Index

acta jure imperii 113–15
ad hoc tribunals see also International Criminal Tribunal for the Former Yugoslavia

complementarity principle, and 152–3, 272–3
domestic prosecutions, compared with 148
establishment 145–6
features 148
ICC, influences on framework of 147–8, 151–2
jurisdiction, primacy of 146–7, 152–3
purpose 326
victims, attitudes towards 154

African Court of Human and Peoples’ Rights 6–7
Alter, Karen 49, 64, 66, 363
Alvarez, Jose 168
Anan, Kofi 38–9, 151
Appellate Body of the WTO budget 192
case proceedings amicus curiae briefs 198
appeals, eligibility criteria 193
decision and voting rules 193
exchange of views 198–9
legal representation 196–7
oral hearings 198
separate opinions 193
third party rights 197–8
working procedures 197–9
cases inconsistencies and adverse rulings 180–81, 188
interpretation, approach to 186–7
nature of disputes 178–9
parties to 179–80
time limits and delays 199
trends 22, 65, 177–8, 193, 201

judiciary
appointment 191–3
composition 191–2
independence and impartiality 53, 61–2, 191–2
secrecy rules 61
term of office 62
jurisdiction 29–30, 183–4
purpose 176, 185–8
adjudication consultations 187
clarification of law and WTO agreements 71, 185–7
inconsistencies, withdrawal of 188
multilateral trade, providing security for 187
armed conflict jus cogens, and 114
state immunity, and 113–15
atrocities law
ad hoc and hybrid tribunals, limitations on role of 143–6
development of 137–8, 143–4
justice, and 135–6, 175

Bassiouni, M. Cherif 142
Bensouda, Fatou 141
Benvenisti, Eyal 33
Bingham, Tom 232–3, 358
Blattman, René 136
Blokker, Niels 32–3, 61
Brown, Chester 76–7
Burke-White, William 128, 139, 169
Cançado Trindade, Antônio 362
Cassese, Antonio 147
Chan, Kenneth 361, 365
Charney, Jonathan 76
Chesterman, Simon 145, 164–5, 175
International and supranational courts and the rule of law

Colombia
Justice and Peace Laws 154–5
complementarity principle 14–15, 127, 139, 151–8
ad hoc/hybrid tribunals, and 152–3, 272–3
justice, and 154, 157–8
positive complementarity 156
primacy conflicts with 159–60
state sovereignty, and 152–5
corpus juris gentium 13
Court of Justice of the African Economic Community 31
Court of Justice of the Economic Community of Central African States 30–31
Court of Justice of the European Coal and Steel Communities 29
Court of Justice of the European Union compliance assessment procedures 67
compulsory international jurisdiction, and 12
enforcement mechanisms 34–5
establishment 29
incompatibility provisions 56
judiciary
appointment 54–5
independence and impartiality 54–6, 58–62
privileges and immunities 58–9
secrecy rules 60–61
term of office 62
public international law, and competency 250–51
customary international law 245
incorporation limitations 245–52
incorporation obligations 244–5
judicial review 247–8
threats to peace and security, and 247–50
rule of law, and
balance, need for 243
clarification and development of law 73–5
fundamental principle, as 242
fundamental rights protection, and 252–64
historical interpretation 242
public international law, and 244–52
Couvreur, Philippe 70–71, 74
Crawford, James 39–40
crimes against humanity interpretation 166–7
Cryer, Robert 154
customary international law
EU law, incorporation in 245
state immunity, and 112–15

Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States (1970, UN) 41–2, 89
Declaration on Rights and Duties of States (1949) (draft) 44–5
democracy
rule of law, and 39, 86–7
dispute settlement
developing countries, challenges for 65–6
ICJ, and case trends 65
judicial proceedings 101–4
mandate 64–5, 94–5
role 203
inter-state jurisdiction dimension of 6
international systems, importance of 49
ITLOS system 12
access to 207
advisory opinions 219–21
advisory proceedings 209
case trends 65, 210–12
choice of forum 204, 212–13
compulsory jurisdiction 205, 207–8
compulsory procedures 204
declarations, modification or withdrawal 204–5
delimitation of continental shelf 217–19
disputes arising from other agreements 209
environmental case, protection of procedural rights 216–17
flag state protections 213–15
general obligations 204
jurisdiction 205–8
law, clarification and development of 74–5
mechanism 12
special agreements 205
time limits and delays 213
limitations 65–6
rule of law
international/ supranational court contributions to 65–6
UN role in
limitations of 95–6
mandate 94–5
WTO system
access to 183–4
background 181–3
case inconsistencies and adverse rulings 180–81, 188
case parties 179–80
case trends 22, 65, 177–80, 201
challenges and problems 201–2
clarification of law and WTO agreements 71, 185–7
compliance assessments 22, 67
compliance proceedings 200
consultations 187, 195
cost of proceedings 190
Dispute Settlement Body 189
due process, protection of 194
enforcement and implementation 199–201
GATT, and 181–3, 196
judicial independence and impartiality 53, 61–2, 190
jurisdiction 183–4
legal representation 196–7
multilateral trade, providing security for 187

Panels 189–91, 195–7
processes 194–201
purpose 65, 71, 185–8
supranational status 34
dolus specialis 166–7
Downs, George W. 33
Drahozal, Christopher 322
Dukic, Drazen 140

état de droit 85–8
European Court of Human Rights
case proceedings 226–7
admissibility criteria 227
compliance assessment 67
single judge decisions 79, 225
cases
trends 78–9, 226–7
establishment 29
incompatibility provisions 56–7
judiciary
appointment 54, 225
composition 225–6
independence and impartiality 53–4, 56–8, 60, 62
nationality rules 58
secrecy rules 60
term of office 62
jurisdiction 228–31
access criteria 230–31
margin of appreciation 231
legal system advantages of 6–7
purpose
law, clarification and development of 72, 75, 227, 229–31, 233–40
rule of law, and 240–41
access to courts, and 238–9
administrative application of law 235–8
definition 232–3
fundamental principle, as 231–2
judicial application of law 238–40
legal certainty, and 239–40
legislative application of law 233–5
state obligations 236–9
International and supranational courts and the rule of law

European Court of Justice see Court of Justice of the European Union
European Nuclear Energy Tribunal 30
European Tribunal on State Immunity 30
Fatic, Aleksandar 141
Follesdal, Andreas 38
force majeure 320–21
Fréard, J. 285
Fuller, Lon 79, 358
Gautier, Philippe 362
genocide
interpretation 166–7, 170
justice, and 135–6
state responsibility, and 109
Gibson, Christopher 322
Greenwood, Christopher 212
Grotius, Hugo 49
Hague Peace Conferences (1899 and 1907) 27
Helfer, Laurence 51
Heller, Kevin 159, 163
Higgins, Rosalyn 92
human rights, generally
rule of law, and 39, 87, 120–26, 359–60
shared responsibilities for 230
human rights law
burden of proof 121
expulsion of foreigners by state 122–5
fair trial, right to 170–71
ICJ interpretation role 120–26
primacy of, arguments for 368
trends 7
Hussein, Saddam 165
hybrid tribunals see also Special Tribunal for Lebanon
capacity building, and 150
complementarity principle, and 152–3
domestic prosecutions, compared with 148–50
establishment 145–6
features of 148–9
focus and purpose of 150, 326
ICC, influences on framework of 147–8, 151–2
judicial objectives 361
jurisdiction, primacy of 146–7, 152–3
successes, evaluation of 149–50
in absentia trials 344–7
Inter-American Court of Human Rights
establishment 29
jurisdiction and international rule of law 15–16
legal system advantages of 6–7
International Court of Justice
Advisory Opinions 99–100
role and functions of 97–100
rule of law, interpretation role in 9, 72–3
background 93
budget 192
cases
official language 103
oral hearings 102
proceedings, duration of 101–2
time limits 102–3
trends 22, 65, 78, 99–102
working methods 102–4
composition 93–4
decisions
binding nature of 95, 99, 106
dispute settlement
case trends 65
judicial proceedings 101–4
mandate 64–5, 94–5
role 203
enforcement mechanisms 34
incompatibility provisions 56
international law, clarification and development 70–74, 106–15
law of international responsibility 108–11
law of state immunity 111–15
law of treaties 107–8
judiciary
appointment 53–4
Index

