Index

Abacha, Sami, 497–9
Abass, Ademola, 15, 38, 46, 81, 635
abetting. See aiding and abetting
abuse of functions, in corruption, 485–6
quality control provisions, 485
ACC. See African Criminal Court
accession system jurisdictions, 611
accessory mode, of liability, 747–60, 772–81
accomplice corporate criminal liability,
787–91
accountability
of African Court, 19
attribution of, 287–8
of ICC, 206–7, 215, 678, 699, 743, 841
justice-peace sequencing and, 141–6
on non-corporate associations, 287–8
under Rome Statute, 24
in Transitional Justice Policy Framework,
153–4
as normative issue, 155
traditional justice and reconciliation
mechanisms, 159
accused, right to legal/factual nature of
accusations, 694–6
Achille Lauro incident, 396
ACHPR. See African Court on Human and
Peoples’ Rights
ACHR. See African Court of Human Rights
ACJ. See African Court of Justice
ACJHPR. See African Court for Justice and
Human and People’s Rights
Action Plan on Drug Control, 363
active bribery, 482–3
acts of aggression, 324–34
annexation as, 327–8
attack against state’s armed forces, 329–30
blockades, 329
bombardment, 328–9
under Constitutive Act of the African
Union, 327
declaration of war, 324
definition of, 322
dispersion of armed bands, groups, irregulars
or mercenaries, 332–4
intentionally wrongful use of state’s armed
forces, 330–1
under international law, 324–5
invasion or attack, 327–8
military occupation, 327–8
Montreux process, 333
under Non-Aggression and Common
Defence Pact, 330–1
use of armed forces, 326–7
use of state territory for aggressive acts
against another state, 331–2
use of weapons, 328–9
actus reus, 265, 375
criminal liability requirements, 762, 776
ad hoc courts and tribunals, 71, 83, 104. See also
International Criminal Tribunal for
Rwanda; International Criminal
Tribunal for the Former Yugoslavia;
Special Court for Sierra Leone
aiding and abetting in, 767–8
right to fair trials in, 686–7, 691–2
Additional Protocol I, 442, 455–60, 465. See also
mercenarism
Additional Protocol II, 442
Adigun, Jacob, 493–4
adjudicated facts, 692–3
Index

