Conference on Environment and Development (UNCED) 350
Convention against Corruption 398
Convention on the Law of the Sea (ECOSOC) 320
General Assembly Resolution 37/233A 1141
Human Rights Committee 132, 311
Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights 293–5, 297
Office on Drugs and Crime 356
see also Global Compact
UNCTAD 379
UNCTC 141
UNEP 34
Advertising and Communication Forum 357
and corporate responsibility 349–71
Finance Initiative 58
Mobility Forum 357–8
Union Carbide Disaster, India 131
United States Supreme Court 163
United States v Bank of New England 165
United States v Bestfoods 127
United States v Hilton Hotels Corp. 165
United States v Van Schaick 164
Universal Declaration of Human Rights 290
Unocal 134–5
UNRISD (United Nations Research Institute for Social Development) 383
Urminsky, M. 327, 330
US
Child Labor Deterrence Act 1993 (Harkin Bill) 307
Comprehensive Environmental Response Compensation and Liability Act 127
corporate criminal liability 159–76
corporate governance reforms 26
Corporate Manslaughter Bill 155
corporate responsibility 236
Department of Commerce 397
Sentencing Commission 165
sentencing guidelines 407
Toxic Release Act 250
Toxic Substances Control Act 127
vicarious liability 150
Utting, P. 299
Vaighan & Sons Inc. v State 166
Van der Burg, W. 274
Van der Lugt, C. 360
Van Klink, B. 274
Vandivier, K. 184–5
Veasey, E. 26
Vishny, R.W. 62
‘voluntarism’ 248
voluntary codes, on human rights 302
voluntary initiatives 357–9
and CSR 378–80
Voluntary Principles and Security Rights 292
Voth v Manildra Flour Mills 132
Waddams, S.M. 197
Waldron, J. 275, 282
Wales
Bosch Limited case study 225, 228
corporate and commercial waste arising survey 223–7
corporate and commercial waste targets 222
Dolgarrog Aluminium case study 222, 228
hazardous landfill 221
Panasonic case study 224, 227, 228
sustainable waste management 215–8
Walker v Secretary of State for Trade and Industry 118
Walker v Wimborne 116
Walter, C. 40
Ward, H. 143, 250, 367, 388
Warhurst, A. 299
Waste Framework Directive, EU 218
Waste Incineration Directive, EU 219
Waste legislation 218–22
Waste Strategy for England and Wales, DEFRA 21
Watergate scandal 396–7
Watkins, S. 167
WBSCD 351
WCED 216
Weber, T. 331
Wedderburn, K.W. 88, 101, 110
Weiser, J. 378
Weisman, J. 173
Wells, C. 403
Wells, J.T. 168
Welsh Assembly Government (WAG) 215, 216
funding for business support organisations 229
Sustainable Development Action Plan of the Welsh Assembly Government 216–17
Wise About Waste 215, 217
West Mercia Safetywear v Dodd 75, 117
Westbrook, J.L. 131
Westerman, P. 274
Westpac Banking Corporation 42
Westray mine disaster, Canada 202
Wheeler, D. 237
Wheeler, S. 29
Whincop, M. 28, 29
whistleblowers and corporate accountability 254–70
False Claims Act 259–60, 262
federal statutes 259
Hanford Joint Council for Resolving Employee Concerns 263–4
origin of term 256
protection laws 255, 395–6
retribution 259, 260–61, 263–6
Sarbanes–Oxley Act 257–8, 260–61, 264–6
‘wrongful discharge’ 258
White, T.J. 136
Whyte, D. 187, 190
Willetts, P. 296
Williams, G. 151, 164, 194, 197
Williamson, J. 94, 96, 98
Winch, P. 273
Winkworth v Edward Baron Developments Co. Ltd. 117
Witteveen, W. 274
Wiva v Royal Dutch Petroleum Company 134
Wolf, M. 235
Wolfsberg Group 408
women and codes of conduct 307–9
non-discrimination principle 310–12
in the textile industry 302–15
Woosmome Sr., E.V. 136
Wooldridge, A. 235
Woolfson v Strathclyde Regional Council 111
Woon Tan Kan v Asian Rare Earth 130
Worker Rights Consortium Model Code of Conduct 308
World Bank 305, 308, 397
World Federation of the Sporting Goods Industry 306
World Summit on Sustainable Development (WSSD) 292, 296, 352–3, 381–2, 383–4, 385
‘wrongful discharge’ 258
wrongful trading 118
WTO 250
and China 29
Wyndham, H. 289
Xuncax v Gramago 133
Yukong Line Ltd. of Korea v Rendsburg Investments Corp. 117
Zadek, S. 41, 236, 244, 378
Zappala, G. 41
Zeebrugge ferry disaster 147, 153, 177, 187–9
Zelitzer, E.G. 170