INDEX

accountability
  and conflict prevention, 489
  and international criminal law, 352
  and the International Criminal Court (ICC), 433
  rationale of, 70
Acholi ethnic group, 149, 155
acquittals
  in international trials, 257–259, 269
  challenge by Kenyan government, 210–211
  challenge by Libyan government, 475
Afako, Barney, 168
Afghanistan
  community-based justice, 135–137
  interests of justice
    rationale for, 137–139
  Ministry of Justice of, 135
  post-Taliban, 123
African states
  and neoliberalism, 277–283
  and rule of law, 277–283
African Union (AU)
  and Arab League, 458, 488
  roadmap, 465
  Twelfth Extraordinary Summit, 214
  high-level panel, 464
  UNAMID, 483, 488
Al-Bashir, Omar, 179, 212, 232, 468,
  469, 485, 488, 492, 493
Al-Senussi, Abdullah, 66, 457, 469, 470,
  471, 472, 473, 475, 486
amnesty, 140–142
Amnesty International, 26, 379, 385
Annan, Kofi, 203, 204, 207, 283,
  487, 490
Arab League, the, 458
Arab Spring, 456
  and Libya, 457
  events of, 491
Arab states
  and request for ICC help, 458
Arbia, Sylvana, 383
Arendt, Hannah, 354
Armed Forces Act, 394
Assembly of States Parties (ASP), 16–17, 287, 309
Bensouda, Fatou, 273, 275, 309, 358
bespoke transitional justice, 112–117
Bongi trial, 426
Brahimi Report, 46
Brahimi, Lakhdar, 123
Branch, Adam, 29, 62
Butler, Judith, 375
Case Matrix, 464
Cassese, Antonio, 55, 492
Central African Republic (CAR), 296–299
Chieftaincy of Military Intelligence, 217
  conscripting and enlisting of, 179
  civil society intermediaries, 247–248
Coalition for the International Criminal Court (CICC), 238, 267, 273, 379
Coalition on Violence Against Women (COVAW), 216
Cold War, 357
Colombia
  and peace agreements, 441–443
and the International Criminal Court (ICC), 432–434, 438–439
approach to the ICC, 446–450
Colombian conflict, history of, 436–438
Constitution of, 441
Constitutional Court of, 448
FARC negotiation process, 434, 437, 446, 447, 451, 452, 453
history of conflict, 432, 436–438, 444, 455
impact of conflict on, 455
international justice discourse / norms, 450
legal vernacular in, 451
National Commission of Reparation and Reconciliation, 451
Supreme Court trials, 444
the Santos government and, 454
transitional justice legal framework, 433, 450
trials of the military in, 445
Victim’s Law and Property Restitution, 451
Victims Law, 451
community based organisations (CBOs), 4, 354, 375
Commission of Inquiry into the Post-Election Violence (CIPEV), 202, 394
Commission on Peace and Reconciliation, 254–257
Commonwealth’s Model ICC Law, the 460
complementarity, 177, 216
and community-based justice, 124–127
and implementation of the Rome Statute, 380
and the ICC, 147–148
challenges facing the ICC, 102
‘positive complementarity’, 11, 154, 173, 177, 179, 196, 216, 433, 439, 474, 477
conflict prevention and accountability, 489
conflict-affected communities and acquittals, 257
cooperation, state, 12, 100, 103, 143, 191, 194, 196, 446
cosmopolitanism theories of, 28
courts
military, 17, 178, 187, 410, 423, 425, 445
Darfur conflict, 482–484
de Greiff, Pablo, 74
de Waal, Alex, 363
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 286
Democratic Republic of the Congo (DRC), 292–296, 315, 327
1972 Judiciary Military Code, 422
AFDL (Alliance des forces démocratiques pour la libération du Congo), 173
and the Rome Statute, 408
and the Trust Fund for Victims, 372
Congolese war, 179
peacekeeping mission, 343
Congolese armed forces (FARDC), 412, 487
Congolese legal community international support for, 185–189
and the Military Criminal Code (MCC), 419–422
Constitution of, 410
Cour de cassation, 171
crimes in Ituri region, 486
domestic trials and the Rome Statute in the DRC, 422–430
ratification of the Rome Statute, 419
FARDC, 411, 427, 428, 487
FRPI (Forces de résistance patriotique de l’Ituri), 183
Goma Agreement, 487
Hema, 334–336, 343, 345–347
Hema population, 67
High Military Court of, 410
human rights violations, 416, 431–432, 444
Inter-Congolese Dialogue, 177, 343
Democratic Republic of Congo (cont.)
implementation of the Rome Statute, 413–416
Ituri wars, 333–335, 343, 345–347
military tribunals, 428
and the Rome Statute, 422
peacekeeping, 482, 490
Procureur général de la République, 186
Rassemblement Congolais pour la Démocratie – Mouvement de Libération (RCD-ML), 179, 183–184
role of the ICC and, 292–296
Rome Statute, 412–416
the legal system of, 408–409
Truth and Reconciliation Commission, 176, 343
UN Mission, 189–192, 235
Union des patriotes congolais (UPC), 67, 179
development, 254–257
dispute mechanisms
community-based, 123
Dolan, Chris, 155
Drumbl, Mark, 436
Dyilo, Thomas Lubanga, 15, 188, 293, 311, 331, 336, 408
ICC charges and, 179–182
emancipation, ethics of, 72–74
EMOI ('Integrated Operational Head Command'), 184
expressivism, 450–454, 382–385
Extraordinary Chambers in the Courts of Cambodia, 308
FARC negotiation process, 446, 452
Fassin, Didier, 353, 370, 372
field offices, 292, 367, 372
Finnemore, Martha, 434
Foucault, Michel, 373, 436–438
Gaddafi, Muammar, 66, 457, 471, 486
possibility of exile, 465–466
removal of, 464–465
Gaddafi, Saif Al-Islam, 66, 101–102, 457, 470, 486
Gaynor, Fergal, 274, 275, 291
Gbagbo Laurent, 490
Geertz, Clifford, 453
Genocide Convention of 1948, 479
global governance, 4, 20, 69, 285
global institutionalism
criticisms of, 68–69
global justice
and the ICC, 107–108
Global Peace Agreement, 487
Goldstone, Richard, 131, 492
Goma Agreement, 487
gross human rights violations in Kenya, 217–218
Halilović case, 257
Harun, Ahmed, 482–484
Historical Memory Group, 451
Holocaust, 27, 29
legal protection of, 382
protection at the international level, 354–356
human rights organisations as intermediaries, 206–208
human rights standards
and the ICC, 66
Human Rights Watch, 385, 387
humanitarian government, 360
humanitarian sentiments
and international criminal law, 355
humanitarianism, 361–364, 371–373
‘legal humanitarianism’, 16–17, 353, 372
the Court’s description of, 375
hybrid tribunal, 17, 205, 417
International Criminal Court, 2, 352, 173–176, 408
African countries and, 34, 36
and the role of civil society, 223–225
and Libya, 458–462
history of, 97–101
Assembly of States Parties (ASP), 451