administrative law, 1035–53
historical context for, 1036–40
legal framework for, 1036–40
OAU and, 1035–6
Administrative Tribunal of the Organization of American States (OASAT), 1048
AfDBAT. See African Development Bank Administrative Tribunal
Afghanistan, terrorism in, 430
AFISMA. See African-led International Support Mission to Mali
Africa. See also African States; colonialism;
Sub-Saharan Africa; toxic colonialism;
specific courts
atrocities crimes in, 93–4
democratic governance deficit in, 147
Heads of State in, 136–7
immunity for, 283–4
ICC relationship with, 62, 88–95
ACC influenced by, 203–8
innovations in criminal jurisdiction, 91–5
national endorsement of, 91
OTP activities, 88, 113, 130
support for, 178–9
undermining of, 13–14, 104–5
ICL in, 177–8
international crimes in, 74–82, 92–3
legal context for, 62–3
mercenaryism in, resurgence of, 450–5
Model Anti-Terrorism Law, 417–18, 420,
431–2, 447
regional human rights in, 66
regional human rights law in, 66
self-determination in, as historical legacy,
214, 217
terrorist massacres in, 311–12 See also specific countries
transnational crimes in, 92–3
African Charter on Democracy, Elections and Governance, 41, 81, 251, 338, 620. See also unconstitutional change of government
Preamble of, 620
African Charter on Human and Peoples’ Rights, 2–4, 77, 424–5
liberation and self-determination struggles and, 440
African Commission on Human and People’s Rights, 5–5, 100
ACHPR and, 984–5
criminal law section and, 1006–7
as agent of ICL, 1006–7
as enforcement agent, 1005–6
human rights and, 998–1005
as investigators, 1005
victim’s justice through, 1006–7
reparation through, 172
terrorism and, 428
truth seeking and, 171
violence management and, 122
African Convention on Human Rights, 66
African Court for Justice and Human and People’s Rights (ACJHPR). See also African Criminal Court; aggression; civil society organizations; complementarity; criminal law section; human rights; money laundering; “one court” concept
accountability of, 19
adjudicative resources, 1089–91
adoption of Malabo Protocol, cost implications of, 1061–4
African Charter on Human and Peoples’ Rights, 2–4
African Criminal Chamber in, 75
for transnational crimes, 340–61
amnesties and, 115
appellate jurisdiction, 12–13
applicable lessons from, 1070–2
atrocities crimes and, 93–4
AU assessment of, 1006–100
budget for, 42–3
complementarity in, 46–8
positive, 98–100, 344
primacy compared to, 665
Defence Office, 680–1, 683, 710, 1068–70
establishment of, 6–11, 83–4, 1057–8
financing of, 42–3, 1072–3
function and purpose of, 1
future challenges of, 42–51, 100–5
access to court, 50–1
civil society organizational involvement, 49–50
commitment of African States, 44–5
of criminal chambers, practicality of, 100–2
drafting issues, 49–50
human resources issues, 43–4
inadequate funding issues, 42–3, 103–4
infrastructure limitations, 43–4
lack of infrastructure, 43–4
political will to prosecute, lack of, 102–3
prosecutorial independence as, 45–6
general affairs section, 1, 11, 24–5
human and people’s rights section, 11–12,
25–6, 682, 959–60
criminal law section and, 1008–12
ratione personae, 1011–12
ICC and, 2, 62, 95–100
legal relationship with, 7–9, 88–95
ICJ compared to, 1024–8
innovations in criminal jurisdiction of, 91–5
international crimes in, expansion of, 91–2,
1085–6, 1088–9
international criminal law section, 1, 11–12,
1081–2
Detention Management Unit, 1066–7
jurisdiction of, 12
prosecutorial independence, 45–6
Victims and Witness Unit, 1066–7
investigative resources for, 1087–8
judges in, 16
jurisdiction, 18, 1023–8
for crimes against humanity, 87
for genocide, 87
of international criminal law section, 12
over range of crimes, 37–9