independence and impartiality 52–4, 56–60, 62
irremovability 59
nationality rules 57–8
privileges and immunities 58–9
secrecy rules 60
term of office 62
jurisdiction
basis for 92
compulsory jurisdiction 11–12, 78, 95–7
consensual nature 94–7
reservations and limitations 96–7
member ship 93–4
other courts, relationships with 77–8
role and functions
advisory function 97–100, 104–5
dispute settlement 64–5, 94–5, 104–5
international law, clarification and development 70–74, 106–15
judicial practice improvements 103–4
rule of law, and
Advisory Opinions 9, 72–3
clarification and development of law 70–74, 106–15
contributions to 90–91, 105–26
international human rights law 120–26
law of the sea 116–20
United Nations, role of 92–105
unity of interpretation of international law 116–26
United Nations, relationship with 92–105
advisory function 97–100
composition 93–4
consensual jurisdiction 94–7
judicial organ of, as 100–105
principal organ of, as 92–100
Security Council, and 34
international courts and tribunals, generally see also international criminal tribunals, generally;
individual courts and tribunals by name
ad hoc/ hybrid tribunals 21, 366
advisory function, development of 9, 64, 367
arbitrary discretion, control mechanisms 367–8
capacity building, and 150
cases
issues and concerns 78–9
trends 22, 355
categories of 19–21
commonality, development between 76–7
compulsory jurisdiction, and 23, 47–9, 78, 95–7
context, relevance of 50–52
criticisms and concerns 355, 367–8
fragmentation 361–2
judicial conflicts 361–2
objective conflicts 361–5
cross-fertilization between 13, 76–7
dispute settlement mechanisms, role of 49–50
domestic law, and interaction between 365–7
prosecutions compared 148–50
enforcement mechanisms 34
establishment
failed attempts 30–31
purpose, generally 355
fragmentation concerns regarding 361–2
reduction mechanisms 367–8
functions, development of 9, 64
general principles of law, promotion of 13–14
global distribution 31–2
Hague Peace Conferences 27
historical development 19–21, 27–32
ICC, influences on framework of 147–8
inactive/ low-caseload tribunals 21
independence and impartiality of 50–52
eligibility criteria 52–3
incompatibility provisions 56–7
irremovability 59
judicial appointment 53–5
nationality rules 57–8
privileges and immunities 58–9
remuneration 59
secretory rules 59–61
term of office 61–3
interference, reasons for 326, 366
international law cohesion, and 8,
12–13, 49, 76–7
international legal procedures,
development of 13–14
international supreme court, calls for 77
judiciary
discretion, control mechanisms 367–8
tensions and concerns 79–80
jurisdiction, primacy of 146–7
legal system advantages of 6–7
legitimacy, importance of 357–8
limitations 79–80
Mechanism for International
Criminal Tribunals 270–71
multiplicity of
fragmentation concerns 361–2
implications of 75–6
judicial conflicts 361–2
objective conflicts 361–5
trends 28–30
political influence risks 50–52
public international law techniques,
use of 7
research trends 23–5
role and powers
developments in 19–20, 22–3
law-making 13–14, 49–50, 363–4
legitimacy, development of 360,
363–4
rule dissemination 63–364
rule of law, and
impacts on 9–10, 14, 25–6, 48–50,
269–70
legitimacy, and 360, 363–4
subsidiarity, and 366–7
successes
evaluation of 149–50
influences on 357–8
supranational characteristics, and 33–5
transnational judicial dialogue
between 76–7
unity of law, acknowledgment of
International Criminal Court
background 143–4, 156–7
framework, influences on 147–8,
153–4
cases
admissibility, grounds for 157–9
challenges 128–9, 156–7
controls 128
crimes, special elements of 166–7
delays in 163
inactivity test 158–9
investigative responsibilities,
delegation of 174–5
management, criticism of 161–3
same conduct test 158–9
selection criteria 276–7
state assistance, and 295
trends 69
complementarity principle 14–15,
127, 139, 151–8
justice, and 154, 157–8
positive complementarity 154
primacy conflicts with 159–60
sovereignty, and 152–5
judiciary
appointment 54
independence and impartiality 52,
54, 62
privileges and immunities 58–9
term of office 62
jurisdiction 29–30, 127–9, 138
domestic vs. international,
relationships with 132–4,
150–51, 157–9
justice, and
accused, presence at trial 172–4
balancing domestic and
international conflicts 137–8
complementarity principle, and 154, 157–8
due process rules 169–72
intermediaries, engagement with
174–5
interpretations of 134–5
Prosecutors, discretion and
flexibility 141–2
Index

