

---

# Index

---

- A v. National Blood Authority* 719–21  
abortion 76, 81, 379, 668  
    reform 331–2  
absolute effect 114  
abstract transfer systems 886, 888, 891  
abstractness 40–43, 61  
acceptance 109–10, 116–17, 625,  
    627–33, 635–45, 661–2, 841  
    and counter-offer 638–9  
    late 640  
    power of 636, 639  
    time limit 639  
    *see also* offer and acceptance inter  
    absentees  
access to justice 29–30, 144, 463, 719,  
    723  
accession 355, 557, 649, 732–3, 810  
accessorial liability 271  
accessory 655–7  
accident compensation 1–15, 75, 286,  
    408, 873  
    alternative solutions 8–10  
    catastrophes and terrorism 10–12  
    empirics 13–14  
    general scope of systems 3–4  
    harmonization 10  
    liability and insurance 5–8  
    medical malpractice 12–13  
    and social security 4–5  
accident victims 1, 4–5, 13, 723, 876  
accidents 1–4, 7–9, 13–15, 76, 334,  
    444, 590  
    categories of 14–15  
    nuclear 7, 11  
    prevention of 2–3, 9, 15  
*acquis communautaire* 213, 305, 307–8,  
    383, 653  
Acquis Group 303, 307, 883  
acquisition *iure sanguinis* 610–11  
activism, judicial 27, 534, 595–6  
actual authority 43–5, 47, 51, 55  
    agent's liability where acting without  
    48–50  
    and apparent authority 48  
actual knowledge 642–3  
ADB (Asian Development Bank) 391  
ad hoc arbitration 89  
administrative acts 29, 130, 359, 375,  
    558, 959  
administrative courts 185, 346–7, 359,  
    375, 459, 558, 943–4  
    lower 347, 375  
    regional 558, 944  
administrative justice 25, 27–9, 346  
administrative law 21–31, 123, 185–6,  
    223, 744–6, 748, 910–12  
    access to justice 29–30  
    administrative justice 27–9  
    comparative 21–3, 31, 745–6  
    domestic 21, 24, 31  
    and functionality principle 23–4  
    general principles 25–7  
    judicial remedies 30–31  
    judicial review 30  
    *locus standi* 29–30  
    methodological foundations 23–5  
    objective of comparative analysis  
    23  
    objectives of comparative research  
    24–5  
    outlook 31  
    procedural versus substantive justice  
    27–9  
    transnational law 910–12  
admissibility 345, 459, 696, 832–3  
    of extrinsic evidence 432  
adoptive parents 605, 611  
ADR *see* alternative dispute resolution  
adversarial legalism 162  
adversarial model 135, 144, 146–7,  
    271–2  
Advocates-General 287, 622–3  
affective loss 667, 677  
African Charter on Human and  
    Peoples' Rights 378, 605, 608  
age 146, 153, 319, 365, 466, 474, 614  
agency 37–62, 310, 467, 472, 477, 701,  
    779

- abstractness in contemporary law 41–3
- actual authority *see* actual authority
- agent's liability where acting without actual authority 48–50
- apparent authority *see* apparent authority
- commission agents 41, 53–4, 58–9
- consensual and legal representation 38–9
- convergent tendencies 61–2
- development of representation and agency as autonomous concepts 39–41
- formalities 50–51
- indirect representation 53–4
- irrevocable authorizations 52
- legally fixed authorizations 51–2
- of necessity 38
- partially disclosed 53
- power 41, 51, 56
- publicity principle 52–3
- ratification of unauthorized acts 50
- and representation 37–8
- undisclosed 53, 57, 59–60
- undisclosed principal doctrine *see* undisclosed principal doctrine
- vicarious liability 39
- agents 37–61, 178, 196, 415–16, 634, 712, 926
  - authority 38, 42–3, 46, 51, 61
  - bankruptcy/insolvency 59–60
  - commission 41, 53–4, 59
  - liability 49
    - where acting without actual authority 48–50
- Alexy, R. 523, 525, 531–2
- ALI *see* American Law Institute
- alpine model/tradition 415, 417
- alteri stipulari nemo potest* 37
- alternative dispute resolution (ADR) 148, 412, 472, 475, 794
- American law *see* United States
- American Law Institute (ALI) 79, 145, 302–4, 390, 397, 717, 947
- anthropology 85, 499, 570, 713, 899, 903, 907–8
- anti-assignment clauses 115
- anticipatory repudiation 759–60
- antitrust law 79, 83, 208–9, 239, 419, 874
- Antokolskaia, M. 315, 324
- Anwartschaftsrecht* *see* expectation right
- apartheid 605, 814–15
- apartment rights 736
- apartments 429–30, 443, 632, 732
- apparent authority 44–8, 51–2
  - and actual authority 48
  - legal consequences 47
  - requirements 46–7
- appellate courts 134–5, 269, 283, 358, 451, 470
- appointments 42, 92, 97, 100, 141, 474, 931–2
- appropriation 672, 675, 690–91, 933
- arbitrability
  - objective 94
  - subjective 94
- arbitral interim relief 90
- arbitral tribunals 91, 95–100
- arbitration 77, 88–101, 121, 136, 140, 148, 483
  - ad hoc 89
  - agreements 90, 92–8, 100
  - arbitral tribunals 91, 95–100
  - awards 99–100
  - clauses 95, 713
  - commercial 89, 94
  - definition and legal nature 88
  - development and harmonization of national arbitration laws 90–91
  - international 70, 88, 97–8, 794
  - jurisdiction and powers of arbitral tribunal and arbitration proceedings 98–9
  - law 90, 92–100, 472
  - proceedings 89, 95, 98–100
  - role of courts 100–101
  - rules 89, 92–3, 97
  - statutory and contractual sources 92–4
  - subjective and objective arbitrability 94
  - types of 89–90
  - use and advantages 91
- arbitrators 88, 91, 94, 97–100
- Argentina 257, 389, 399, 522, 609, 630, 929

- Arminjon, P. 493, 495, 497  
 Armstrong, K. 811  
 Asia 257, 378, 494, 785  
 Asian Development Bank (ADB) 391  
 assets 384–7, 648–9, 652, 654–7, 704, 887, 929–31  
   debtors 386–7, 391  
   movable 107, 111  
 assignees 104–12, 114–18  
   and debtors 111–12  
 assignment 59, 104–18, 310, 603, 647, 730, 890  
   of claims 106  
   clauses 112–13  
   contracts 105, 117  
     and further requirements 107–11  
   contractual prohibition 112–16  
   effective 106, 109–11, 117  
   equitable 107–8, 116  
   international and national sources of law 105–7  
   legal 107–8, 116  
   priority in case of subsequent assignments 116–18  
   relationship between assignee and debtor 111–12  
 assignors 104, 106–18  
   creditors of 112, 114  
 assumpsit 181–2, 216–17  
 Atiyah, P.S. 80, 219, 522, 524, 533–5, 761, 764  
*Auslegung* 826  
 Australia 120–24, 142, 224, 253, 297, 388, 689–90  
   civil and commercial law 123  
   constitution 121–4  
   court system and law faculties 123–4  
   labour law 121  
   privacy 689–90  
   Senate 122  
 Austria 110, 117, 143–4, 146–8, 354, 443–4, 634  
   Civil Code 39, 282, 628, 630, 829, 852  
   nationality law 612  
 authority  
   actual *see* actual authority  
   agents 38, 42–3, 46, 51, 61  
   apparent *see* apparent authority  
   implied 42–5, 48  
   persuasive 83, 297  
 authorizations 38–9, 41, 44, 48, 50–52, 61, 791  
   legally fixed 51–2  
 author's personality right 673–4  
 autonomous regions 137, 139, 821  
 autonomy 26, 31, 70, 158–9, 602, 606–8, 821–2  
   party 52, 88–90, 92–3, 97, 765, 770  
 autopoiesis theory 482  
 bad faith 117  
 Balearic Islands 820  
 bankruptcy 83, 113, 149, 197, 415–16, 889  
   agents 59–60  
 banks 8, 109, 112, 383, 394, 399, 401  
 bargaining power 113, 242, 650  
 Basedow, J. 161, 300–301, 305–6, 308, 411, 417, 628  
 basic human rights 263, 510  
 Basic Law *see* Germany, Constitution  
 basis of contractual liability, and mistake 579–80  
 Baskin, J. 255–6  
 battle of the forms 250  
*Begriffsjurisprudenz see* conceptual jurisprudence  
 Belarus 635, 637  
 Belgium 126–31, 229–30, 392, 431–3, 442–5, 747–8, 751  
   Brussels Region 126–8  
   civil and commercial law 128–9  
   Civil Code 126, 128–9, 422, 433, 442  
   constitutional law 126–8  
   court systems and law faculties 129–30  
   Flemish Community 127–8  
   Flemish Region 127–8  
   Judicial Code 148  
   language areas 126–7  
   Senate 127  
   Walloon Region 127–8  
*Bell v. Lever Brothers Ltd* 579, 585  
 beneficial ownership 927  
 beneficiaries 184, 734–5, 797, 926–7, 930–34, 936  
   trust 927–9, 933–5  
*bengoshi* 472–4  
*benrishi* 474

- Berghman, J. 809, 811  
 Berne Convention 605, 609  
 better family law 315, 327, 333  
 better law 322, 431, 433, 437–8, 570–71  
   approach 567, 571  
*bewindvoerder* 930–31  
 BGB *see* Bürgerliches Gesetzbuch  
 bias 224, 693, 699, 749, 911  
 Bielefelder Kreis 522  
 bills of rights 78, 228–9, 233, 330, 465–6, 676, 816–17  
 binding precedents 525, 529–30, 534  
 bindingness 831  
   formal 362  
   vertical 529  
 Birks, P. 175, 307, 936, 947, 951, 955–6, 959  
 birth 181, 326, 356, 607–8, 610–11, 669, 822  
 Bismarck 334, 800  
 Blackstone, Sir William 217, 508–9, 784  
 Blankenburg, E. 352, 480–81, 483  
 Bloembergen, A.R. 13–14  
 Bluntschli, J.C. 852  
 bodily freedom 662, 669–70  
 Boele-Woelki, K. 315, 322, 324, 327–8, 333, 566  
 Bologna 453, 460, 505–6  
 Bona, M. 4, 287–8, 291–2  
 borders 67, 212, 262–3, 303, 396, 550, 748  
 Bradley, D. 25–7, 29, 314, 316–17, 320–21, 327, 332  
 Brandeis, L.D. 690–91  
 Brazil 256–7, 366, 399, 747  
 breach of confidence, equitable remedy of 688–9  
 breach of contract 60, 116, 675–6, 754–5, 757–9, 765–73, 957  
 breach of privacy 687, 689–90  
 Bridge, M. 732, 734, 736–8, 760, 847  
 Brierley, J.E.C. 66–9, 315  
 brokers 416–17  
 Brussels Region 126–8  
 Bucher, A. 628–9, 633, 642, 661–2, 664, 666, 670  
 Burrows, A. 763, 947, 951, 956–7, 960  
 Busch, D. 45–6, 49–50, 59, 304  
 business law 157–60, 166, 390, 462  
 business practices 442–3  
 Bussani, M. 191, 287, 290–91, 567  
 Buthe, T. 163  
 buyer-biased private law 246–7, 249  
 buyers 246–7, 249, 651, 728, 737, 888–9, 893  
  
*Cahiers de droit fiscal international* 864–5  
 Calamari, J.D. 580, 586, 629, 631  
 Canada 121, 132–6, 142, 162, 208, 390, 692–3  
   civil and commercial law 134  
   Constitution 133–4  
   court system and law faculties 134–6  
   privacy 692–3  
   Senate 133  
   Supreme Court 134–5, 254  
 canon law 353, 360, 365, 450, 505, 508, 516  
 capacity 28, 31, 52, 58, 61, 171, 230  
   delictual 880–81  
   earning 674  
   marital 321, 326, 332  
 capitalism 165, 201, 318, 330  
   regulatory 162, 898  
 careers 351, 359, 362, 698  
 case law 30–31, 77–8, 124, 175, 186, 362–3, 530–31  
   foreign 283, 347, 459, 551, 553, 557, 622  
 Case Legal Consequence Pairs (CLCPs) 526  
 case management 146–7  
 Catalonia 820  
 catastrophes 11–12, 356  
*causa* 216–17, 269, 625–6, 793  
   doctrine of 217  
*causa traditionis* 886–8, 894  
 causal system 887–9, 892  
 causal tradition systems 886, 888, 894  
 causation 6, 11, 129, 287, 723, 768–9, 879–80  
 causes of action, common law 181–2  
 CEFL *see* Commission on European Family Law  
 certainty 175, 352, 385, 647, 726, 733–4, 934–5  
*certiorari* 185