ratione loci, 972–3
ratione temporis, 972–3
for transnational crimes, 92–3, 106, 356–8
for war crimes, 87
legal relationship with ICC, 7–9
mercenarism in, 454–5
Merger Project, 1061–4
OTP, 88, 113, 130, 1067–8
PALU and, 90, 1104–5
PCIJ compared to, 95–4, 1024–8
President/Presidency of, 976, 1060–1, 1064–6
Protocol on Amendments to the Protocol on
the Statute of the African Court of
Justice and Human Rights, 260,
1028–30 See also Malabo Protocol
Protocol on the Statute of the African Court
of Justice and Human Rights, 1030–4
public defender model for, 94–5
purpose and function of, 1
RECS and, 1104
Registry in, 708, 1066–7
resource needs for, 1070–2
retributive justice through, 171–2
SCSL compared to, 1096–7
staff and staffing for, 1059, 1091–6, 1098
interpreters, 1095
Statute of, 177–8, 190–5, 743–7 See also
corporate criminal liability; liability;
specific modes of liability
modes of liability under, 743–7
multiple modes of liability under, 759–60
Statute of, Article 28N, 757–9, 766–81
structure of, 11–13, 1064–70
Vice President/Vice Presidency, 976, 1060–1
African Court of Human Rights (ACHR), 5
ACJ merger with, 6
African Court of Justice (ACJ), 6
ACHPR merger with, 6
Protocol on the Statute of the African Court
of Justice, 260
African Court on Human and Peoples’ Rights
(ACHPR)
consolidation of, 983–6
execution of judgments, 980–2
expansion of, 986–8
human rights machinery in, strengthening
of, 986–7
judges on, 976–7, 987
jurisdiction of, 967–9, 971–3
limitations of, 967–9, 971–3
treaties within, 977
legal aid in, 982–3
limitations of, 967–9, 971–3
monitoring of judgments, 980–2
ratione personae, 971
remedies for, 980
repatriation through, 172, 980
standing issues for, 969–71
submission of cases, limitations on, 978–9
strengthening of, 983–6
structure of, 976–7
African Court on Human and People’s Rights
Establishment of an African Court on
Human and People’s Rights,
development of, 965–6
African Criminal Chamber, of ACJHPR, 75.
See also drug trafficking
for transnational crimes, 340–61
African Criminal Court (ACC). See also
African Court for Justice and Human
and People’s Rights; Article 46C;
international crimes; Malabo Protocol;
transnational crimes; unconstitutional
change of government
African Peace and Security Architecture
and, 208–12
classification of crimes in, 236–54
legal context for, 236–8
concurrent jurisdiction of, with ICC
complementarity and, 190–5
conflicting obligations for,
186–90
scope of, 181–6, 196–7
state cooperation with, 186–90
statutes as influence, 187
development of, 82
emancipatory potential of, 198–9
expanded jurisdiction of, 216
ICC as influence on, 203–8
corporate criminal liability and,
796–805
ICL and, 218
international law through, 842 See also
automatic deferral
for corruption, 840–1
for ICC crimes, 841–2
jurisdiction over Rome Statute,
841
for non-ICC crimes, 839–41
jurisdiction of, 227, 794
legalism and, 199–203, 208
politics of, 198–9, 208–19
democratic, 214–17
instrumentalization of, 212–14
re-envisioning of, 217–19
statutes of, 187
African Development Bank, 1037
African Development Bank Administrative
Tribunal (AfDBAT), 1048
African Ecologies of Justice, 22
African ecosystems, 22
African Governance Architecture (AGA),
19–20, 124–5, 173–4
African Human Rights Charter, 25
African Mission in Burundi (AMIB), 124
African Mission in Sudan (AMIS), 124
African Model Anti-Terrorism Law (2011)
(AU), 417–18, 420, 431–2, 447
African Nuclear Weapon Free Zone Treaty
(Treaty of Pelindaba), 272
African States
ACHPR in, limited establishment of, 5
commitment of regional courts, 44–5
cooperaformance among, 730–1
crimes against humanity in, 77–8
drug trafficking in, 375–8 See also specific
countries
enhancement of human security in,