reparations schemes 154
self-incrimination, right against 171
victims and witnesses reparations initiatives 154, 174–5
role and function 144–5, 156–7
accountability 168–9
ad hoc/hybrid tribunals, compared with 151–3, 156
advisory functions 129
domestic technical assistance 163–8
example setting 168–9
global governance 129
harmonization of national criminal justice systems 129–30
immunity piercing 138–9, 153
powers of intervention 127–8
rule of law, and 14–15, 129
accused, presence at trial 172–4
domestic rule of law, support for 163–8
domestic vs. international relationships 132–4, 161
guidelines and best practice 168–9
investigative responsibilities, delegation of 174–5
justice, pursuit of 134–43
principle of legality, and 171–3
technical assistance, and 163–8
international criminal courts, generally limitations of 70
supranational characteristics 33–4
international criminal law, generally balancing domestic and international interests 137–8, 146–7
crime by omission of acts 283–4
crime, specialist nature of 166–7
culpability, principle of 280–86
dolus specialis 166–7
domestic court role in bias, risk of 164–5, 167–8
criticism of 164–5
inadequacies of 165–6
technical assistance from ICC for 167–8
duty to prosecute, and 146
intellectualization of 146
international cooperation, and 287–8
arrests 291–2
incentives for 292–5
investigation conduct and access to documents 288–90
national proceedings, and 296–7
joint criminal enterprise 280–83
justice, peace and stability, conflicts between 141–3
moral imperatives behind 145–6
sexual and gender-based violence 286–7
superior responsibility concept 284–6
tensions in 146–7
terrorism, challenges of trial involving 343
trials in absentia 344–7
accused, presence at trial 172–4
international criminal responsibility 8
superior responsibility concept 284–6
International Criminal Tribunal for the Former Yugoslavia background 272–3
case proceedings
conditionality policy 293–5
crime by omission of acts 283–4
culpability, principle of 280–86
international cooperation 287–8, 291–6
investigations and conflict prevention 279–80
joint criminal enterprise 280–83
sanctions and incentives 293–5
selection criteria 276–80
superior responsibility concept 284–6
cases elaborating criminal offences 286–7
indictments and prosecutions, scope of 275–6, 292
individualising criminal responsibility 280–86
national proceedings, and 296–7
outreach, and 298–301
transfer to national courts 297–8
trends 69
competence-competence principle 273–4
criticism of 274
financing 35
international cooperation, and 287–8
arrests 291–2
incentives for 292–5
investigation conduct and access to documents 288–90
national proceedings, and 296–7
international law clarification and development role 71–2
jurisdiction
appointment 55
independence and impartiality 52, 55, 62
term of office 62
Mechanism for International Criminal Tribunals
adoption 270–71
prosecutions, manipulation of 147–8
purpose 272–3, 279–80, 364
rule of law, and clarification and development of law 71–2
reasserting by 272–3, 301–2
international criminal tribunals, generally
contributions to international law 8
historical development 7–8
international jurisdiction
coop-participation, and 14
complementarity principle 14–15, 127, 139, 151–8
compulsory jurisdiction
ICJ, of 11–12, 78, 95–7
reservations and limitations 96–7
rule of law, and 47–9, 78
trends 11–12, 23
concurrent jurisdiction, of ad hoc/hybrid tribunals 146–7