- CESL *see* Common European Sales Law  
 characterisation 242, 703–4, 708  
 children 178, 374, 603–6, 608–12, 615–16, 669, 822  
 China 137–9, 257, 366, 378–9, 462–4, 495, 785  
     civil and commercial law 138  
     constitutional law 137–8  
     court system and law faculties 138–9  
     manors 464  
 choice of forum 70, 149  
 choice of law 70, 99, 391, 704, 714, 932  
 CISG *see* Convention on International Sales of Goods  
 Civil Codes 282–4, 457, 556–7, 622, 683–4, 823, 855–6  
     Austria 39, 282, 628, 630, 829, 852  
     Belgium 126, 128–9, 433, 442  
     European 7, 106, 280, 299–303, 305, 307–9, 324  
     France 109, 116, 346, 579–80, 582, 626–7, 840–41  
     Germany 49–53, 354–6, 629–32, 698, 758–9, 762–3, 890–91  
     Greece 371, 425, 442–3  
     Italy 109–10, 442–3, 457, 625–9, 631, 639–42, 763  
     Lithuania 425, 556  
     Louisiana 39–40, 43, 61  
     Netherlands 39–40, 47, 49, 56, 301, 620–23, 651–2  
     Poland 684  
     Québec 43, 49, 53, 57, 132, 134, 630  
     Spain 442, 607, 626, 820, 823  
     Switzerland 325–6, 852, 856–7, 940, 942  
     Turkey 940, 942  
 civil law 218–19, 590–98, 683–4, 765–8, 772–3, 792–3, 821–2  
     concepts 791, 929–30  
     countries/jurisdictions 45, 52, 59–60, 151–2, 727–9, 734–9, 929  
     systems 39–40, 42–4, 52–5, 61, 620, 703–4, 947–9  
     tradition 136, 173, 248, 302, 476, 577–8, 793  
 civil liability 181, 184, 292, 418, 876, 880  
 civil litigation 141–2, 144–5, 148, 151, 475, 716, 723  
 civil procedure 88, 135, 140–53, 173, 344, 418, 438  
     families of 142–4  
     fundamental and ‘other’ principles 144–5  
     harmonization 149–52  
     trends and developments in national systems 146–9  
 civil rights 76–7, 83, 130, 133, 145, 280, 361  
 civil society 256, 332, 412  
 civilian concepts *see* civil law, concepts  
 civilian jurisdictions *see* civil law, countries/jurisdictions  
 civilian systems *see* civil law, systems  
 civilian tradition *see* civil law, tradition  
 CLCPs *see* Case Legal Consequence Pairs  
 clients 415–16, 418, 472, 475, 511, 792  
 Clive, E. 303, 315, 795–6  
 Code Civil 109, 116, 346, 579–80, 582, 626–7, 840–41  
 Code of Civil Procedure (CCP) 100, 141, 143–4, 146, 469, 471, 555  
 Code of Obligations 626, 629, 683–4, 852, 855–6, 940, 942–3  
 codification 39–40, 78, 299–303, 364–6, 506, 510–12, 795–7  
     movement 505, 512, 514  
     projects 300, 306, 373  
 coercive power 706–7  
 cohabitation, informal 321, 324  
 Coing, H. 69, 510, 514  
 collateral, financial 652, 654–6  
 Colombia 929  
 colonies 120–22, 297, 551, 572, 591, 612, 625  
 comatose victims 667–9, 677  
 comfort letters 650  
 commercial arbitration *see* arbitration  
 Commercial Codes 129, 158, 282, 457, 823, 856, 942–3  
     Germany 58–9, 114, 355  
 commercial law 123, 128–9, 157–9, 556–7, 816, 850–51, 855–6  
     international 389, 394, 844  
     mixed jurisdictions 597–8

- commercial regulation 157–66, 252–3, 647, 898
  - business law to commercial regulation 159–63
  - commercial law to business law 158–9
  - to corporate governance 164–6
- commercial transactions 148, 159, 251, 375, 644, 684, 730
- commercial trusts 567, 730
- Commission, European *see* European Union, Commission
- commission agents 41, 53–4, 58–9
- Commission on European Family Law (CEFL) 315–16, 322–4, 327–8, 332–3, 566
- commissionnaire see* commission agents
- commonality 231, 234, 492, 496, 567, 702, 773
  - degree of 231, 303
- Common European Sales Law (CESL) 300, 309–10
- common language 267, 516, 751, 791
- common law 142–3, 169–88, 500–502, 533–5, 590–93, 595–8, 727
  - absence of legal science 187–8
  - causes of action 181–2
  - conceptualism and customary law 174
  - countries/jurisdictions 97, 142–3, 151–2, 294–5, 731–2, 734–5, 772–3
  - courts/judges 169, 171–2, 175, 178, 185, 188, 216–17
  - early common law courts 171
  - English 81, 170–71, 173, 175, 199, 592, 687–8
  - equity and law of actions 184–5
  - forms of action 172–3
  - foundational subjects and legal knowledge 187
  - general principles of liability 182–3
  - historical considerations 170–74
  - history of actions 181
  - jury and orality 173–4
  - legal theory and legal reasoning 177–8
  - mentality and methods 174–80
  - penetration of mixed jurisdictions 595–6
  - pragmatism and policy 177
  - precedent 175–6
  - property 183–4
  - public law 185–6
  - ratio decidendi* 176–7
  - remedies 688–9
  - remedies and rights 179–80
  - statutory interpretation 178–9
  - structure and taxonomy 180–87
  - systems 6, 21–2, 37–9, 48, 53, 892–3, 956–7
  - teaching and practice of law 174–5
  - traditions 134, 158, 169–70, 178, 183, 186–7, 789
- Commonwealth 121–2, 169, 297, 388, 947
- companies 39, 104–5, 158, 252–8, 393, 443, 713
- comparative administrative law 21–3, 31, 745–6
- comparative competition law 208
- comparative constitutional law 223–4, 226, 230, 232, 744–5, 906, 908–10
- comparative criminal law 263–4
- comparative family law 315–16, 324–5, 328–9, 331, 333–4
- comparative law
  - aims 65–72
  - as comparison 71–2
  - as instrument of evolutionary and taxonomic science 67–9
  - as instrument of learning and knowledge 66–7
  - pragmatic and utilitarian aims 69–70
  - tendencies of discipline resulting from aims 70–71
- comparative legal reasoning 65, 70, 72
- comparative property law 727
- comparative public law 500, 744, 746, 748–51
  - language issues 750–51
- comparative social security law 801, 804, 809
- comparative tax law 862–6, 868
- comparativism 192, 266–8, 291, 571
- compensation 1–5, 7–14, 288, 409, 873–7, 879, 881–2
  - funds 3–4, 9, 15
  - mechanisms 2, 4, 11–15, 291

- personal injury 291–2
  - of pure economic loss 291, 879
- compensatory damages 76, 766
- competences 128, 308, 621, 747–8, 781, 821, 854–6
  - exclusive 821
- competition 79, 163, 192–4, 237, 239, 273, 713
  - effective 211, 238
  - inter-jurisdictional 711, 713
  - law 94, 150, 159, 164–5, 208–14, 237, 239
    - convergence 209–12
    - divergence 212–14
- competitive markets 191, 195, 239, 241, 416
- competitive model of legal rules 191–4
- conceptual jurisprudence 339, 364–6
- conceptualism 174
- condictio indebiti* 954, 960
- condictiones* 954–5
- confidence 340, 456, 621, 688–9
- conflict of laws 72, 248–9, 310, 419, 666, 706–7, 709–11
  - functional nature of European principles 708–9
  - rules of jurisdiction 248–9
  - traditional tools 703–5
  - see also* private international law
- consensual contracts 626, 628, 754
- consensual representation 38, 42–3, 47
- consensual systems 886–8, 892–3, 895
- consensus 231, 316, 328, 334, 377–8, 491, 622
  - international 201, 268, 270–71
- consent 43–4, 111, 230, 579–80, 625–6, 628–30, 694–5
  - express and implied 629–31
  - mutual 374, 781
  - negating/nullification of 580–86
  - silent 631–2
- consequential damage 720, 767, 769
- consideration 216–22, 327–8, 430–32, 552–3, 582–3, 625, 760–61
  - assumpsit 216–17
  - attempt to define in 19th and early 20th centuries 217–19
- doctrine 216, 219–22, 638
- use of doctrine to police fairness of contracts of exchange 219–22
- consilium sapientis* 454
- constitution, Australia 121–4
- constitutional amendments 230, 371, 457, 465, 942
- constitutional courts 128, 281, 283–4, 814–17, 821–2, 824, 942
- constitutional law 133, 137–8, 186, 223–34, 350–51, 361–2, 744–6
  - Australia 121–2
  - Belgium 126–8
  - Canada 133
  - China 137–8
  - comparative 223–4, 226, 230, 232, 744–5, 906, 908–10
  - comparing constitutions 228–30
  - Czech Republic 280–81
  - European 232–4
  - explaining success of comparative constitutional law 224–6
  - Finland 339–41
  - France 344–6, 693
  - Germany 350, 355–7, 361, 607, 697
  - Greece 371–3
  - Israel 450–51
  - Italy 455–7
  - Lithuania 555–6
  - Netherlands 621
  - Poland 681–2
  - purposes of comparative constitutional law and challenges for methodology 230–32
  - situating field of constitutions and constitutionalism 226–8
  - South Africa 382, 553, 815–16
  - Spain 821–3
  - Sweden 850
  - Switzerland 853–5
  - Turkey 941–2
  - United Kingdom 294–5
- constitutional legitimacy 457, 459
- constitutional principles 233, 356–7, 360, 450, 824, 909
  - common 231–2
- constitutional review 138, 224, 227, 345, 451, 621, 682
- constitutionalism 83, 157, 225–8, 232–3, 745–6
  - global 223, 226, 898, 903
  - transnational 908–10

- constitutionality 130, 295, 341, 345, 456, 467, 476
- constitutionalization 225–6, 350, 352, 356, 361, 676
  - of Europe 232–3
- constitutions 224–31, 371–3, 465–7, 555–6, 777–80, 814–17, 940–42
  - Australia 121–4
  - Belgium 126, 128
  - Canada 133–4
  - comparison 228–30
  - European 749
  - France 345, 693
  - Germany 357, 607, 697
    - Weimar 354, 357, 361
  - Greece 374–5
  - Netherlands 621
  - new 224, 229, 280, 339, 355, 456, 555–6
  - Poland 682
  - Russia 778–80, 782, 786
  - Spain 821–3
  - United Kingdom 294
  - United States 75, 77–8, 80, 84, 228–30
- constitutum possessorium* 740, 890, 892, 894
- constructive trusts 728, 732, 734–5, 934, 956
- consumer contracts 282, 414, 622, 720, 765
- consumer protection 83, 237–43, 310, 366, 383, 451, 849–50
  - law of 165, 187, 237–9, 242–3, 457–8, 796, 823
- continuity 351, 353, 514, 706
- contract law 220–21, 306, 431, 445, 566–7, 657, 754–5
- contracting parties 177, 246, 248–50, 421–2, 428–9, 584, 793–4
  - general 113, 116, 158, 300, 303–4, 309–10
- contracts 37–47, 421–45, 577–87, 625–45, 754–61, 839–47, 886–93
  - assignment 105, 107–11, 117
  - breach of contract 60, 116, 181, 366, 647, 675–6, 957
  - remedies *see* remedies, for breach of contract
  - commercial 433, 435, 622, 759, 773
  - consumer 282, 414, 622, 720, 765
  - deposit 627
  - employment 43, 49, 696
  - enforcement 198, 763
  - and enrichment 957
  - of exchange 216–17, 441
  - freedom of contract 159, 421, 512–13, 754, 794, 845, 905
  - international 641, 710, 713, 756
  - interpretation *see* interpretation, of contracts
  - main 47, 53, 55–60, 95
  - named 422–3
  - objective theory 46, 55, 577, 579–80, 587, 836
  - offer and acceptance *inter absentes* *see* offer and acceptance *inter absentes*
  - privity of contract 53–4
  - quasi- 595
  - in rem 117
  - of sale 106, 309, 422–3, 728, 765, 887–9
  - of transport of goods 628
  - underlying 41, 107, 110–11, 117, 886–7, 890–91
  - void 306, 888, 892
- contractual liability 39, 49, 61, 182, 286, 720, 839–40
  - and mistake 579–80
- contractual obligations 96, 105, 173, 303, 436, 754–7, 761–2
- contractual promises 625, 764
- contractual relationships 37, 42, 49, 54–5, 754, 756, 758
- contributory negligence 6, 287, 292, 882
- control 27, 160, 185–6, 424–5, 431–2, 445, 651
  - judicial 28–30, 147, 185
- Convention on International Sales of Goods (CISG) 304–5, 635, 637–40, 643–4, 765, 769, 773
- convergence 30–31, 192–3, 209, 211–12, 315–16, 324–5, 334
- competition law 209–12
- degree of 61, 200, 209, 211, 239, 863



- insolvency law 392–7
  - thesis 318, 324
- conversion 181, 183
- conveyance 728, 890–91
- cooperation 25, 202, 204, 264, 395, 397, 400–401
  - legislative 341, 849
- coordination 25, 79, 391, 395, 443, 458, 808–9
  - of legal systems 191, 246–51
- coordination game 247–50
- co-ownership 895
- corporate governance 69, 83, 157–8, 164–6, 252–3, 255, 398
- corporate law 79, 165–6, 283, 352, 398, 816, 902
- corporate responsibility 252–9, 377, 898
  - future directions 257–8
  - implications 255–7
  - law 253–5
  - transnational business regulation 255
- corporate social responsibility (CSR) 163, 166, 252–3, 255–8
  - Corpus Iuris Canonici* 506, 508, 832
  - Corpus Iuris Civilis* 453, 506–8, 510, 513–14, 517, 830
- corrective justice 307, 949
- Cotterell, R. 314, 323, 326, 480, 482, 485, 902
- Council of Europe 145, 148, 150, 225, 514, 611, 806–8
  - European Court of Human Rights 140, 145, 231, 266, 283, 379, 382
  - and social security 807–8
  - see also* European Conventions
- counter-offer 638–9
- Court of Chancery 142, 169, 171, 180, 185, 764
- courts
  - administrative *see* administrative courts
  - appellate 134–5, 269, 283, 358, 451, 470
  - and arbitration 100–101
  - common law 169, 171–2, 175, 178, 185, 188, 216–17
  - domestic 94, 96, 98, 381–2, 765–6, 770, 914
  - of first instance 129, 283, 342, 347, 432, 451, 459
  - France 129, 347, 427, 429, 442, 444, 695–7
  - Germany 363, 441, 445, 697–9, 737
  - Netherlands 13, 304, 429, 525, 622
  - ordinary 129–30, 151, 186, 345, 358–9, 459, 621
  - regional 283, 358, 557, 684, 817
  - Spain 304, 426, 823
- covenants 216, 218, 378–9, 435, 606
  - restrictive 736, 739
- creditors 113–14, 385–7, 647–9, 651–2, 655–7, 757–9, 762–3
- creditworthiness 674
- criminal law 76–7, 81, 83, 94, 261–73, 591–2, 794–5
  - comparative 263–4
  - international criminal tribunals 263–4
  - law families and comparative evaluation 267–9
  - main issues 269–73
  - methodology 266–9
  - problems of comparing 266–7
  - relevance of comparative criminal law 261–6
    - cultural comparison 263
    - internationalization 263–6
    - law reform 262
    - practical 261–2
    - substantive 270–71
    - systematic *v.* positivist thinking 269–70
- criminal procedure 78, 83, 140, 261–73, 344, 346, 371
- critical race theory 82, 907
- cross-border insolvency 386–7, 390–91, 393, 395, 401
- cross-border transactions 105, 730, 862, 864
- CSR *see* corporate social responsibility
- cultural differences 204, 263, 377, 415, 486, 550, 563
- cultural diversity, empirical approach to 203–4
- culture(s) 203–4, 317, 324–5, 331, 335, 415–16, 480–87
  - of insurance 414–17
- Curia Regis 171–2, 185