75–82
human rights in, 3
OAU, 4–5
regional, 66
regional laws for, 66
UN Seminar on the Creation of Regional
Commissions on Human Rights, 3
underfunding of institutions for, 103–4
ICC and, 62, 88–95
undermining of, 13–14, 104–5
international crimes in, 75–82, 92–3
legal duty of, 75–82
non-cooperation in, 730–1
PMSCs in, 476
rule of law in, 40–1
terrorism in, scope of, 411
UCG in, 40–1, 338
African Transitional Justice Policy Framework
(ATJF), 112–15, 117–18
Malabo Protocol and, 119
African Union (AU). See also African Court for
Justice and Human and People’s
Rights; Constitutive Act; Transitional
Justice Policy Framework
ACJ and, 6
ACJHPR assessment by, 1096–100
Action Plan on Drug Control, 363
AFISMA, 124
African Charter on Democracy, Elections,
and Governance and, 41, 81
AGA and, 19–20, 124–5, 173–4
constitutionalism, 174
AMISEC, 124
ASP, 107
ATJF and, 112–13, 117–18
Malabo Protocol and, 119
AUFD, 125–6, 139–40
AUPOW, 21
budget of, 42–3
Constitution on Cross-Border Co-operation, 547
Constitution on Preventing and Combating Corruption, 508–9
corruption and, official response to, 478
counter-terrorism developments, 417–19
African Model Anti-Terrorism Law, 417–18, 420, 431–2, 447
Plan of Action on the Prevention and Combating of Terrorism in Africa, 418–19
Decision on the Abuse of the Principle of Universal Jurisdiction, 623
General Affairs Section, 959–60
ICC and, 62–3
tension with, 851–3
International Convention against the Non-Aggression and Common Defence Pact, 530–1
OAU replaced by, 79
Panel of the Wise, 117
PCRD, 174–6
peacekeeping missions through, 123–4
Protocol of the Court of Justice of the African Union, 259–60, 449–50 See also mercenarism
limitations of, 468–9
loopholes in, 469–73
positive aspects of, 469–73
PSC of, 80, 121
institutional reform, 172
management of violence through, 122–6
referral authority of, 133–4
reorganization of, 1076
restorative justice through, 172
retributive justice through, 171–2
staff members, 1035–9, 1043–6, 1053
STC and, 10
transitional justice architecture, 171–6
constitutionalism, 174
institutional reform, 172
judicial reforms, 174
Malabo Protocol as influence on, 176
reconciliation processes, 174–6
security sector reform, 174
UCG and, 39–41, 622
under Constitutive Act, 40–1
UNAMID Hybrid Force, 124
universal jurisdiction and, 86–8
war crimes and, 7–9
African Union Administrative Tribunal (AUAT), 1036. See also administrative law
appellate jurisdiction for, 1040–53
applicable law for, 1047–50
scope of, 1043–7
non-suspensive effect of decisions, 1051–3
procedural matters, 1050–3
binding force, 1050–1
enforcement measures, 1050–1
for remedies and compensation, 1051
provisional measures, availability of, 1051–3
unequal access to court issues, 1040–3
ICJ response to, 1040–3
African Union High-Level Panel on Darfur (AUPD), 125–6, 139–40
African Union Mission in Somalia (AMISOM), 124
African Union Peace and Security Architecture (APSA), 124
African-led International Support Mission to Mali (AFISMA), 124
AGA. See African Governance Architecture
department, as crime. See also acts of aggression
under Charter of the United Nations, 322–4
definition of, 315–16, 320–4
acts of aggression, 322
planning, preparation, initiation or execution in, 321
for purpose of statute, 321
for human security, as protected value, 320
in ICC, 315
under international criminal jurisdiction, 87
international criminal liability for, 318
jurisdiction over, 315–19
in Nuremberg trials, 314–16
by organizations, 316–19
under Rome Statute, 279–80, 315, 322–4, 909
by state military action, 316–19
under Tokyo Charter, 316
in Tokyo Tribunal, 314–15
Agreement for the Establishment of the African Risk Capacity Agency, 1077