INDEX

Rules of Procedure and Evidence, 14, 254, 367
the Arab world, 456
the role of intermediaries, 225–230
the role of NGOs, 223
transitional justice, 106–107
Trust Fund for Victims, 4, 219, 287, 359
Trust Fund for Victims (TFV), 216, 287
victimhood, 272–277
victims rights, 302
‘imagined victim’, 15, 310–313
Inter-Congolese Dialogue (ICD), 175
framework, 237–239
guidelines, 239–245
international criminal tribunals
history of, 90–101
International Center for Transitional Justice, 159
International Commission of Jurists, (ICJ-Kenya), 210
International Commission on Intervention and State Sovereignty (ICISS), 284
International Crimes Act (ICA), the in Kenya, 395
International Crimes Division (ICD), 11
International Criminal Tribunal for Rwanda, 1, 90, 426
ICTR, 1, 90, 93–97
political functions of, 94
ICTR’s Statute, 94
International Criminal Tribunal for the former Yugoslavia (ICTY), 90, 251, 308, 355, 481
ICTY, 1, 90, 93–97, 251
as token gesture, 481
political functions of, 94
ICTY’s outreach, 333–335
international criminal tribunals
and cosmopolitan arguments, 29–30
and criminal trials, 89
and justice, 87
and legitimacy of, 23
international criminal tribunals (cont.)
and restorative justice, 286–290
and retributive justice, 286–290
as instruments of diplomacy, 89
as judicial institutions, 263
as tools of diplomacy and politics, 88
expectations of outreach programmes, 268–270
means of understanding them, 86
perceptions of, 264–265
vs. truth commissions, 87
International Military Tribunal for the Far East, 90, 157, 286
International Monetary Fund (IMF), 354
International Peace Conference, 283
international trials and acquittals, 257–259
low sentences, 259–260
Ituri conflict, 67
Ivory Coast, 490