- customary international law 264, 380, 712
- customary law 169–70, 174, 195, 353, 507, 814–16, 857
- Czech Republic 279–92
  - civil and commercial law 282–3
  - constitutional law 280–81
  - court system and law faculties 283–4
  - Senate 281
- Dagan, H. 949
- Dalhuisen, J.H. 384, 738
- damages 4–9, 12–14, 664–7, 675–7, 761–4, 766–73, 873–82
  - aims 288–9
  - compensatory 76, 766
  - force majeure as defence 839–40
  - personal injury 3, 5, 8, 291–2
  - protected interests and sorts of loss 289–90
  - punitive/exemplary 76, 665, 723, 767, 874
  - pure economic loss 290–91
  - quantum of 289, 665
  - tort 286–98
- Davis, M. 717
- Dawson, J.P. 217, 762, 947
- DCFR *see* Draft Common Frame of Reference
- death 291–2, 426, 464, 509, 666–8, 677, 843–4
- death penalty 262, 379, 705
- debtors 104–6, 108–18, 384–7, 648–9, 756–9, 767–70, 845–6
  - insolvent 385–6, 397
- debts 41, 113, 115, 179–84, 647–50, 655–7, 955
- decentralization 372–3, 455, 468, 621
- declaration mistake 578
- decodification 299
- decolonisation 745
- defamation 183, 665, 667, 671–2, 687
- defectiveness 718–21
- defects 171, 283, 374, 436, 716–19, 889–91
  - categories of 719
  - manufacturing 718–19
- defences
  - development risks 716, 721–2
  - public interest 689
  - tort 881–2
- delict 44, 60, 288–9, 306, 595–6, 791, 950
  - and enrichment 957–8
  - see also* tort
- delictual capacity 880–81
- delictual liability 286, 288, 596, 663, 816
  - see also* tortious liability
- delivery 108, 161, 422, 622, 626–8, 735–6, 894–5
- democracy 75, 223, 225, 227, 231, 322–3, 357
- democratic state 281, 450, 692
- Denmark 152, 230, 256, 321, 389, 391, 398
- deposit contract 627
- deprivation of nationality 607–8, 616
- deregulation 121, 160, 162, 166, 239, 419, 712
- deterrence 9, 14, 723
- detinue 172, 181
- detrimental reliance 596
- developing countries 3, 84, 199
- development risks defence 716, 721–2
- devolution 704, 746, 794–5
- Deweese, D. 14
- diaries 698–9
- Dicey, A.V. 21–2, 186, 318, 509
- dignity 231, 352, 361, 669–70, 676–7, 695, 697
  - right to 670
- diplomatic protection 600, 607
- direct representation 37, 895
- directives 8, 242, 264, 299, 366, 468, 720
- disabilities 3, 606, 800–802
- disasters, natural 4, 8–9, 12, 15
- disclosure 57, 151, 254–6, 688–90
- discovery 77, 150–51, 180
  - context of 521
- discretion 99, 135, 253, 271, 332, 379, 613
  - prosecutorial 266, 268–9
- discretionary powers 28, 30, 375, 437
- discrimination 379, 604–5, 607
  - racial 604–5
- dispute resolution 88, 91, 136, 148, 159, 161, 483

- alternative *see* alternative dispute resolution
- district courts 80, 123, 283, 451, 470–72, 557–8, 684
- divergence 158, 192, 198, 200, 209, 319, 321
  - competition law 212–14
- diversity 28, 157, 159, 164, 234, 240–41, 654
  - legal 301, 305, 654, 706
- divided title 927–9, 933
- divorce 318–24, 327, 331–2, 374, 450, 457, 566
  - law 322–3, 326, 703
  - reforms 322–3, 329
- doctors 441, 454, 669, 699
- doctrinal consistency, interest of 218–19
- Doh, J.P. 255–6
- domestic courts 94, 96, 98, 381–2, 765–6, 770, 914
- domestic law 72, 248, 261, 265, 381–2, 756, 931–2
- dominant position 211–12
- dovolání* 283
- Draft Common Frame of Reference (DCFR) 59–60, 106–7, 111–12, 760–61, 765–6, 769, 894–5
- Dreier, H. 351, 531–2
- dualist systems 295, 381–2, 855
- dual nationality 609
- duress 271, 889, 891, 905
- Dutoit, B. 610
- Dworkin, R. 177–8, 188, 307, 529
- earning capacity 674
- East Germany 351, 356
- Eastern Europe 224–5, 229, 256, 381, 389, 620, 810
- EBRD *see* European Bank for Reconstruction and Development
- ECHR *see* European Convention on Human Rights
- economic integration 390, 396
- economics 2, 82, 84–5, 191–204, 246, 299, 334
  - competitive model of legal rules 191–4
  - and empirical approach to cultural diversity 203–4
  - and institutions 196–7
  - and legal origins thesis 197–201
  - quantitative methods in comparative law 201–2
  - and renewal of law 194–6
- effective assignment 106, 109–11, 117
- effectiveness 108–14, 148, 200, 396, 398, 400, 464
- efficiency 69, 192–6, 210–12, 273, 697, 713, 764
- Einigung* *see* real agreement
- election 56–7, 127, 456, 601, 855
  - right of 47, 56
- embedding, structural 540–41
- employees 43, 158, 165, 253–4, 714, 803, 881
- employment 43, 49, 128, 362, 384, 473, 881
  - contracts 43, 49, 696
- empowerment 701–2
- enforcement 94, 100, 209, 216–19, 557, 739, 763
- England *see* United Kingdom
- enrichment 58, 76, 182, 304, 793, 888, 947–60
  - action 952–3, 959–60
    - general 950–52, 954, 960
  - autonomous unjust 955–6
  - and contract 957
  - and delict/tort 957–8
  - generalizing tendencies 950–51
  - liability 949–53, 958–9
    - core elements 953
  - measure of 960
  - and *negotiorum gestio* 958–9
  - and property 956–7
  - recent comparative studies 948–9
  - remedies 956, 958
  - situations involving more than two parties 959
  - and subsidiarity 951–3
  - taxonomic variations 954–6
- enterprises 109–10, 113, 153, 384, 647, 881, 903
- environment 14, 122, 128, 179, 253–5, 345, 468
- environmental law 79, 457–8, 739, 899
- equal treatment 71, 113, 361–2
- equality 71, 77, 98, 128, 231–2, 318, 941–2

- equitable assignment 107–8, 116
- equitable ownership 184, 652, 703, 927, 933
- equitable remedies 76, 179, 688, 841
- equitable tracing *see* tracing
- equivalence 129, 539–40, 545, 803
  - functional 464, 481, 540, 561–2, 564, 566–8, 574
- Erklärungsirrtum see* declaration
  - mistake
- erreur* 540–41, 579–80, 582–3
- erreur obstacle* 579–80, 582
- estoppel 41, 45–7, 50, 52, 184
- ethnic origin 600, 607
- EU *see* European Union
- European Bank for Reconstruction and Development (EBRD) 396, 400, 653, 730, 785
- European Civil Code 7, 106, 280, 299–310, 324, 335, 348
  - constitutional framework 308–9
  - contract law or civil code 306
  - options 302–5
  - present state of affairs and future prospects 309–10
  - systematization of European private law 307–8
- European Commission 148, 209, 265, 300, 309, 410, 653
- European constitutional law 232–4
- European Convention on Human Rights (ECHR) 145, 227, 232–3, 356, 687–9, 729, 749
- European Convention on International Commercial Arbitration 92
- European Convention on Nationality 600, 602, 609
- European Court of Human Rights 140, 145, 231, 266, 283, 379, 382
- European Court of Justice 25–6, 31, 232–3, 283, 299, 304, 308
- European family law 315–16, 328, 333
- European Group on Tort Law 6–7, 303, 883
- European integration 22, 31, 233, 333, 356
- European Parliament 147–8, 264, 300, 652, 808
- European Union 148–50, 231–3, 256, 264–5, 308–9, 608, 730–31
  - Charter of Fundamental Rights 145, 270, 280–81
  - Commission 148, 209, 265, 300, 309, 410, 653
  - criminal law and procedure 264–6
  - directives 5, 7–8, 264, 299, 366, 720, 856–7
  - European Court of Justice 25–6, 31, 232–3, 283, 299, 304, 308
  - European Parliament 147–8, 264, 300, 652, 808
  - insolvency law 391
  - Insolvency Regulation 388–91, 396, 400
  - Lisbon Treaty 233, 264–5
    - and nationality 608
    - and social security 808–11
  - Treaty on the Functioning of the EU (TFEU) 149–50, 264–5, 308, 730, 744, 808
  - unification of law 513–14
- evaluation 24, 70, 204, 268, 341, 359, 570–71
- evidence
  - oral 433–4, 436–8
  - parol 434–9
- Ewald, W. 67, 314, 331, 334–5
- exchange 96, 213, 217–19, 303, 441, 551, 585–6
  - contracts of 216–17, 441
  - exchange of letters 96
- exclusion, social 808–9
- exclusive jurisdiction 128, 358–9, 451, 544
- exclusive powers 122, 133, 556, 628, 931
- executive branch 160, 357, 467, 469, 472, 475–6, 941
- executive powers 25, 133, 356, 466, 687, 822
- exemplary damages *see* punitive damages
- exemption clauses 771
- expectation right 651–2, 737–8
- expedition 640, 643–4
- expenses 217, 221, 302, 317, 714, 869, 958
- extracontractual liability 306, 877

- extraterritoriality 707–8  
 extrinsic evidence 428, 434–9  
   admissibility 437–9
- Faber, W. 730
- fairness 113, 144, 177, 216, 220, 238, 833
- family courts 452, 470–71, 944
- family law 83, 129, 314–35, 374, 451–2, 596, 683–4  
   better 315, 327, 333  
   comparative 315–16, 324–5, 328–9  
     and comparative law 331–5  
   European 315–16, 328, 333  
   harmonisation of 315, 321, 324, 332  
   method, hypothesis and proof 325–31  
   politics and law 314–25  
   reforms 318–20, 324, 332  
   Sweden 320–21
- family relationships 314, 316, 322, 328, 611, 711
- fault 44–5, 129, 642, 664–5, 716–17, 767–8, 879–81
- feudalism 169–72, 174, 183, 507, 727, 740, 795
- fictitious *traditio* 887, 893–4
- fiducia 740, 928, 930
- fiduciary transfer 651, 739–40
- financial collateral 652, 654–6
- financial institutions 398–9
- Finland 232, 319–20, 339–43, 389–90, 398, 522, 722–3  
   civil and commercial law 341–2  
   court system and law faculties 342
- first instance, courts of 129, 283, 342, 347, 432, 451, 459
- Fisher, A. 674–5, 677
- Flemish Community 127–8
- Flemish Region 127–8
- floating charges 656, 732
- force majeure 523, 577, 754, 768, 839–43, 845–7, 881  
   as bar to specific performance 841–2  
   as basis for duty to renegotiate 842  
   clauses 839, 843, 846  
   and contract avoidance 840–41  
   as defence against claims for damages 839–40
- foreign case law 283, 347, 459, 551, 553, 557, 622
- foreign law 70–71, 85, 248, 266, 552–3, 707–8, 785–7
- foreseeability 768–9, 846, 879
- Forest Stewardship Council (FSC) 163
- formal reasoning 524, 527, 530
- formalism 78, 80–82, 219, 362–4, 366, 532
- formalities 135, 216, 218–19, 524, 526, 612, 628  
   agency/representation 50–51
- forum 70, 77, 100, 387, 703–5, 707–8, 765  
   choice of 70, 149  
   state 261, 708
- France 112–16, 198–200, 344–8, 412–14, 510–11, 746–8, 768–70  
   civil and commercial law 346–7  
   Civil Code 109, 116, 346, 579–80, 582, 626–7, 840–41  
   Constitutional Council 345–6  
   constitutional law 344–6, 693  
   court system and law faculties 347–8  
   legal reasoning 530–31  
   privacy 693–7  
   Senate 345  
   transfer of movable property 892
- Fratcher, W.F. 218, 927, 929
- fraud 94, 433–4, 567, 583, 616, 891
- freedom 133, 231, 289, 670–72, 676–7, 692–4, 778  
   bodily 662, 669–70  
   of contract 159, 421, 512–13, 754, 794, 845, 905  
   of expression 377, 671–2, 676, 690–91, 693–4, 696–7, 850  
   of speech 361, 466, 850
- Freeman & Lockyer v. Buckhurst Park Properties (Mangal) Ltd* 45, 48
- French Revolution 505, 512–14, 530
- frustration 841, 843–4, 847
- FSC *see* Forest Stewardship Council
- functional equivalence 464, 481, 540, 561–2, 564, 566–8, 574
- functionalism 474, 561–4, 703, 706, 708–9, 948
- functionality 23–4, 27