coordination initiatives 17
independence of 4–5
inter-state dimension, going beyond 4–9
jurisdictional cohesion, and 12–13
primacy of 146–7
ratione territoriae jurisdiction 31–2
state consent for, implications of 78
international law, generally
domestic law, relationship with 14–16
purpose 42–3
unity of interpretation
ICJ role in 116–26
international human rights law 120–26
law of the sea 116–20
international legal order
rule of law, and 40–48
constraints on 46–8
international court functions, and 48–50
international legal personality 7–8
international responsibility, law of
criminal responsibility, conceptual development 8
human rights, and 230
IC interpretation role 108–11
investigative responsibilities 174–5
superior responsibility 284–6
trends 14–15, 177–8
international supreme court
calls for 77
challenges of 77–8
International Tribunal for the Law of the Sea
background 206
dispute settlement system
access to 207
advisory opinions 219–21
advisory proceedings 209
case trends 65, 210–12
choice of forum 204, 212–13
compulsory jurisdiction 205, 207–8
compulsory procedures 204
delimitation of continental shelf 217–19
declarations, modification or withdrawal 204–5
international and supranational courts and the rule of law
disputes arising from other agreements 209
environmental case, protection of procedural rights 216–17
flag state protections 213–15
general obligations 204
jurisdiction 205–8
law, clarification and development of 74–5
mechanism 12
special agreements 205
time limits and delays 213
judiciary
appointment 54–5, 206
independence and impartiality 52–5, 58, 60
nationality rules 58
secrecy rules 60
term of office 62, 206
jurisdiction 29–30
 compulsory jurisdiction 205, 207–8
ratione materiae jurisdiction 205
ratione personae jurisdiction 206
Iran-United States Claims Tribunal
background 303–4
Algiers Declarations 1981 309–10
establishment 303, 310–11
political context 303–9
case proceedings
case trends 324–5
expenses 312
settlement claims 312
international law, and attribution 323
contribution to 322–4
equal-time rule 317–18
estoppel 321
expertise, expansion of finality of awards 319
expropriation, and 323–4
finality of awards 318–19
force majeure concept 320–21
The Hague, judicial role development 313
international arbitration rule development 314–19
lex mercatoria 319–21
‘Mosk’ Rule 317
nationality, interpretation of 322–3
quantum meruit principle, and 321
UNCITRAL Rules 314–15
unjust enrichment concept 321
judiciary
appointment 55
independence and impartiality 55, 60, 62
secrecy rules 60
term of office 62
jurisdiction
hostage claims 310
settlement claims 309–10
purpose 313
clarification and development of law 74
dispute settlement 65
Judicial Organ of the Arab Maghreb Union 31
Judicial Tribunal of the Organization of Arab Petroleum Exporting Countries 30
judiciary, of international courts and tribunals
appointment procedures 53–5
eligibility criteria 52–3
incompatibility provisions 56–7
independence and impartiality 50–52
irremovability 59
nationality rules 57–8
privileges and immunities 58–9
remuneration 59
secrecy rules 59–61
term of office 61–3
juridical equality of states, concept of 11–12
jurisdiction, generally see also international jurisdiction
ratione materiae jurisdiction 98, 205
ratione personae jurisdiction 70, 98, 125, 206
ratione territoriae jurisdiction 31–2
jus gentium 10–11
jus voluntarum
vs. jus necessarium 11–12