Jirga, 203
Juba Accords, 133, 134, 155–158, 482
Jubilee Alliance, 213
judicialisation criticism of, 68–69
juridical classification and international criminal law, 373
juridified diplomacy, 85, 88–89, 112
and international criminal courts and tribunals, 86
and the ICC, 106, 108
and the ICTR, 93
and the ICTY, 93
paradigms of, 89–90
Jurisdiction, Complementarity and Cooperation Division (JCCD), 177
Justice Law and Order Sector (JLOS), 159, 390
and the Amnesty Act, 167–169
Justice and Peace Law (Colombia), 17, 441, 487
Justice cascade, 434
Kabila, Joseph, 335, 409, 413, 419, 430
Kabila, Laurent-Desire, 173
Kahwa decisions, 425
Kampala Review Conference, 49, 159
Katanga, Germain, 67, 81, 182–185, 187, 260, 345, 348, 408
Kenya
attack on intermediaries, 232–233
civil society advocacy, 213
Commission of Inquiry on Post-Election Violence, 202, 394
domestic litigation, 215–216
election violence, 198
gross human rights violations, 217–218
ICC outreach programmes in, 208
implementation of the Rome Statute, 380–381
International Commission of Jurists-Kenya, 210
International Crimes Division, 11
international crimes, 394
Judicial Service Commission (JSC), 216
National Dialogue and Reconciliation Committee, 199
National Human Rights Commission (KNHCR), 210, 216, 292, 394, 485
Penal Code, 394, 483
reparations, 216
Special Tribunal for Kenya (STK), 203, 204, 400
the International Crimes Act (ICA), 217, 395
Truth Justice and Reconciliation Commission, 216, 290
INDEX

Waki Commission, 202, 205, 394, 405

witness protection programme, 205–206

in Kenya, 205–206

Kenyan cases

pre-trial stage

intermediaries and, 206–208

Kenyatta, Uhuru, 12, 110, 212, 213, 274, 365, 381

Kibaki, Mwai, 200, 291, 393

*Kibibi* trial, 425, 428

Ki-Moon, Ban, 484, 494

*Kituo cha Sheria*, 207

Kony, Joseph, 150

Koskenniemi, Martti, 18, 26

Kosovo, 97

Kwoyelo, Thomas, 11, 148, 149, 161, 163–170, 397–400

Constitutional Court

and Kwoyelo’s trial, 163

League of Nations, 69

‘legal encapsulation’, 15, 275

legal humanitarianism, 353–354, 369, 410

legal pluralism, 8, 16–17, 63, 381, 403

and victim participation, 364–369

Libya

history of conflict, 463–465

Libya Arab Jamahiriya, 460, 462

Libya Working Group, 473

Organisation of the Islamic Conference, 492

the ICC in, 456–459

unrest in, 457–458

local non-governmental organisations (LNGOs), 219

Lord’s Resistance Army (LRA), 111, 133, 148, 388


and intermediaries, 230–232

judgment, 311

reparations, 327

Lumumba, Patrice, 343

mass atrocity crimes

victims of, 77–79

*Mbarushimana* case, 432

Mbarushimana, Callixte, 258

Médecins sans Frontières (MSF), 434

medical interventions, the Trust Fund’s, 374

memorialisation, 17, 157

military courts, 17, 178, 410, 423, 445

Merry, Sally Engle, 403, 434

Military Court of South Kivu, 425

Military Justice Reform, 445

military justice system

in the DRC, 422

Military Tribunal in Equatorial Province, 423

Milošević, Slobodan, 97

*Mitwaba* trial, 426

MONUSCO, 343

Moreno-Ocampo, Luis, 3, 149, 172, 176, 177, 178, 185, 189, 208, 221, 297, 309, 311, 438, 463, 473, 474, 485