- functions 76, 288, 331–2, 421–2, 544, 562–3, 873–6
- fundamental human rights 466, 650, 705
- Gaius 174
- Gallo, P. 758, 768, 770, 949
- GCC *see* Greece, Civil Code
- general clauses 373, 445, 483, 633, 650, 661, 663
- general contract law 113, 116, 158, 300, 303–4, 309–10
- general enrichment action 950–52, 954, 960
- general right of personality 661, 697
- generic goods 887, 892–3
- Germany 349–67, 412–14, 521–3, 532–3, 636–7, 672–5, 840–44
- Chancellor (*Bundeskanzler*) 357–8
- Civil Code (*Bürgerliches Gesetzbuch* – BGB) 49–53, 354–6, 629–32, 698, 758–9, 762–3, 890–91
- Commercial Code (HGB) 58–9, 114, 355
- comparative law in 365
- Constitution 350, 355–7, 361, 607, 697
- constitutional organs 357–8
- courts 363, 441, 445, 697–9, 737
- court structure 358–9
- Criminal Code 269, 699
- and European law 366–7
- extraordinary courts 359
- Federal Constitutional Court 350, 355–6, 358, 532
- Federal Government (*Bundesregierung*) 357–8
- Federal Parliament (*Bundestag*) 357–8
- history of law 353–6
- Germany and Europe 356
- legislation 355–6
- old Empire and Roman law 353
- Pandectism and ‘legal science’ 353–4
- political unification 354–5
- influence of German law 365–6
- Länder* 354, 357–8, 360
- and its law 349–53
- legal culture 349–52, 531–2
- legal education and legal professions 359–60
- legal reasoning 531–2
- and other legal systems 365–7
- methodology and legal theory 362–5
- objective approach to interpretation 428–9
- ordinary courts 358–9
- privacy 697–700
- Rechtsstaat* 349–52, 355, 357, 360–62
- state organization 356–8
- transfer of movable property 890–91
- Weimar Republic 354, 357, 361
- gifts 218–20, 628, 887, 893
- Glendon, M.A. 67, 69–70, 77, 81, 315–16, 330, 334
- global constitutionalism 223, 226, 898, 903
- global governance 72, 701, 713, 898, 901, 903, 909–10
- globalization 22, 85, 121, 209, 225, 367, 487
- Golden Rule 527, 533, 834
- good faith 46, 51, 113, 220, 413, 441–5, 612
- as standard of interpretation 442–4
- Goode, R. 647, 649, 651, 656, 729, 732, 736
- goods 55–6, 423–5, 626–9, 651, 764–5, 886–7, 892–5
- cultural 458
- governance 157, 164–6, 203, 255, 257, 350, 899
- corporate 69, 83, 157–8, 164–6, 252–3, 255, 398
- global 72, 701, 713, 898, 901, 903, 909–10
- gratuitous promises 218, 222
- Greece 40, 65, 229, 371–5, 393–4, 398–9, 425
- civil and commercial law 373–5
- Civil Code (GCC) 371, 373–4, 425, 442–3
- constitutional law 371–3
- court system and law faculties 375
- Grey v. Pearson* 834
- gross negligence 882
- Grundgesetz see* Germany, Constitution

- guarantees 8, 24, 349–50, 360, 430, 648, 650  
 guardianship 38, 374, 455  
*Hadley v. Baxendale* 768–9  
 Haffner, S. 349  
 Hague Conventions 152, 602–3, 704, 926, 931  
 hardship 445, 842–4  
 Hardt, M. 712  
 harmonization 10–11, 25, 70, 152–3, 265–6, 392–4, 400  
   accident compensation 10  
   civil procedure 149–52  
   international 70–71, 268  
   maximal 720  
   partial 150  
   of procedural law 142, 149–51  
   of tort law 7, 10  
 Harvey, W.B. 217  
 Haslam, P.A. 257  
 Haviltex Formula 429, 432  
 Hayton, D.J. 730, 797, 926–7, 931–2, 934, 936  
 health 241, 289, 409, 668  
   lawyers 13  
 healthcare providers 13  
 Hebrew 449–50, 495  
 Hellwege, P. 949, 957, 960  
 Helsinki 342  
 Hindu law 495–6, 498  
 Hitler, Adolf 354–5  
 Holland *see* Netherlands  
 Holmes  
   M. 287, 291  
   O.W. 218, 764, 874, 898  
 Hong Kong 89, 137, 434  
 House of Lords 173, 176, 295, 297, 427, 790–91, 833  
 House of Representatives 80, 122, 127, 281, 465–6, 855  
 houses 186, 408, 423, 507, 632, 797, 822  
 human capital 198, 201  
 human dignity *see* dignity  
 human rights 231, 350–52, 377–82, 450, 550–52, 605–6, 711  
   abuses 913–14  
   basic 263, 510  
   domestic implementation 380–82  
   European Convention on Human Rights (ECHR) 145, 227, 232–3, 356, 687–9, 729, 749  
   fundamental 466, 650, 705  
   international human rights obligations 377, 381  
   law 252, 377–82, 750, 898, 906–8  
   margin of appreciation 379–80  
   nationality as human right 608–9  
   personality rights as 676  
   and private international law 711–12  
   protection 265, 380–81, 913, 941  
   transnational litigation 913–14  
   treaties 378–9, 381–2  
   universal 378  
   universality v. cultural relativism 377–9  
 human rights obligations 252, 377, 381  
 Hungary 106, 225, 398, 508, 642  
 Husa, J. 491–2, 494, 563, 573  
 hypothecs 544, 652, 683–4, 736  
   *see also* mortgages  
 Ibbetson, D. 181–2, 955  
 ICC *see* International Chamber of Commerce  
 ICESCR *see* International Convention on Economic, Social and Cultural Rights  
 identification 162, 218, 356, 526, 551, 568–9, 571  
 identity 21, 24, 53–5, 234, 301, 675, 901–2  
   right to 672  
 ideologies 137, 197, 320–21, 491–2, 496–7, 530–31, 782  
   political 329, 335, 563  
 IEC *see* International Electrotechnical Commission  
 IFA *see* International Fiscal Association  
 IFC *see* International Finance Corporation  
 ILO Conventions 807–8, 810  
 immaterial property 673–5  
 immovable property 51, 544, 648–9, 652, 656, 729–32, 736  
 immovables *see* immovable property

- impartiality 97, 145
- imperfect representation 54
- implied authority 42–5, 48
- impossibility 758, 762, 841–7, 957
- imprévision* 445, 843–4
- imputability 767–8
- incentives 2, 7, 13, 15, 76–7, 249, 875–6
- income 3, 5, 801–2, 810
  - losses 3–5, 802
  - security 801, 803
- incorporation 248, 425, 444, 552, 687–8
- indemnity principle 413
- independence 97, 126, 145, 262, 450–51, 469, 556
  - judicial 198
- India 143, 200, 224, 253, 256–7, 297, 399
  - labour law 201
- indirect representation 53–4, 58–60
- Indonesia 200, 391, 393, 539, 616
- informal cohabitation 321, 324
- information 240–41, 272–3, 287, 541–2, 640–43, 689–90, 694–7
  - legal 72, 301, 477, 501, 538, 543
  - private 688–9
  - theory of 641–2
- inheritance law 323, 451
- injunctions 172, 179–80, 184–5, 764, 874
- injustice 176, 668–9
  - systemic 351
- inquisitorial model 146, 272–3
- insiders 77–8, 197
- INSOL Europe 396, 400–401
- Insol International 393, 398, 401
- insolvency 8–9, 383–4, 386–9, 393, 395–6, 398, 889
  - EU Insolvency Regulation 388–91, 396, 400
  - international 384–8, 391, 393–4, 397, 400–401
  - law 94, 159, 165, 237, 383–401, 729, 886
    - applicable rules 399–400
    - Central Africa 390–91
    - convergence 392–7
    - European Union 391
    - forms of regulation 388–92
    - guiding approaches to
      - international insolvency law 386–8
    - harmonization through legislation 392–3
    - history of comparative insolvency law 384–5
    - insolvent debtors 385–6, 397–9
    - Latin America 389
    - modelling and guiding 394–5
    - national 396, 400
    - North America 390
    - Northern Europe 389–90
    - principles 395–7
    - principles of domestic law 385–6
    - role players 400–401
    - soft law 393–4
    - South-East Asia 391–2
    - trends 397–401
  - proceedings 113, 384–5, 387, 389, 391, 396, 729
  - representatives 395, 397
  - UNCITRAL Model Law on Cross-Border Insolvency 394–5, 729
    - see also* bankruptcy
- insolvent debtors 385–6, 397–9
- institutional factors 241, 316, 325, 329, 713
- insurable interest, doctrine of 413
- insurance 3–5, 8–9, 11, 14, 408–16, 418–19, 876
  - common characteristics 411–14
  - common classifications 414
  - common principles of insurance
    - contract law 413–14
  - conditions 415, 417, 802
  - as contract, technique and industry 408–11
  - converging orientations 419
  - cultures of 414–17
  - differences and divergence 414–19
  - diverging insurance contract
    - legislation 417–18
  - foreign insurance markets 418–19
  - historical background 411–13
  - law 1, 10, 408–19, 800
    - comparative insurance law literature 411
  - life 413–14, 418
  - marine 409–10, 412



- markets 12, 410, 415, 418
- modern 408–9, 411–12
- non-marine 409, 412
- policyholders 408, 410, 413, 417
- premium tariffs 415–16
- undertakings 391, 409, 415, 419
- underwriting 415–17
- insurers 8, 408, 410, 412–18, 874, 960
  - private 5, 876
- intangible property 108, 735, 738
- integration 22, 356, 390, 410–11, 416, 566, 613–14
  - economic 390, 396
  - European 22, 31, 233, 333, 356
  - legal 30–31, 563
  - market 204, 211
- integrity, physical 289, 414, 662, 667–9, 677
- intellectual property 94, 150, 159, 183, 474, 550, 684
- intent, legislative 527–8, 531–3
- intentions 39, 44, 421–2, 426–8, 438–9, 630, 934
  - hypothetical 441
  - subjective 422, 428, 434, 580
- interdisciplinary approaches 82, 187, 782
- Interessenjurisprudenz* 364
- interest groups 124, 238, 487
- interest-based jurisprudence 364
- interim relief 30, 99–100
  - arbitral 90
- internal market 10, 150, 310, 415–16
- international arbitration 70, 88, 97–8, 794
- International Chamber of Commerce (ICC) 89, 650, 771
- international commercial law 389, 394, 844
- International Convention on Economic, Social and Cultural Rights (ICESCR) 378–9, 806
- International Court of Justice 620, 744, 749, 786
- International Covenant on Civil and Political Rights 145, 270, 378–9
- International Criminal Court 263–4, 271, 273, 620
- international criminal tribunals 263–4
- International Electrotechnical Commission (IEC) 163
- International Finance Corporation (IFC) 199
- International Fiscal Association (IFA) 864
- international harmonization 70–71, 268
- international insolvency 384–8, 391, 393–4, 397, 400–401
- international law 84–5, 382, 600, 786, 854, 906–7, 914–15
  - customary 264, 380, 712
  - general principles of 606–7
  - private *see* private international law
  - public 706, 708, 749, 839, 863, 902 and Russia 785–6 and United States 84–5
- international organizations 213, 226, 401, 780, 867, 901, 912
- international public law 744, 749
- international standards 262, 396, 806
- International Standards Organization (ISO) 163, 255, 258
- International Tax Dialogue (ITD) 867–8
- international trade 104, 106, 198, 394, 444, 487, 729
- international transactions 91, 151, 728, 731, 863, 867
- international treaties 84, 145, 281, 295, 467–8, 786, 829
- internationalization 166, 224, 263, 508
- Internet 263, 296, 363, 517, 712
- interpretation 75, 77–8, 169, 179, 363, 521–2, 531–4
  - better law 431, 433, 437
  - common law 178–9
  - of contracts
    - and admissibility of extrinsic evidence 432–3, 437–9
    - admittance of extrinsic evidence in respect of parol evidence rule 437–8
    - équité* and customs 442
    - good faith as standard of interpretation 442–4
    - integrated writing 434–5
    - interpretation in strict sense 425–31

- interpretation in wider sense 440–45
- negotiations and subsequent conduct of parties 439–40
- parol evidence rule and Romanistic rule of no witnesses against and beyond written contract 434–7
- procedure for oral evidence 438–9
- requirement of writing 433
- statutory precepts 424–5
- suppletive rules and implied terms 422–4
- Supreme Court control 431–2
- definition 421–2
- Dutch ‘Haviltex’ formula and Israeli purposive interpretation 429–31
- Lord Hoffman’s rules 427–9
- objective German approach 428–9
- plain meaning doctrine 426–7
- statutory 826–36
  - authority to interpret 830–31
  - comparative scholarship on 828
  - interpretative criteria 833
  - relative weight 834–5
  - and lawmaking 835–6
  - object 836
  - and other forms of legal interpretation 828–30
  - place in comparative law 827–8
  - rules on 831–3
  - subjective approach 426
- interpretative criteria 832–6
  - relative weight 834–5
- interventionist law 193
- intimate sphere 696, 699
- investments 198, 212, 324, 712, 781
- invitation to make an offer 636–7
- Ireland 433–4, 601, 611
- irrevocable authorizations 51–2
- Islamic law 60, 195, 267, 379, 491, 495, 498
- ISO *see* International Standards Organization
- isolation 327, 331, 428, 493, 827–8, 862
  - policy 464–5
- Israel 2, 199, 224, 449–52, 590, 592–3, 597
  - civil and commercial law 451
  - constitutional law 450–51
  - court system and law faculties 451–2
  - Knesset 450–51
- Italy 40–41, 106–7, 114, 453–60, 626–7, 636–7, 931–2
  - after 1861 unification 454–5
  - civil and commercial law 457
  - Civil Code 109–10, 442–3, 457, 625–9, 631, 639–42, 763
  - Constitution 455–6
  - constitutional law 455–7
  - court system and law faculties 459–60
  - development of Roman law in medieval Italy 453–4
  - and EU law 457–8
  - Senate 456
- ITD *see* International Tax Dialogue
- iure sanguinis*, acquisition 610–11
- ius commune* 31, 37, 65–6, 72, 353, 506–8, 512–15
- ius sanguinis* 610–11, 822
- ius soli* 611
- iusta causa traditionis* 886, 894
- ius unum* 71–2
- Japan 40, 137, 158, 161–2, 164–5, 208, 462–77
  - court structure 469–72
  - Diet 465–8, 475, 477
  - foundational legal principles 463, 466–9
  - history 463–5
  - legal professionals 472–5
  - Meiji Constitution 465
  - role and rule of law 475–7
  - Self Defense Force (SDF) 466, 476
  - shogunate 464–5
- Jessup, P.C. 898, 900–903
- jiaoyi xiguan see* business practices
- Johnston, D. 762, 928, 949, 956, 959–60
- joint execution, rule of 385
- Joliet, R. 208
- Jolowicz, J.A. 140–42, 146, 173–4, 873–4, 880
- judge-made law 362–3
- judicial activism 27, 534, 595–6
- judicial independence 198