Index

379
justice complementarity principle, and 154, 157–8
cultural and legal traditions, and 137
domestic vs. international criminal law systems focus 135–7
ICC role in pursuit of 134–43
international cooperation, and 287–8
arrests 291–2
incentives for 292–5
investigation conduct and access to documents 288–90
national proceedings, and 296–7
interpretations of 134–5
peace and stability, conflicts between 141–3
restorative justice 134–5, 139–41
retribution, and 134–5, 142–3
transitional justice 135, 140
victims and witnesses, and participation in case proceedings 347–9
reparations initiatives 154, 174–5

Katanga, Germain 171
Kelsen, Hans 49
Klamberg, Mark 138
Koopmans, T. 242

Langer, Maximo 137
law, general principles
importance of 10–11
inner morality of law 358–9
law of the sea
customary law codification 116–17
jurisprudential inconsistencies 117
unity of interpretation 116–20
Lenaerts, Koen 75
Lotus principle 28–9
Lowe, Vaughan 42

McAuliffe, Padraig 128–9, 144, 149–50, 152
Mechanism for International Criminal Tribunals 270–71
Moreno-Ocampo, Luis 128, 156

multinational corporations
international law, applicability to 70
Múnoz-Rojas, D. 285

Nuremberg International Military Tribunal (1945-1946) 29
Permanent Court of Arbitration 27
judicial appointment 53–4
Permanent Court of International Justice
advisory function 9, 28, 97
background 9, 28–9
incompatibility provisions 56
judiciary
independence and impartiality 56, 62
term of office 62
jurisdiction 28
role and importance 28–9
Permanent Prize Court (proposed) 27
Peter-Kaul, Hans 166
Posner, Eric 51
Principal Agent theory 50–51
public health, protection of 368

ratione materiae jurisdiction 98, 205
ratione personae jurisdiction 70, 98, 125, 206
ratione territoriae jurisdiction 31–2
rechstaat 85–6
restorative justice 134–5, 139–41
retribution 134–5, 142–3
Robinson, Darryl 169
Romano, Cesare 30
Roots of Behaviour in War, The (ICRC Study) 285
rule of law
applicability 36–7, 40–41
changing attitudes to 25–6
constraints on 43–5
compulsory jurisdiction 47–9, 78
external and internal sources 45–6
international law, implications for 46–7
states, implications for 46–7
Index

definitions 36–9, 85–7, 89, 131, 331–2
common norms, and 359–60
difficulties with 130–31, 358–9
domestic vs. international rule of law 131, 259–360
democracy, and 39, 86–7
discretionary administrative bodies, conflicts with 43
facets of 25–6
global interdependence, influences of 44
historical development
adoption and recognition of 86–8, 267–8
historical context, role of 85–7
international context 86–90, 267–9
human rights, and 39, 87, 120–26, 359–60
importance of 39–40
independence of power of others, and 43
internal and external actions of states 43–4
international / supranational court
contributions to, generally 64–5
compliance assessment 66–8
dispute settlement 65–6
impunity, dealing with 69–70
international law clarification and development 71–5, 106–15
legitimacy, and 360
international legal order, and 40–48
legal value of 86–90
limitations and conflicts 90–91
rule of law constraints 46–8
judicial independence, benefits of 48–9
legal system independence, and 37
minimum characteristics 38
national vs. international relevance 40–41
nominated norms of interest in non-domination 359
predictability 359–60
political influence risks 50–52
pre-existing traditions, role of 41–2, 137
responsibility for 326
substantive conceptions of 38–9
UN Declaration on 16–17, 25–6, 36–7, 42, 88–9
United Nations, and 87–9
Ruto, William Samoei 172–3
Schabas, William 157
Scheffer, David 136
Schermers, Henry 32–4, 61
Shelton, Dinah 64
Simpson, Gerry 139
Slaughter, Anne-Marie 51
sovereignty
complementarity principle, and 152–5
Special Tribunal for Lebanon
background 327–9
establishment 329
UN fact-finding mission 328–9
cases
accused, role during trial 349
applicable law 340–44
Lebanese national law, and 340–42
status of 330–31
terrorism, and 343–4
trials in absentia 344–7
victim participation in 347–9
written evidence, admissibility 344
criticism 330
financing 35
jurisdiction
appointment 55
independence and impartiality 53, 55, 336–8
Pre-trial Judges, role of 334–6
separation of powers 338–40
Trial Chamber role 336
jurisdiction 329
legacy and outreach 349–51
role and functions 329–30
rule of law, and 350–52
structure
Defence Office 333–4
Office of Prosecutor 332–3
Pre-trial Judges 334–6
Trial Chamber 336