request to disqualify, 474

Moscow Declaration, 91, 99, 127

Museveni, Yoweri, 111, 149, 151, 160, 389, 486

Muthaura, Francis, 212, 213

National Implementing Legislation Database (NILD), 386

National Resistance Army/Movement (NRM), 153

NATO airstrikes, 464

NATO military intervention

in Libya, 457

Nazi atrocities

criminal trials for, 92

Ngiti fighters, 67, 185

NGOs

and the International Criminal Court (ICC), 223–225

neoliberalism, 14, 276–283

non-governmental organisations (NGOs), 223–225
Ngudjolo case, 348
Ngudjolo, Mathieu ‘Chui’, 182–185, 187, 408, 487
Nouwen, Sarah, 20, 24, 290, 357, 383, 388
Ntaganda, Bosco, 181, 408
Nuremberg Military Tribunal, 354, 358
Nuremberg trials, 479

Odinga, Raila, 199, 291
Office of the Prosecutor (OTP)
Kenyan government issues, 211
intermediaries, 206–208
investigative failures, 189–192
Policy Paper on Victims’ Participation, 14
Ongwen, Dominic, 216
Orange Democratic Movement (ODM), 199, 291
ordinary and international crimes, 384
Orentlicher, Diane, 265
Organization of the Islamic Conference, 458, 492
orphans and vulnerable children (OVC), 340
Otti, Vincent, 150
outreach, 7, 30–36, 63, 251–252, 254–257, 260, 268, 271

Palestine, xvii
Parliamentarians for Global Action (PGA), 382
Party of National Unity (PNU), 199, 291
peace-building process, 480–482
Permanent Cease Fire and Disarmament, Demobilisation and Reintegration, 156
perpetrators
marginalisation of, 491–493
guidance for amnesty and, 141–142
Policy Paper on Victims’ Participation, 14
political office
and accused persons, 212–215
political settlements, 20, 279, 357
post-election violence, 12, 17, 112, 198–203, 206, 208–209,
215–217, 272, 275, 290, 394, 405, 487
politics of recognition, 342–344
positive complementarity, 3, 433
in Libya, 474
post-World War II military tribunals, 357
Potsdam Declaration, 91
Project Rule of Law Index, 281
Public Information and Documentation Section, 267
referrals
state, 4, 8, 176, 194
United Nations Security Council, 458
and international criminal justice, 347–351
and the Ituri war, 346–347
as a form of power, 351
international criminal reparations, 326–329
vs. assistance, 330–332