- judicial powers 126, 280, 332, 464, 467, 470, 530  
 judicial review 29–30, 83, 135, 185, 228, 345, 746–8  
     types and degree 30  
 judicial scriveners 474–5  
 juridical acts 37–9, 43, 111, 439–40, 895  
     unilateral 43–4  
 juries 77, 132, 144, 171, 173, 271, 720–21  
 jurisprudence 132, 187, 264, 339, 511–12, 594, 749  
     conceptual 339, 364–6  
 juristic persons 667, 677, 930–31  
     personality rights 677–8  
     *see also* legal persons  
 Justinian 174, 453, 506–7, 792, 830
- Kagan, R.A. 161–2  
 Kahn-Freund, O. 69, 316, 550  
 Kenya 200, 605–6  
 kings 170–72, 177, 183, 185–6, 455, 511, 789  
*Kiobel v. Royal Dutch Petroleum* 258, 712, 913  
 Kisch, I. 540  
 Klein, F. 144  
 Klosse, S. 4, 805  
 Knesset 450–51  
 knowledge 22–3, 66–7, 110–11, 187–8, 516–18, 641–3, 722  
     actual 642–3  
     legal 174, 187, 429, 474, 572  
     local 380, 485  
 Koch, B.A. 4, 6, 12, 287, 291, 668–9, 878–81  
*Konsensualkontrakt* 627  
 Koziol, H. 6, 12–13, 287, 291, 668–9, 873–4, 878–83  
*Krell v. Henry* 847
- Laband, P. 40–41  
 labour 254, 256  
     division of 380  
 labour courts 130, 452, 817, 944  
 labour law 123, 187, 279, 282, 335, 451–2, 512–13  
     Australia 121  
     India 201
- Lambooy, T. 252, 256, 258  
 Lando Commission on European Contract Law 303, 566  
 Langbein, J.H. 141–2, 147, 153, 927, 936  
 languages 126–7, 430–31, 501–2, 516–17, 538, 593–4, 750–51  
     legal 538–9, 544, 546, 552, 751, 814  
     minority 681, 751  
     official 121, 132, 137, 279, 814, 820, 852–3  
     source 539–46, 593–4  
 Larroumet, C. 626, 630–31, 635–6, 641, 643  
 late acceptance 640  
 Latin 71, 169, 506, 510, 516, 593  
 law faculties 138–9, 174–5, 347, 451–3, 459–60, 506–7, 557–8  
 law of obligations 123, 181, 183, 237, 282, 306, 841–2  
 law reform 65, 69, 71, 262, 266, 268, 572–3  
 law schools 85, 124, 136, 460, 473, 868–9, 944  
 lay assessors 470  
 LC *see* Lugano Convention  
 legal aid 76, 471, 477  
 legal assignment 107–8, 116  
 legal culture(s) 25, 65, 84, 192–4, 224, 480–88, 492–3  
     criticisms 482–3  
     European 367, 453  
     German 349–52, 531–2  
     national legal cultures and beyond 486–8  
     researching 484–6  
     in sociology of law 480–82  
     using 483–4  
 legal education 67, 72, 85, 359–60, 367, 508–9, 902–3  
     transnational 915–16  
 legal families 61, 200, 289–90, 449, 491–502, 746, 827  
     classification of legal systems 491–4  
     discursive formations 501–2  
     German 371, 555, 620, 681, 684  
     later classifications and developments 497–8  
     orthodox classification attempts 494–7

- problems and prospects 499–500
- legal history 65, 195, 299, 365, 367, 505–18, 915
  - and comparative law 512–13, 517–18
  - European legal learning in history 515
  - great codifications 511–12
  - language of 516
  - natural law 509–10
  - position on Continent and in UK 506–9
  - purists 516–17
  - re-Europeanization of legal scholarship 515
  - in reviews and on the Internet 517
  - road towards great codifications 510–11
  - as teaching subject 515
  - unification of EU law 513–14
  - workshops and summer schools 516
- legal information 72, 301, 477, 501, 538, 543
- legal institutions 198, 201, 366, 481–2, 484–6, 497, 560
  - foreign 784, 928
  - formal 196–7
- legal integration 30–31, 563
- legal knowledge 174, 187, 429, 474, 572
- legal languages 538–9, 544, 546, 552, 751, 814
- legal orders 23–4, 27, 160, 238, 279, 842–4, 846
- legal origins
  - literature 191, 197–201, 203
  - thesis 197–201
- legal ownership 927, 933
- legal parochialism 193
- legal personality 669, 930
- legal persons 39, 375, 383, 683, 874
  - see also* juristic persons
- legal pluralism 464, 710, 898, 909
- legal policy 268, 314–27, 329–33, 335
  - determinants of 327, 334
- legal professions 136, 158, 187, 194, 463, 472–3, 481–2
- legal realism 82, 339, 564, 706, 708
- legal reasoning 81, 177–8, 261, 483, 521–35, 826, 828
  - comparative 65, 70, 72
  - France 530–31
  - Germany 531–2
  - kinds of reasons 523–4
  - kinds of rules 525–6
  - mixed jurisdictions 594–5
  - and precedents 528–30
  - rule-based reasoning 526–8
  - substantive 523, 527, 530, 532, 534
  - substantive and formal 524–5
  - United Kingdom 533–4
  - United States 534–5
- legal relationships 38, 44, 112, 383, 708, 821, 926
- legal science 175, 187, 269, 299, 333, 339, 342
- legal security 647, 649
- legal style 79–80, 482, 492, 497, 782
  - Russia 782
  - United States 80–81
- legal technique 175, 495–6, 763
- legal theory 29, 67, 72, 362–3, 497–8, 750–51, 782–3
- legal translation 538–46, 550, 590, 751
  - consequences for bilingual legal dictionaries 545–6
  - equivalents 539–41
  - subsidiary solutions 541–5
- legal transplantation 200–201, 314, 318, 325
- legal transplants 84, 191–2, 196, 319, 325, 334, 550–53
- legality 27, 29–30, 130, 200, 270, 351, 362
- legislative intent 527–8, 531–3
- legitimacy 24, 28–9, 157, 164, 227–8, 904, 909–11
  - constitutional 457, 459
- Legrand, P. 71, 170, 178, 187–8, 202, 301, 334
- Leistungskondition* 952, 955
- lenders 396, 647, 654
- Lenin 318
- lessees 220, 632, 651, 729, 736, 867
- lessors 632, 729, 867
- letters 96, 109, 429, 434, 541, 641, 698–9
- letters of credit, standby 650
- lex concursus* 387, 390
- lex forum concursus* 387

- lex mercatoria* 159, 738, 903–5
- liability 5–9, 11–13, 181–2, 716–18, 720–22, 768–70, 877–81
- accessorial 271
  - agents 48–9
  - civil 181, 184, 292, 418, 876, 880
  - for conduct of others 881
  - contractual 39, 49, 61, 182, 286, 579, 839–40
  - delictual 286, 288, 596, 663, 816
    - see also* tortious liability
  - enrichment 949–53, 958–9
  - extracontractual 306, 877
  - general principles of 182–3, 950–51
  - limitation of 288, 291, 768
  - personal 55, 385, 875
  - principals 39, 41, 44, 46, 48, 57
  - product 7, 366, 476, 514, 714, 716–23, 856
  - strict 6–7, 567, 665, 671, 716–17, 719–21, 880–81
  - tortious 182, 286, 288, 444, 668, 875–9, 882
    - see also* delictual liability
  - vicarious 39
- life, right to 667–8
- life insurance 413–14, 418
- limited real rights 648, 652, 656, 735, 739
- Lindblom, P.H. 149–50
- Lindenbergh, S.D. 286, 291, 661–2, 664–6, 668, 676
- liquidation 386–7
- liquidators 387, 391, 396–7, 889
- Lisbon Treaty 233, 264–5
- literal rule 71–2, 179, 527, 533, 542, 834
- literal translation 541–2
- Lithuania 425, 555–8, 784
  - civil and commercial law 556–7
  - Civil Code 425, 556
  - constitutional law 555–6
  - court system and law faculties 557–8
- loans 627–8, 647–8
  - for use 627
- local laws 66, 71, 453, 505, 708–9
- locus standi* 29–30
  - see also* access to justice
- Lødrup, P. 320–21
- Lord Chancellors 171–2
- Lord Hoffman's rules 427–9
- loss of nationality 603–6, 609, 615–16
- loss of profits 767
- losses 28, 288–90, 413–14, 581–2, 608–9, 767–70, 873–80
  - actual 767, 770–71
  - affective 667, 677
  - non-pecuniary 3, 5, 8, 10, 286–7, 289, 770
  - pure economic 6, 287, 289–91, 567, 879–80
  - recoverable 291–2
- Louisiana 57, 78–9, 83, 590–91, 594, 597, 930
  - Civil Code 39–40, 43, 61
- loyalty rebates 212
- lucrum cessans see* loss of profits
- Lugano Convention (LC) 152
- lump sum payments 4, 8, 76
- Lupoi, M.A. 142, 928–9, 932, 936
- Lurger, B. 113, 301, 335, 730, 894
- Mabo case* 121
- MacCormick, D.N. 522, 525, 534, 828, 833
- Macgregor, L. 46, 50, 52, 56–8
- McIntosh, D. 287, 291
- macro-comparison 491, 561
- macro-constructs 501–2
- magistrates 124, 272, 451, 814, 817, 824
- mail-box rule 643
- Maitland, F.W. 182, 316
- malpractice, medical 2, 12–15
- mandamus* 185
- mandat* 43–6, 50, 52
- mandataries 37, 40, 43
- manors 464
- manufacturing defects 718–19
- marine insurance 409–10, 412
- marital capacity 321, 326, 332
- marital property 332, 820
- maritime model 415–16
- market economies 237, 332, 396, 683, 810
- market integration 204, 211
- markets 160, 192, 197–8, 237–41, 243, 383, 713
  - common 211, 299, 301, 306, 513–14
  - perfect 237, 239–40

- market value 508, 655, 666, 954  
marriage 133, 320–22, 374, 452, 603, 607, 610–11  
    settlements 218–19  
Martiny, D. 316, 321, 324  
Marxism-Leninism 782–3  
matrimonial property 38, 318, 324, 566, 704–5, 942  
Mattei, U. 69, 84, 191–6, 497–8, 730–32, 735, 770  
Matten, D. 254, 258  
Mattli, W. 163  
maximal harmonization 720  
Max Planck Institute 223, 309, 516, 868–9, 912  
Mayes, D.G. 811  
Mead, P. 4, 287–8, 291  
measurement 202, 396, 568–9  
mediation 88, 135, 148, 415, 471–2, 475, 483  
    procedures 471–2  
medical malpractice 2, 12–15  
Meier, S. 949, 959  
Meijers, E.M. 620–21  
Meiji Constitution 465  
merger control 211  
mergers 211, 435, 591, 780, 856  
    doctrine of merger 56–7  
Merrill, T.W. 734  
Messineo, F. 626–7  
methodologies 79, 85, 362–3, 706, 709–12, 857, 865–6  
    of comparative law 65, 85, 261, 491, 550, 560–74  
    approaches 561–4  
    limits 571–3  
    methodologies used 564–6  
    in comparative law projects 566–7  
    possible blueprints 567–71  
    traditional 703, 709  
Mexico 257, 390, 394, 609, 616, 929  
micro-comparison 491, 561, 566, 568–9  
migrant workers 807–8  
migrants 808–10  
minimum standards 150, 242, 263, 265, 466  
minority languages 681, 751  
mirror-image rule 639  
mirror perspective 314, 317, 325  
Mischief Rule 527, 533  
mistake 179, 182, 271, 436, 540, 577–88, 887  
    and basis of contractual liability 579–80  
    classification 578–9  
    convergent tendencies 586–8  
    mutual 578, 584–5  
    negating consent 580–82  
    nullifying consent 582–6  
    shared 584–6  
    unilateral 586  
mixed jurisdictions 449, 500, 590–98, 789–90, 815, 928–30, 932–4  
    characteristic features 591  
    commercial law 597–8  
    common law penetration 595–6  
    creation of original law 596  
    divisions amongst jurists 592–3  
    founding of system 591–2  
    judges 593, 595  
    judicial institutions 593  
    linguistic factor 593–4  
    precedent and legal reasoning 594–5  
    reception of Anglo-American procedure and evidence 596–7  
model codes 150, 152, 304–5  
model laws 89–92, 94–101, 305, 394–5, 400, 652–3, 729–30  
modernity 315, 326–7, 462  
Moffat, G. 927, 935–6  
monetary relief/remedies 171, 184, 766–71  
money 55, 150, 414, 732, 760–61, 766, 888–9  
    payment of 106, 113, 115, 150, 408, 765, 874  
Montesquieu, C.-L. 228, 314, 316, 329, 744, 784  
Montevideo Convention 603, 608  
Montgomery, J. 717–18  
Moon, J. 254, 257  
motives 217, 355, 364, 578–9, 583–4, 586–7, 643  
movable property 37, 104, 303, 306, 652, 886–7, 893  
Müller-Freienfels, W. 37, 40–42, 59  
multilateralism 706–7, 709–10