Geert De Baere and Jan Wouters - 9781783476626
Downloaded from Elgar Online at 05/13/2019 10:24:04PM
via free access
Stahn, Carsten 139
state immunity, law of
acts of armed forces during armed
crime 113–15
customary international law, and
112–15
ICC role, piercing veil of 138–9, 153
ICJ interpretation role 111–15
*jus cogens*, and 114
UN Convention on 113
state responsibility, law of
Articles of State Responsibility for
Wrongful Acts 108–9, 111, 214
ICJ interpretation role 108–11
genocide 109
prosecution v.s. extradition 109–11
supranational bodies
binding powers 32–4
characteristics of 32–4
dependence, degrees of 32–3
enforcement mechanisms 32, 34–5
financial autonomy 35
international bodies, differences from
33–6
role and powers of 32–4
withdrawal, rules regarding 35

Teitel, Rugi 167–8
Tokyo International Military Tribunal
(1946-1948) 29
transitional justice 135, 140
treaties, interpretation
ICJ role in 107–8
Turner, Jenia 134–5

United Nations
*Declaration on Principles of*
*International Law Concerning*
*Friendly Relations and*
*Cooperation among States*
(1970) 41–2, 89
*Declaration on Rule of Law at*
*National and International*
*Levels* (2012) 16–17, 25–6,
36–7, 42, 88–90, 95, 106, 133,
168–9, 268–9, 360

dispute settlement role
limitations 95–6
mandate 94–5
rule of law, and 87–9
Security Council
functions of 95
ICJ recourse to 34, 95
UNCITRAL Rules (Tribunal Rules of
Procedure) 314–19
equal-time rule 317–18
establishment 314–15
finality of awards 318–19
importance 315–16
‘Mosk’ rule 317
precedent setting 315–16
rule changes 317
unity of law
international law and domestic law,
relationships between 14–16
international tribunals,
acknowledgment of 13–14
Universal Declaration of Human Rights
(1948) 87
Van den Bossche, Peter 66, 366
van den Wyngaert, Christine 171
Venice Commission on Democracy
Through Law (2011, European
Commission) 233
Venzke, Ingo 66, 68, 74
victims and witnesses
participation in case proceedings
347–9
reparations initiatives 154, 174–5
Von Bogdandy, Armin 64, 66, 74
Waldron, Jenny 44, 48
war crimes
interpretation 166–7
Weller, Marc 144
Wouters, Jan 361, 365
WTO dispute settlement system see
also Appellate Body of the WTO
access to 183–4
background 181–3
case proceedings 194–201
Appellate Body, of 193, 196–9
Index

compliance assessments 22, 67
compliance proceedings 200
consultations 187, 195
costs of 190
legal representation 196–7
Panels, of 189–91
cases
   inconsistencies and adverse rulings 180–81, 188
   parties 179–80
   trends 22, 65, 177–80, 201
challenges and problems 201–2
Dispute Settlement Body 189
due process, protection of 194
GATT, and 181–3, 196
implementation and enforcement 199–201
jurisdiction
   independence and impartiality 53, 61–2, 190
secrecy rules 61
term of office 62
jurisdiction 183–4
Panels 189–91, 195–7
purpose 65, 185–8
clarification of law and WTO agreements 71, 185–7
costs of 190
consultations 187, 195
last resort function 366
law, development of 71
multilateral trade, providing security for 187
supranational status 34

Yanai, Shuni 212
Yoo, John 51
Zehr, Howard 134–5