Report on the Rule of Law and Transitional Justice in Conflict or Post-Conflict Societies (UN), 86
Responsibility to Protect, 52, 284, 457
restorative justice, 360–364, 376
and international criminal law, 357–360
‘restorative turn’, 354, 357–360
Review Conference of the Rome Statute, 390
Revolutionary Armed Forces of Colombia, 434
rights-based approach, 76
Rome Statute, 4, 15, 61, 69, 97, 402, 480, 484
Article 11 of, 462
Article 16 of, 461–462
Article 20(3) of, 384
Article 25 of, 387
Article 53, 128–129, 130–132
reciprocal rights and, 142–143
Article 93 of, 143
Article 93(10) of, 384
as 'system of justice', 57
domestic implementation, 16–17, 382–385
negotiations, 357
principle of complementarity, 388
victim participation, 366
victims’ rights, 376
Ruto, William, 110, 212, 213, 272, 273, 274, 381
Rwandan Defense Force, 179
Rwandan genocide, 28, 284
Schabas, William, 132
Second Congoese War, 411
Sen, Amartya, 332
sexual and gender-based violence, 16–17, 205, 215–217
Simpson, Gerry, 10, 85, 88, 108, 469
Special Court for Sierra Leone, 2, 267, 141
Special Tribunal for Kenya (STK), 400
Strategic Plan of the ICC’s Outreach Programme, 269
Tadic decision, 422
Teitel, Ruti, 148, 359
Refugee Law Project (RLP), 210
Tokyo trials, 479
transitional justice, 85–91, 101–102, 106–107, 112–120, 450
and cultural experts, 118
and juridified diplomacy, 88–89
and Moscow and Potsdam Declarations, 91
and peaceful solutions, 488
bespoke, 112–117, 118
and the ICC, 117–120
integration of with juridified diplomacy, 101–102
legitimacy of, 117
paradigm of, 89–90
transitional justice theory, 111
trial management strategies and associated risks, 453–454
Trust Fund for Victims, 4, 13, 76, 309, 340, 362, 368, 369
in Kenya, 371
in the DRC, 326, 372
in Uganda, 374
Uganda, 155
Acholi ethnic group, 149
Agreement on Accountability and Reconciliation (AAR), 157, 201, See also Juba Accords
Amnesty Act, 133, 159–161, 163, 167–169, 397–400
renewal of Part II, 398
Amnesty Committee, 482
as an ICC host state, 388–393
Committee on Legal and Parliamentary Affairs, 392
Commonwealth Model Law complementarity in, 155, 159
conflict-affected communities, 152–153
Constitutional Court, 134
domestic war crimes division, 148, 158–159
domestication campaign, 389
implementation of the Rome Statute, 389–390
internally displaced persons (IDP), 149
Juba Accords [Agreement on Accountability and Reconciliation], 133–134, 140
Juba peace process, 149, 155–158
Justice Law and Order Sector (JLOS), 159, 163, 165–170, 390, 393, 398–399
Kampala Review Conference, 49
legacy of violence, 153–155
Lord’s Resistance Army (LRA), 42, 73, 111, 133, 139, 148, 193, 388, 482
National Reconciliation and Transitional Justice Audit, 154–155
National Reconciliation Bill, 393
Penal Code Act, 162
Refugee Law Project, 148
Thomas Kwoyelo, 11, 148, 149, 161, 163–170, 397, 398
Uganda (cont.)
transitional justice, 165–167
Ugandan People’s Defense Force (UPDF), 151
war crimes, 150
Uganda Coalition for the International Criminal Court (UCICC), 389
UN Basic Principles and Guidelines on the Right to a Remedy and Reparation, 75
UN Convention against Torture, 171
UN Convention on the Rights of the Child, 452
UN Geoffrey Simeon, 452
UN General Assembly support of the ICC, 484
UN Mission in Congo, 189
UN Mission in Sudan, 482
UN peacebuilding and local ownership, 47
UN Secretary-General on the Rule of Law and Transitional Justice, 47
UN Security Council, 4, 8, 19
UN Security Council Resolution 1593 (2005), 99, 460, 461, 462, 484
Resolution 1970, 459, 460, 462, 468, 477
Resolution 1973, 464
UN Women and the UN Office of the High Commissioner of Human Rights, 167
UN’s Department of Peacekeeping Operations in Darfur, 488
UNAMID, 483, 488
United Nations Charter, 60, 93
United Nations Office on Drugs and Crime, 206
United Nations Secretary-General, 86
United Nations Security Council referrals, 459
Universal Periodic Review, 457
van den Wyngaert, Christine (Judge), 67, 68, 289
vernacularisation, 434–435
Victim Participation and Reparations Section (VPRS), 366
victims and international courts, 313–320
and reparations, 317–320
critical discourse, 306–310
‘imagined victim’, 15, 305
importance to international criminal justice, 324–325
individual responsibility, 260–261
‘juridified victim’, 39, 290, 299–301
legal rights, 302–305
livelihood assistance, 4, 16–17, 352
protection, 283–286
reparations, 62, 326
targeting, 341–342
Victims and Witnesses Unit (VWU), 234
Victims Participation and Reparations Section (VPRS), 288
Victims’ Rights Working Group, 288
violence
sexual and gender-based, 16–17, 205, 215–217, 341–342
structural, 15, 273
Waki Commission, 202, 205, 394, 400
Washington Consensus, 278
witness protection and fair trials, 387
World Bank, 278, 280, 353
World Governance Indicators, 280
World War II trials, 354
World War II tribunals legacy of, 480
Zintani militia, 476
Zuma, Jacob, 464, 465, 492