- multiple nationality 602, 604, 608–9, 615
- municipalities 126, 139, 340, 373, 455–6, 556, 620–21
- mutual mistake 578, 584–5
- mutualization 409, 411–12
- Nachfrist* 758–9, 841
- NAFTA *see* North American Free Trade Agreement
- nation states 21–2, 31, 323, 486–7, 710, 905–6, 909–10
- unitary 746
- national borders *see* borders
- national languages 339, 516, 593, 614, 852–3
- official 121, 339, 371, 620, 940
- nationality 600–616, 708, 823
- autonomy of states in nationality matters 602–3
- conflict of nationality laws 602–3
- deprivation of 607–8, 616
- dual 609
- European Community law 608
- European Convention on Nationality 600, 602, 609
- function and definition 600
- general principles of international law 606–7
- grounds for acquisition *ex lege* 610–12
- grounds for loss 615–16
- as human right 608–9
- law 600–616
- loss of 603–6, 609, 615–16
- Montevideo Convention 603, 608
- multiple 602, 604, 608–9, 615
- naturalization 542, 603, 607, 613–15
- option rights 612–13
- statelessness 602–7, 609, 611, 613, 615–16
- term 601–2
- and treaties 603–6
- nationalization 198, 365, 730
- natural disasters 4, 8–9, 12, 15
- natural justice 27, 185
- natural law 75, 194, 361, 366, 509–10
- German school 365, 784
- natural persons 383–4, 606, 667
- naturalization 542, 603, 607, 613–15
- necessity, agency of 38
- negative covenants 739
- negligence 6, 181–2, 671, 718, 720–22, 875, 879–80
- contributory 6, 287, 292, 882
- gross 882
- negotiable instruments 107–8, 816, 886
- negotiations 395, 434, 439–40, 458, 475, 487, 629
- negotiorum gestio* 38, 304
- and enrichment 958–9
- Negri, A. 712
- neologisms 443, 542–5
- Netherlands 12–13, 398–9, 481, 510–13, 543, 620–24, 930–32
- civil and commercial law 621–2
- Civil Code 39–40, 47, 49, 56, 301, 620–23, 651–2
- constitutional law 621
- courts 13, 304, 429, 525, 622
- court system and law faculties 623–4
- Haviltex Formula 429, 432
- Hoge Raad 46, 48–9, 525, 623, 731
- protection and pragmatism 623
- Supreme Court 13, 304, 429, 525, 622
- transfer of movable property 893–4
- New York Convention 89, 91–6, 100, 603–4
- New Zealand 121, 388, 652, 689–90, 767, 833
- privacy 689–90
- NGOs 255–6
- Nieper, F. 622
- nineteenth century 65–8, 180
- non-marine insurance 409, 412
- non-monetary obligations 762, 765
- non-monetary remedies 184–5
- non-pecuniary losses 3, 5, 8, 10, 286–7, 289, 770
- non-performance 182, 756, 758–9, 763, 765–9, 771, 843
- see also* performance
- non-possessionary pledges 656
- Nordic countries 5, 51, 321, 339, 341, 495, 849
- see also individual countries*
- Norman invasion 170, 183
- North American Free Trade Agreement (NAFTA) 390

- Northern Ireland 294–5  
 Norway 12, 256, 320–21, 389, 522, 747, 948  
 notification 50, 105, 108–12, 116–18, 630  
 nuisance 172, 181, 183, 186, 668, 687  
 numerus clausus 726–7, 733–40  
 Nußberger, A. 807
- objective approach 48, 428–9, 836  
 objective arbitrability 94  
 objective tests 158, 431, 580  
 objective theory of contract 46, 55, 577, 579–80, 587, 836  
*obligation de résultat* 416, 768  
 obligations 112–15, 441–2, 756–61, 763–4, 840–46, 855–6, 942–3  
     human rights 252, 377, 381  
     international 296, 380, 382, 455  
     law of 123, 181, 183, 237, 282, 306, 841–2  
 OECD countries 200, 255–6, 258, 863  
 offer and acceptance *inter absentes* 37, 216, 625–45  
     acceptance 638–40  
     agreement of parties 626–34  
     moment of contract conclusion 640–44  
     offer 634–8  
         agreement *inter praesentes* 634–5  
         and invitation to make an offer 636–7  
         to the public 635–6  
         revocable and irrevocable 637–8  
     offerees 631–3, 637–44  
     offerors 630–31, 634–5, 637–44  
     official languages 121, 132, 137, 279, 814, 820, 852–3  
 OHADA (Organisation pour l'Harmonisation en Afrique du Droit des Affaires) 390, 653  
 OMC *see* Open Method of Coordination  
 Open Method of Coordination (OMC) 809, 811  
 openness 320, 328, 393, 531, 949  
 option rights, nationality 612–13  
 oral evidence 433–4, 436–8  
     orality 151, 173, 487  
 Organisation pour l'Harmonisation en Afrique du Droit des Affaires *see* OHADA  
 Organization of American States 653  
 Orlitzky, M. 257  
 Örücü, E. 67, 70, 327, 491, 500, 560, 568–71  
 outsiders 77–8, 171, 318, 949  
 Owen, D. 717–19  
 owners 184, 735–6, 738–40, 867, 889–90, 930–31, 959  
 ownership 183, 651–2, 655, 735–40, 886–90, 892–5, 956  
     co- 895  
     equitable 184, 652, 703, 927, 933  
     legal 927, 933  
     right of 651, 655–6, 738, 889  
     as security 651–2  
     transfer of 622, 651–2, 656, 740, 887–8, 894–5
- Padua 453, 460, 506  
 Palmer  
     G.E. 947  
     V.V. 83, 191, 287, 290–91, 500, 572–3, 590–97  
 Panama 585, 929, 934  
 Pandectism 353–4, 364, 366, 371, 455, 852  
 Paraguay 389  
 parents 201, 374, 610–11, 616, 669, 673, 822  
     adoptive 605, 611  
 Paris Congress 315–16, 560  
 Parisi, F. 191, 735  
 parliamentary systems 344, 358, 746, 850, 941–2  
 parliaments 127–8, 178–9, 281, 294–6, 340–42, 371–3, 555–6  
     bicameral 295, 815  
     members of 122, 422, 556, 600, 621, 682, 855  
 parochialism, legal 193  
 parole evidence rule 434–9  
     admittance of extrinsic evidence in respect of 437–8  
     and Art. 1341 of French Civil Code 436–7  
     exceptions 435–6



- negotiations and subsequent
  - conduct of parties 439–40
  - reasonable man test 438
- partial harmonization 150
- partially disclosed agency 53
- partnerships 57, 792, 865
  - same-sex 321, 329
- party autonomy 52, 88–90, 92–3, 97, 765, 770
- Pasternak, V. 542
- patrimonial interests/rights 666, 673, 675
- patrimonial law 303, 306, 308, 622
- patrimony 648, 666, 932, 954, 960
  - see also* assets; property
- payments 107, 113, 116, 150, 422, 651, 955
  - lump sum 4, 8, 76
  - undue 954–5
- peace 129, 459, 782, 806, 943–4
- PECL *see* Principles of European Contract Law
- penalties 184, 770–71
- penalty clauses 770–72
- Pennings, F. 805, 807, 810
- perestroika 782, 787
- perfect market 237, 239–40
- performance 50, 104–7, 114–16, 631, 755–73, 839–47, 954–5
  - specific 50, 76, 179–80, 761–6, 772–3, 841–3, 845–6
  - substantial 757, 759
- Perillo, J.M. 580, 586, 629, 631
- Permanent Court of International Justice 602, 744
- personal injuries 3–5, 8, 182, 287–92, 723, 876, 882
- personal liability 55, 385, 875
- personal privacy 687–90, 692–3
- personal property 173, 627, 654–5, 687, 732, 737
  - security interests/rights 652–3, 655, 658
- personal security 341, 647–50, 654, 656, 658
- personal status 450–52, 708–9, 822
- personalism 706–7, 709
- personality 373, 661–70, 672–6, 693, 697, 737
  - general right of 661, 697
  - harm 665–7, 669, 675, 677
  - human 670, 674
  - legal 669, 930
  - protection 661–3
  - rights 286, 352, 661–77, 687, 698, 873
    - author's personality right 673–4
    - breach of contract or damage
      - to property and personality harm 675–6
    - to creditworthiness and earning capacity 674
    - as human rights 676
    - nature 666–7
    - and patrimonial rights 673–6
    - post-mortem personality protection 677
    - recognition and basis of protection 661–3
    - right to dignity 670
    - right to identity 672
    - right to life 667–8
    - right to name as trade name 675
    - right to physical liberty 669–70
    - right to physical-psychological integrity 668–9
    - right to privacy *see* privacy
    - right to publicity or advertising value of personality interests 675
    - right to reputation 671
    - scope of protection 663–6
- personality rights, juristic persons 677–8
- persuasive precedents 525, 528–9
- Philippines 391, 500, 590–91, 594, 597, 642
- Phillips, J. 717
- physical harm 182, 717
- physical integrity 289, 414, 662, 667–9, 677
- physical liberty, right to 669–70
- physical-psychological integrity, right to 668–9
- PICC *see* Principles of International Commercial Contracts
- Pintens, W. 316, 319, 328
- plain meaning doctrine 426–7
- planned economy 138, 782–3

- pledges 423, 628, 649, 652, 731, 736
  - non-possessory 656
- pluralism
  - constitutional 234
    - legal 464, 710, 898, 909
- Poland 147, 229, 272, 508, 522, 602, 681–5
  - civil and commercial law 683–4
  - Civil Code 684
  - constitutional law 681–2
  - court system and law faculties 684–5
  - Diet 682
  - Senate 682
- police 216, 219, 221, 262, 267, 272, 347
- policing 220–21
- policyholders 408, 410, 413, 417
- political culture 228, 330, 332, 481, 484
- political economy 317, 330–31, 333, 483, 911, 916
- political ideologies 329, 335, 563
- political interests 317, 319, 323–5, 328, 330–31
- political law, rule of 498
- political parties 280, 321, 371–2, 621
- political power 258, 281, 319, 326, 329–30, 333, 354
- political processes 281, 309, 330, 332
- political rights 130, 145, 270, 377–9, 605, 609
- political systems 24, 75, 122, 267, 332–3, 335, 340
- politics 75, 77, 263, 331, 334–5, 381, 706–7
  - and law 314–25
- Pollock, F. 218, 316, 643
- pollutionists 592
- Portugal 10, 40, 229, 506, 508, 611, 637
- positive financial return 257–8
- positive law 187, 228, 349–51, 353, 360, 510, 706
- positivism 350–51, 364
- possessions 108, 116, 183, 600, 735–7, 890, 892–4
  - transfer of 890, 892–3
- post-judgment recourse 283–4
- power
  - political 258, 281, 319, 326, 329–30, 333, 354
  - royal 172, 185, 456, 511
  - state 273, 357, 360, 459, 467, 532, 781
- power of representation 38, 42–4, 58–9
- practitioners 140, 174–5, 187–8, 208–9, 211, 400, 867
  - private 473–4
- pragmatism 177–8, 592, 623, 857
- precedence 356, 381, 533, 780
- precedent-based reasoning 528
- precedents 78, 175–7, 362, 468–9, 524–6, 528–34, 594–5
  - binding 525, 529–30, 534
  - common law 175–6
    - and legal reasoning 528–30
    - mixed jurisdictions 594–5
    - persuasive 525, 528–9
- predictability 385, 726, 734
- prejudice 60, 72, 327, 552, 808
- premium tariffs 415–16
- prerogative writs 185
- primacy 165, 233, 325, 341, 511–12, 705, 711
- primary victims 5, 291
- principals
  - liability 39, 41, 44, 46, 48, 57
  - undisclosed 41, 54–9, 61–2
- Principles of European Contract Law (PECL) 59–60, 106–7, 111–12, 303–5, 587–8, 760, 765–6
- Principles of International Commercial Contracts (PICC) 587–8, 760–61, 765–6, 769, 771, 773, 839–40
- privacy 266, 270, 661–2, 667, 672–3, 676–7, 687–99
  - Australia 689–90
  - breach of 687, 689–90
  - Canada 692–3
  - English common law 687–9
  - France 693–7
  - Germany 697–700
  - interests 687–8, 691–2, 696
  - New Zealand 689–90
  - personal 687–90, 692–3
  - protection of 459, 672, 693, 698–9
  - rights 690–91, 694, 696, 711
  - torts 689–91
  - United States 690–92
- private information 688–9
- private insurers 5, 876
- private interests 157, 531, 706–7, 712

- private international law 88, 152, 328, 384, 389–91, 701–14, 756  
 American methodological revolution 706–7  
 and comparative law 701  
 empire 712–14  
 and human rights 711–12  
 inadequacies of European contemporary theory 709  
 interactions and continuity in borrowing 706  
 limited novelty of ‘new learning’ 707–8  
 methodology and epistemology 706–10  
 norms beyond the state 710–11  
 structure and axiology 703–5  
*see also* conflict of laws
- private law 76–9, 246–51, 299–305, 307–9, 362–5, 745–8, 814–16  
 uniform 249–51
- private life 688, 692, 698  
 private practitioners 473–4  
 private sphere 591, 698–9, 706, 709  
 privatization 5, 160, 658, 730, 905, 907  
 privity 717–18  
 of contract 53–4  
 Privy Council 297
- procedural harmonization *see* harmonization, of procedural law
- procedural justice 28–9  
 procedural law 141, 143, 149–50, 263, 266, 273, 384  
 procedural systems 143, 147, 149, 153, 267, 597  
 procuration 42–3, 49  
 product liability 7, 366, 476, 514, 714, 716–23, 856  
 alternatives 723  
 categories of defects 719  
 defectiveness 718–21  
 development risks defence 716, 721–2  
 European reform 717–18  
 and other heads of liability 720  
 legal context 722–3  
 reform and policy articulation 718–19  
 United States 717, 719  
 product liability, liable parties 719–20
- product safety 76, 458  
 profits, loss of 767  
 prohibition clauses 113–15  
 promisees 218–21, 762  
 promises 216–22, 350, 408, 421, 435, 625, 767  
 contractual 625, 764  
 gratuitous 218, 222  
 promisors 217–18, 220–21, 762  
 proof 13, 112, 150, 331, 436–7, 643, 768–70  
*see also* evidence
- property 181–4, 640–41, 647–9, 726–40, 926–7, 955–6, 959–60  
 common law 183–4  
 common law and civil law 727–8  
 damage 3–5, 8–9, 12, 675  
 and enrichment 956–7  
 immaterial 673–5  
 immovable 51, 544, 648–9, 652, 656, 729–30, 736  
 intangible 108, 735, 738  
 law 58, 60, 82–3, 183–4, 655, 726–32, 737–8  
 comparative 727  
 marital 332, 820  
 matrimonial 38, 318, 324, 566, 704–5, 942  
 movable 37, 104, 303, 306, 652, 886–7, 893  
 numerus clausus 726–7, 733–40  
 objects of property rights 731–2  
 original acquisition 733  
 personal *see* personal property rights  
 rights 121, 183–4, 194, 198, 289, 726–39, 912  
 objects of 731–2  
 recognized number 735–7  
 towards uniformity 728–31  
 transfer of 246, 641, 727, 731, 929  
 trust 927, 929, 932–5
- proportional representation 281, 682  
 prosecutors 267, 271–2, 360  
 public 267, 272, 359, 471–5  
 Prosser, D. 716, 718  
*prouver contre l’écrit* 434  
*prouver outre l’écrit* 434  
 Prussia 143, 354–5, 683  
 public administration 372, 469, 505, 558, 747, 910

- public authorities 7, 11, 130, 209, 688, 747–8, 754–5
- public interest 26, 29, 94, 157, 164, 379, 689–90
- public international law 706, 708, 749, 839, 863, 902
- public law 21, 140, 165–6, 185, 223, 500, 744–51
  - common law 185–6
  - comparative 500, 744, 746, 748–51
  - comparative methodology 750
  - comparing national legal systems with supranational and international legal systems 748–9
  - contribution of comparative public law to issues of legal families, legal transplants and legal cultures 746–7
  - core principles 750
  - international 744, 749
  - language issues 750–51
  - shifting boundaries 747–8
- public policy 94, 100, 422, 613, 703, 705, 771
- public power 22–3, 25–6, 225
- public prosecutors 267, 272, 359, 471–5
- public sphere 591–2, 699, 712
- publicity 109–11, 655–7, 675, 690, 694–5, 697–8, 726
  - agency 52–3
- Puerto Rico 83, 500, 590–91, 597
- punishment 81, 137, 266, 270, 288, 352, 379
- punitive damages 76, 665, 723, 767, 874
- purchase prices 56, 647, 651, 737, 893–4
- pure economic losses 6, 287, 289–91, 567, 879–80
- purposive interpretation 179, 429, 527
- putative risks 409, 417
  
- qualifications 57, 252, 359, 396, 401, 583–4, 631–2
- quantitative methods 201–2
- quasi-contract 595
- Quebec 57, 132, 134–6, 500, 544, 590–91, 930
  
- Civil Code 43, 49, 53, 57, 132, 134, 630
- race 316, 494–5, 607
- Radbruch, G. 350
- ratification of unauthorized acts 50
- ratio decidendi* 176, 294, 296, 527, 529–30
- rationalist theory 463, 476
- real agreement 890, 894–5
- real contracts 626
- real rights 138, 647–8, 684, 726–40, 886, 926
  - closed number of 733, 738
  - limited 648, 652, 656, 735, 739
  - new 737
  - see also* property
- real security 104, 383, 647–9, 651–8, 726
  - limited real rights 652
  - towards a uniform real security right 652–4
- realism, legal 82, 339, 564, 706, 708
- Realkontrakt* 627–8
- Reallast* 740
- reasonable man test 427, 429, 438
- reasoning
  - formal 524, 527, 530
  - precedent-based 528
  - rule-based 525–8
  - substantive 524, 527, 530, 532–5
- rebates, loyalty 212
- receivables 106, 116, 729
- reception
  - of Roman law 83, 170, 173, 508, 727
  - theory of 642–3
- Rechtsfortbildung* 835–6
- Rechtsstaat* 349–52, 355, 357, 360–62
- reciprocity 204
- recognition 384, 661–3, 703–5, 711–13, 728–32, 790, 950–51
- recourse 5, 149, 232–3, 269, 428–9, 524, 857–8
  - post-judgment 283–4
- redistribution of wealth 243, 317
- redress, symbolic 668–9
- referenda 229–30, 456, 682, 778
- reforms 137, 147–8, 150–51, 317, 323, 457–8, 718

- constitutional 83, 225, 340, 345
- legislative 324, 477, 571, 732
- refugees 603, 613, 615
- regional laws 225, 456, 821, 824
- regional regulation 388–9, 391–2
- regions 126–8, 130, 179, 296, 455–6, 781, 821
  - autonomous 137, 139, 821
- regulation 14, 76–8, 160, 164–6, 308–10, 391–2, 710–11
  - commercial 157, 159–61, 163–6, 252–3, 647, 898
  - regional 388–9, 391–2
- regulators 157, 160, 162, 164, 243
- regulatory capitalism 162, 898
- rei vindicatio* *see* revindication
- Reid, K.G.C. 590, 596, 736, 739–40, 790, 793, 815
- reinsurance 12, 409–10
- reliance 45–6, 50–51, 115, 172, 209, 580–82, 586–7
  - detrimental 596
  - doctrine of 45, 48
- relief, substitutionary 755, 766, 772
- religion 133, 316, 324, 361, 377, 466, 493–4
- religious law 267, 451, 493, 495, 501, 829–30
- remedies
  - for breach of contract 754–73
    - monetary relief 766–71
    - specific performance 761–6
    - termination and restitution 756–61
  - common law 688–9
  - enrichment 956, 958
  - equitable 76, 179, 688, 841
  - monetary 171, 184
  - non-monetary 184–5
- renegotiation 839, 842–3, 845–6
  - force majeure as basis for duty to renegotiate 842
- rent 220, 847, 943
- representation 37–62, 281, 471, 474, 501, 580, 701–2
  - abstractness in contemporary law 41–3
  - actual authority *see* actual authority and agency 37–8
  - agent's liability where acting without actual authority 48–50
  - apparent authority *see* apparent authority
  - consensual 38, 42–3, 47
  - and consensual and legal 38–9
  - convergent tendencies 61–2
  - development of representation and agency as autonomous concepts 39–41
  - direct 37, 895
  - formalities 50–51
  - imperfect 54
  - indirect 53–4, 58–60
  - irrevocable authorizations 52
  - legally fixed authorizations 51–2
  - partially disclosed agency 53
  - power of 38, 42–4, 58–9
  - proportional 281, 682
  - publicity principle 52–3
  - ratification of unauthorized acts 50
    - undisclosed 54, 58
  - undisclosed principal doctrine *see* undisclosed principal doctrine
  - vicarious liability 39
- representatives 40, 80, 122, 126–7, 281, 465–6, 855
  - insolvency 395, 397
- repudiation 200
  - anticipatory 759–60
- reputation 314–15, 460, 662, 676–8, 697, 944
  - right to 671
- rescission 172, 179, 182, 184, 581, 584
- residence 614, 822
- residential purposes 728–9
- responsibility 22, 77, 157, 253–4, 357, 581, 803
- restitution 52, 183–4, 306, 760–61, 947, 955–6, 958–9
- retention of title 651–2, 731, 736
- retroactive effect 760–61, 772, 887–8, 890
- revindication 736, 888–9, 956
- revocability 637, 644
- revocation 52, 472, 475, 637–8, 641–4
- Reynolds, F.M.B. 38–9, 42, 44–7, 49–50, 52–7, 545
- Rheinstein, M. 67, 69–70, 493, 552

- Riddall, J.G. 926–7, 933, 935  
 right to dignity 670  
 right to identity 672  
 right to life 667–8  
 right to physical liberty 669–70  
 right to physical-psychological integrity 668–9  
 right to reputation 671  
 rights of succession 704–5  
 risks 1–2, 408–9, 413–15, 417, 641–2, 845–6, 880–81  
     development 721–2  
     insured 802  
     putative 409, 417  
*Roe v. Wade* 76, 692  
 Roman emperors 353, 507, 514  
 Roman-German law 493, 500  
 Roman law 65, 169–70, 173–4, 353, 505–10, 512–13, 516–17  
     classical 37, 509  
     glossators 507  
     reception 83, 170, 173, 508, 727  
     sources 85, 517  
 Romania 388, 392, 394, 785  
 Romansh 852–3  
 Rome I Regulation 105, 709–10  
 Rovaniemi 342  
 royal power 172, 185, 456, 511  
 rule of law 22–3, 27–8, 75, 227–8, 231, 233, 778  
 rule-based reasoning 526–8  
 Russia 84, 399, 508, 777–87  
     characteristics of law 778–83  
     comparative law in 786–7  
     Constitution 778–80, 782, 786  
     Federation and legal plurality 780–81  
     influence of foreign law on 784–5  
     influence on foreign law 785  
     and international law 785–6  
     legal doctrine 782–3  
     legal institutions 781–2  
     legal style 782  
     and other legal systems 783–7  
     role of law 777–8  
     sources of law 778–80  
     Soviet *see* Soviet Union  
     Tsarist 318  
*Rylands v. Fletcher* 183  
 Rynes, S.L. 257  
 Sacco, R. 67, 334, 493, 497, 755  
 safety 241, 717–18, 721, 816  
     product 76, 458  
 Sagaert, V. 728–9, 732, 734, 740  
*saiban'in* 470–71  
 Salais, R. 811, 905  
 sale  
     contracts of 422, 728, 887–9  
     power of 184, 649  
 Sale of Goods Act 183, 296, 341, 423, 764, 892–3, 895  
 sales law 300, 303–4, 309, 718  
 same-sex partnerships 321, 329  
 Sarcevic, P. 540–42, 545  
 Saudi Arabia 377  
 Savigny, C.F. 300, 353, 364, 578, 708, 852, 886  
 Scandinavian countries 232, 320–21, 849  
     *see also individual countries*  
 Schäfer, F.L. 949  
 Scheltema, M.W. 949, 954  
 Schlechtriem, P. 840, 843, 948–9, 952  
 Schlesinger, R.B. 69–70, 492, 564, 567, 636–8, 640, 762–3  
 Schmidt, F.L. 257, 320, 391, 564  
 Schnitzer, A.F. 495–6  
 Schoukens, P. 805, 810  
 Schrage, J.H. 506, 515, 949, 952, 960  
 Schwarze, J. 22–7, 31  
 Scotland 294–5, 590, 592–3, 597, 789–97, 891–2, 929  
     transfer of movable property 891–2  
 Scotland Act 295, 794–5  
 Scottish Law Commission 439, 794, 796  
 Scottish Parliament 794–5  
 SDF *see* Self Defense Force  
 secondary victims 291  
 secured transactions 108, 649, 652–3, 730  
 security  
     interests *see* security, rights  
     ownership as 651–2  
     personal 341, 647–50, 656, 658  
     real 104, 383, 647–9, 651–8, 726  
     rights 108, 111, 183, 648–9, 653–6, 730–33, 735–6  
     undisclosed 656–7  
 Self Defense Force (SDF) 466, 476

- sellers 221, 246–7, 249, 374, 651,  
 887–9, 893  
 Senate 133  
 separation of powers 80, 84, 227–8,  
 362, 466–7, 535, 556  
 servitudes 735–6  
 settlements 91, 99, 463, 472  
 settlors 704, 926, 929  
 shared mistake 584–6  
 shareholders 158, 165, 200, 253–4, 415  
 sheriffs 171, 793–5  
 Sherman Act 208–9, 212  
*shiho shoshi* see judicial scriveners  
 shogunate 464–5  
 shop windows 636  
 sickness 800, 802–3  
 silence 595, 631–3, 829  
 silent consent 631–2  
 similarity of solutions 561–2, 772  
 slander 671  
 Smith, L. 734  
 Smith, T.B. 891  
*Smith v. Hughes* 580, 587  
 social change 75, 319, 327, 481  
 Social Democrats 320, 323  
 social exclusion 808–9  
 social inclusion 809, 811  
 social norms 195, 197, 203–4, 254  
 social protection 800–803, 808, 811  
 social security 1, 7–9, 11, 14, 24, 76,  
 800–811  
     academic approaches to comparative  
     social security law 804–6  
     and accident compensation 4–5  
     comparative law 801, 804, 809  
     comparison of systems for policy  
     reasons 804  
     and Council of Europe 807–8  
     development 802–3  
     EU law 808–11  
     recent extensions of scope 803–4  
     schemes 800, 804–5, 809  
     scope 801  
     supranational sources of social  
     security law 806–7  
     systems 3–5, 7, 803–4, 807–8  
 social welfare 127, 243, 254, 359  
 socialist law 267, 496–7, 499, 787  
 sociology 85, 202, 334, 899, 906  
     of law 486, 497, 499  
 soft law 160, 255, 392–4, 399–400, 771,  
 809, 905–6  
 solicitors 82, 136, 296, 791–2  
 solidarity principle 802–3  
 source language 539–46, 593–4  
 sources of law 66, 72, 134, 194, 362–3,  
 497, 779–80  
     assignment 105–7  
     Russia 778–80  
     United States 77–9  
 South Africa 57–8, 377, 590–91,  
 733–4, 814–18, 929–30, 934–5  
     constitutional law 382, 553, 815–16  
     court system and law faculties  
     817–18  
     private law and commercial law  
     816–17  
     Senate 815  
 sovereignty 171, 305, 333, 381, 465–6,  
 514, 591  
 Soviet Russia 783  
 Soviet Union 332, 480, 498–9, 555,  
 777–9, 783, 785–6  
 Spain 6, 60, 229, 329, 412, 590–91,  
 820–25  
     civil and commercial law 823–4  
     Civil Code 442, 607, 626, 820, 823  
     constitutional law 821–3  
     court system and law faculties 824–5  
     Senate 822  
 specific performance 50, 76, 172,  
 179–80, 761–6, 772–3, 845–6  
     force majeure/supervening events as  
     bar to 841–2  
 specification 194, 733  
 specificity 486, 655, 657, 726–7, 887,  
 892, 895  
 spouses 374, 457, 525–6, 604, 607, 615,  
 673  
     surviving 704–5  
 stability 68, 175–6, 394, 487  
 stakeholder interests 166, 256  
 stakeholders 158, 164–5, 227, 253, 397,  
 513, 714  
 standards 97, 136, 144, 163, 232,  
 255–6, 806–8  
     international 262, 396, 806  
     minimum 150, 242, 263, 265, 466  
     substantive 350, 360–61, 366, 524  
 standby letters of credit 650

- state power 273, 357, 360, 459, 467, 532, 781
- statelessness 602–7, 609, 611, 613, 615–16
- Statute of frauds 433
- statutory interpretation *see* interpretation
- Steed, W. 349
- stichting* 930
- Stiftung* 931
- Storme, M. 142, 149–51
- strict liability 6–7, 567, 665, 671, 716–17, 719–21, 877
  - tort 880–81
- structural embedding 540–41
- subjective approaches 426, 836
- subjective arbitrability 94
- subjective intentions 422, 428, 434, 580
- subjective rights 29, 180, 361
- subjective theory 580, 584, 836
- subrogation 109, 413, 874, 958
- subsidiarity 308, 357, 382, 951–3
  - and enrichment 951–3
- subsidiary law 453, 507
- substantial performance 757, 759
- substantive law 93, 106, 141–3, 149, 181, 711, 722
- substantive legal reasoning 523, 527, 530, 532, 534
- substantive reasoning 524, 527, 530, 532–5
- substantive standards 350, 360–61, 366, 524
- substitutionary relief 755, 766, 772
- subsumption 364
- succession 83, 134, 306, 346, 596, 683–4, 704–5
  - rights of 704–5
- successors 134, 150, 353–4, 366, 453, 506–7, 509
- Summers, R.S. 80, 300, 443, 522, 524, 533–5, 828
- supervening events 445, 577, 754, 839–47
  - as bar to specific performance 841–2
  - cases 847
  - and contract avoidance 840–41
  - and contractual provisions to the contrary 845
  - foreseeable 845–6
  - groups of cases 844
  - limits to effects 844–7
  - notions 842–4
  - self-induced 846–7
- supervisory authorities/bodies 380, 414–17
- suppletive rules 422, 424, 441, 756
- suppliers 113, 158, 192, 240, 243, 253–4, 719–20
- supranational systems/institutions 23, 25, 84, 748, 771
- surety 648, 650
- surviving spouses 704–5
- Swadling, W. 726, 734, 736, 739
- Sweden 5, 319–21, 339–42, 389–90, 522, 602, 849–51
  - civil and commercial law 850–51
  - constitutional law 850
  - court system and law faculties 851
  - family law 320–21
- Switzerland 51, 325–7, 632–4, 636–7, 672–3, 768–70, 852–8
  - cantons 615, 852–8
  - civil and commercial law 855–7
  - Civil Code 325–6, 852, 856–7, 940, 942
  - constitutional law 853–5
  - court system and law faculties 857–8
  - Senate 855
  - silence in response to offer 632–4
- syllogism 176–7, 188, 363, 525
- symbolic redress 668–9
- systematization 339, 491–2, 494, 727
- systemic injustice 351
- talion 877
- tariffs 415–16
  - premium 415–16
- tax law 123, 128, 243, 451, 816, 828, 862–9
  - Cahiers de droit fiscal international* 864–5
  - comparative 862–6, 868
  - descriptive material 866
  - general books 865–6
  - international organizations 867
  - practitioners 867
  - resources 868–9
  - specific studies 866–7



- teaching and research 868
  - World Tax Series 864
- taxation 122, 160, 243, 792, 863–5, 867
  - international 868
- taxes 475, 558, 803, 862–4, 867, 869
- taxonomy 68, 71, 170, 492, 495–6, 498, 954–5
- Taylor v. Caldwell* 847
- telecommunications 96, 161, 239
- tenants 183, 435, 444
- termination 42, 395, 427, 755–63, 766, 772–3, 841
  - mechanics of 758, 772
  - retroactive effects of 761, 772
- territorialism 706–7
- territoriality 387, 708
- terrorism 2, 10, 12, 15, 264
- Terry, N. 717, 721
- tertium comparationis* 561
- testamentary executors
  - (*Testamentsvollstrecker*) 931
- testators 930–31
- TFEU *see* Treaty on the Functioning of the EU
- Thatcher, Margaret 322, 329
- third parties 37–8, 40–61, 108–9, 290, 654–6, 726, 734
- Third World Approaches to International Law (TWAIL) 912
- Thuronyi, V. 863, 865, 867–9
- Tipke, K. 869
- title 41, 100, 107–8, 183, 612, 654, 735–6
  - divided 927–9, 933
  - retention of 651–2, 731, 736
- tort 3–6, 8–11, 49–50, 181–4, 286–7, 289–91, 689–91
  - contributory negligence 882
  - damages 286–98
  - defences 881–2
  - and enrichment 957–8
  - European Group on Tort Law 6–7, 303, 883
  - law 3–8, 10–14, 183, 288, 303–4, 661–3, 873–83
    - aims 873–4
    - definition 873
    - elements 878–82
    - European 6–7, 303, 839, 882–3
    - functions 288–9, 874–5
    - further general conditions of liability 879
    - grounds for liability 878
    - harmonization 7, 10
    - history 877
    - interests 875–6
    - protected interests 878–9
    - relationship with social and private insurance law 876–7
    - liability for conduct of others 881
    - negligence 879–80
    - privacy 689–91
    - strict liability 880–81
    - systems 7, 9–10, 13
  - tortfeasors 5, 839, 873–4, 876–81
    - potential 875
  - tortious liability 182, 286, 288, 444, 668, 875–9, 882
    - see also* delictual liability
  - tracing 182, 652, 728, 732, 734, 869, 957
  - trade 418, 426, 487–8, 597, 712, 874
    - international 104, 106, 198, 394, 444, 487, 729
  - trade names 666, 675
  - traditio*, fictitious 887, 893–4
  - transaction costs 149, 193–6, 310, 706, 756
  - transactions 45, 54–5, 211–12, 428–9, 577–9, 631–2, 867
    - commercial 148, 159, 251, 375, 644, 684, 730
    - international 91, 151, 728, 731, 863, 867
    - secured 108, 649, 652–3, 730
  - transfer 107, 109–11, 114–15, 651–2, 729–32, 886–95, 954–6
  - fiduciary 651, 739–40
  - of movable property
    - Dutch system 893–4
    - English system 892–3
    - French system 892
    - German system 890–91
    - importance in insolvency 889
    - main systems 886–7
    - practical differences between causal and abstract systems 887–8
    - Scots system 891–2
    - under DCFR 894–5

- of ownership 622, 651–2, 656, 887–8, 894–5
- of possession 890, 892–3
- of property 246, 641, 727, 731, 929
- systems 886–7, 890–91, 894–5
- valid 886, 890, 892–3
- transferability 69, 104, 675
- transferees 739, 889–90, 894–5
- transferors 739, 889–90, 894–5
- transitional justice 351, 908
- translation 496, 538–46, 551–2, 568–9, 571, 751, 868
  - legal 538–9, 541, 543, 545, 550, 590, 751
  - literal 541–2
  - word-for-word 542
- translators 449, 538–41, 543–5, 751
- transnational constitutionalism 908–10
- transnational law 70, 72, 157, 252, 299, 377, 898–916
  - administrative law 910–12
  - beginnings 900–903
  - comparative constitutional law and transnational constitutionalism 908–10
  - corporations 905–6
  - human rights law and transnational anthropology 906–8
  - lex mercatoria* 159, 738, 903–5
  - positionings 898–900
  - transnational human rights litigation 913–14
  - transnational legal education 915–16
  - transnational legal history and societal memory 914–15
- transparency 105, 352, 371, 469, 541, 543, 656
- transplantation 198, 319, 325, 552, 863
  - legal 200–201, 314, 318, 325
- transplants 21, 24, 69, 196, 200, 262, 323–4
  - thesis 314, 318, 322–5, 331
- treaties, international 84, 145, 281, 295, 467–8, 786, 829
- Treaty on the Functioning of the EU (TFEU) 149–50, 264–5, 308, 730, 744, 808
- Treitel, G.H. 221, 577–8, 580–81, 584–6, 759–61, 766–9, 840–44
- Trento Common Core of European Private Law 566, 730
- trespass 181–3, 186, 665, 687
- Treuhand* 928, 931
- triers of fact 271–2
- trover 172, 181
- trust property 927, 929, 932–5
- trustees 184, 284, 389, 397, 734, 926–30, 932–6
- trusteeship 929, 934
- trusts 184, 192, 204, 703–4, 728–30, 734, 926–36
  - basic elements 933–5
  - beneficiaries 927–9, 933–5
  - breach of trust 933
  - in civil law and mixed jurisdictions 928–30
  - commercial 567, 730
  - as common law institution 927–8
  - law of 192, 304, 701, 791, 797, 926–36
    - challenges and trends 935–6
  - trust funds 183, 932, 934
  - and trust-like institutions in continental Europe 930–33
- Tsarist Russia 318
- Tunc, A. 9
- Turkey 40, 233, 325–6, 366, 393, 616, 940–45
  - civil and commercial law 942–3
  - Civil Code 940, 942
  - constitutional law 941–2
  - court system and law faculties 943–5
  - Grand National Assembly 941
  - Yargıtay* 943–4
- Turku 342
- TWAIL *see* Third World Approaches to International Law
- Typenfizierung* 734, 738, 740
- Typenzwang* 734, 737, 740
- UCC *see* Uniform Commercial Code
- ulema* 326
- UN *see* United Nations
- unauthorized acts 41, 47, 49–50, 55
- uncertainty 12, 24, 28, 97, 151, 314, 436
  - see also* certainty

- UNCITRAL (United Nations  
 Commission on International  
 Trade Law) 90, 386, 394–5, 653,  
 729, 771  
 Convention on the Assignment of  
 Receivables in International  
 Trade 106–7, 111–12, 115, 117  
 Model Law on Cross-Border  
 Insolvency 394–5, 729  
 underwriting 415–17  
 undisclosed agency 53, 57, 59–60  
 undisclosed principal doctrine 41,  
 54–9, 61–2  
 civilian counterparts 57–60  
 election and merger 56–7  
 undisclosed representation 54, 58  
 undue payments 954–5  
 unemployment 198, 409, 800–802,  
 804–5  
 unfairness 185, 219–22, 242  
 UNIDROIT 105, 107, 111, 145, 151,  
 566  
 Convention on international  
 interests in mobile equipment  
 653  
 Factoring Convention 106–7,  
 111–12, 114–15, 117  
 Principles of International  
 Commercial Contracts 107,  
 425, 431, 433, 440, 445, 587  
 Uniform Commercial Code (UCC) 78,  
 108–9, 116, 220, 639, 652–4, 656  
 unilateral mistake 586  
 unitary nation states 746  
 United Kingdom 142–4, 146–7,  
 169–70, 186–7, 218–20, 522–3,  
 789–92  
 constitutional law 294–5  
 England and Wales 294–8  
 civil and commercial law 295–6  
 court system and law faculties  
 296–8  
 transfer of movable property  
 892–3  
 House of Lords 173, 176, 295, 297,  
 427, 790–91, 833  
 Human Rights Act 178–80, 186,  
 227, 295, 382, 687–8, 795  
 legal reasoning 533–4  
 Lord Chancellors 171–2  
 Northern Ireland 294–5  
 privacy 687–9  
 Privy Council 297  
 Sale of Goods Act 183, 296, 341,  
 423, 764, 892–3, 895  
 Statute of frauds 433  
 United Nations 145, 258, 356, 378–9,  
 394, 606, 806  
 Commission on International Trade  
 Law *see* UNCITRAL  
 United States 11–12, 75–85, 161–6,  
 208–9, 211–13, 521–3, 719–23  
 antitrust authorities/rules 209,  
 213  
 characteristics of law 77–82  
 comparative law in 85  
 Constitution 75, 77–8, 80, 84, 228,  
 230  
 federal system and plurality of law  
 79  
 House of Representatives 80, 122,  
 127, 281, 465–6, 855  
 influences of foreign law 82–3  
 influences on foreign law 83–4  
 and international law 84–5  
 legal actors 80  
 legal reasoning 534–5  
 legal style 80–81  
 and other legal systems 82–5  
 legal thought 81–2  
 privacy 690–92  
 product liability 717, 719  
 role of law 75–7  
 Senate 80  
 Sherman Act 208–9, 212  
 sources of law 77–9  
 Supreme Court 258, 262, 595, 691,  
 749  
 Universal Declaration of Human  
 Rights 377–8, 608, 800, 806  
 universalist approach 562  
 universality 21, 377, 387–9, 711  
 unjustified enrichment *see* enrichment  
 Uruguay 150, 257, 389  
 USA *see* United States  
 usury 891  
 Uzbekistan 632, 637  
 validity 41, 94–5, 105, 110, 325, 331,  
 887–8

- van Boom, W.H. 6, 10, 287, 290–91, 879–80
- Van den Bergh, R. 7, 10, 191–2, 195, 210, 507, 509–10
- Van Gerven, W. 6, 286–90, 300, 308, 661–2, 664–5, 667–70
- Vanderlinden, J. 67–8, 493, 498
- Vanwinckelen, K. 316, 319, 328
- Verfügungsgeschäft* 110–11, 117
- vested rights 706–7
- vicarious liability 39
- victims 1–4, 7–14, 76, 667–9, 873–4, 876–7, 881–2
- comatose 667–9, 677
- primary 5, 291
- secondary 291
- Vienna Conventions 604
- Vogenauer, S. 522, 530–35, 826, 828–31, 833, 835–6
- void contracts 306, 888, 892
- voidness 41, 891
- von Jhering, R. 40, 354, 364
- Vonk, G. 810
- von Liszt, F. 263
- Von Maydell, B. 807, 810
- Waddams, S. 177, 188
- Wales *see* United Kingdom
- Walloon Region 127–8
- Walmsley, A. 614–15
- Warendorf, H. 622
- warranties 49, 53, 418, 435, 717, 759, 767
- Watson, A. 69, 175, 314–15, 318–19, 326, 331, 334
- Watts, P. 38–9, 42, 44–7, 49–50, 52–7, 177
- wealth 69, 217, 237, 297, 323, 409, 750
- redistribution of 243, 317
- weddings 694–5
- wedlock *see* marriage
- Weimar Republic 354, 357, 361
- welfare 466, 515, 605, 608, 623, 712, 793
- policy 324, 466
- social 127, 243, 254, 359
- state 166, 255, 321, 623, 877, 910
- Wertheimer, E. 717
- Westerveld, M. 805
- Weston, M. 540–41
- Weterings, W.C.T. 14
- Willekens, H. 330
- windfalls 57, 705
- witnesses 143, 173, 272, 433–4, 437–9, 596
- women 232, 318–19, 327, 374, 379, 604–5, 941–2
- Wood, P.R. 258, 385–6, 388–9
- workers 135, 200, 800, 802, 807–8
- see also* employees
- World Bank 199, 213, 352, 393–4, 396, 713, 785
- world society 899–900, 906, 909, 911
- World Trade Organization (WTO) 27, 162, 214, 911
- writs 142, 172, 181, 185, 216–17
- prerogative 185
- WTO *see* World Trade Organization
- Zimmermann, R. 37, 302–4, 758–62, 796–7, 815, 949, 959–60
- Zumbansen, P. 157, 255, 898–9, 902, 904–7, 909, 914