aiding and abetting, 766–70

Akande, Dapo, 34–5

Algeria

civil war in, 411

drug trafficking laws in, 380

Islamic Salvation Front in, 411–12

terrorism in, 411

alibi, 919–20

American Convention on Human Rights, 134, 534

American Declaration on the Rights and Duties of Man, 65

AMIB. See African Mission in Burundi

AMIS. See African Mission in Sudan

AMISEC. See AU Mission for Support to the Elections in the Comoros

AMISOM. See African Union Mission in Somalia

amnesties, 156, 142–3

African Court and, 115

invalidation of, 126, 143, 159, 205–6

in Uganda law, 932

for war crimes, 134, 683

Amnesty International, 562–3, 1117

Amosu, Adesola, 493–4

Anghie, Antony, 217

Angola, 204

FNLA, 453, 473

human trafficking in, 538

illicit exploitation of natural resources in, 592, 595, 600

Luanda Trial, 453

mercenarism in, 453, 460, 462–3

MPLA, 453, 473

UNITA, 467, 603–4

Annan, Kofi, 121, 125

annexation, as act of aggression, 327–8

anti-crime prevention, 842–3

apartheid

criminalization of, 77–9

as human rights issue, 66

appeals, right to, 13, 726–7

APSA. See African Union Peace and Security Architecture

Arab League, 138, 413–16

Convention on the Suppression of Terrorism 1998, 410

Arab Spring, 306

as UCG, 641

Argentina

Falklands War and, 142

“Full Stop Law” in, 134, 142

transition from dictatorship in, 116

transitional justice in, 141–3

armed forces

attacks on, 329–30

use of, 326–7

Armenian Genocide, 292

Arrest Warrant case, 31–2, 58–9, 855, 862

Article 28H, 468–74. See also mercenarism

Article 28H (Protocol of the Court of Justice of the African Union), 468–74

Article 46 A bis (Malabo Protocol), 29–36, 102, 211, 283–4, 317, 842–4, 850–65. See also aggression; automatic deferrals

anti-crime prevention, 842–3

AU-ICC tension, 851–3

doctrinal question over, 850–1

duties of state under, 849

flawed premise of, 843–4

ICJ and, 852

immunity provisions under, 851–64

doctrinal arguments on, 856–64

ratione materiae, 854–6, 860

ratione personae, 854–6, 860

scope of, 853–6

impunity under, 863–4

Article 46C, at ACC, 793–6, 834–5

asset recovery under, 825–6

attribution principles, 812–23

models of attribution, 812–15

command responsibility, 820

compensation under, 824

complementarity and, 827–31

complicity and, 820

corporate sanctions under, 824–7

crimes contemplated under, 806–12

derivative liability, 812–15

due diligence in, 813

identification model, 813–15

vicarious, 812–15, 821

enforcement challenges under, 831–4

entities contemplated under, 806–12

jurisdiction of, 806–12

non-compliance requirements under, removal of, 820

organizational model, 815–23

aggregation of knowledge in, 818–19

corporate knowledge in, 818–19

non-official personnel in, 821–3
nullum crimen sine lege principle in, 816
progressive, 823
rehabilitation under, 824
reparations under, 824
restitution under, 824
scope of, 806
Articles. See International Criminal Court; Malabo Protocol; Rome Statute; Versailles Treaty of 1919
Assembly of State Parties (ASP), 107, 139
cooperation and, 732
asset recovery
under Article 46C, 825–6
after corruption, 480–92, 502–3
conviction-based, 491–2
reparations and, in money laundering, 525–6
atrocity crimes
ACJHPR and, 93–4
in Africa, 93–4
corporate criminal liability for, 93–4
definition of, 795
by political groups, 286
in Sierra Leone, 60
under-enforcement of, 800
attack against state’s armed forces, as act of aggression, 329–30
attribution, of criminal legal responsibility, 748–9
under Article 46C, 812–23
models of attribution, 812–15
for corporations, 811
AU. See African Union
AU Electoral And Security Assistance Mission to the Comoros (MAES), 124
AU Military Observer Mission in the Comoros (MIOC), 124
AU Mission for Support to the Elections in the Comoros (AMISEC), 124
AU Panel of the Wise (AUPOWER), 21
AUAT. See African Union Administrative Tribunal
AUPD. See African Union High-Level Panel on Darfur
AUPOWER. See AU Panel of the Wise
Australia
corporate criminal liability in, 785–7
universal jurisdiction in, 58
aut dedere. See prosecute or extradite
aut judicare. See prosecute or extradite
authority. See persuasive authority
automatic deferrals, 842–9
immunity and, 842

Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes Within Africa, 49, 428–9, 568–74, 576
Banda, Rupiah, 499
Banjul Charter, 5, 87, 100–1
banking systems. See international banking systems
Barriga, Stephan, 323
Barrow, Adama, 252
Basel Convention (1989), 564–74
al-Bashir, Omar Hassan Ahmed, 1–2, 60, 113, 200, 299, 859
crimes against humanity by, 948
genocide crimes by, 948
war crimes indictments against, 7–9, 88, 137–8, 966
Bassiouni, M. Cherif, 58
Baxi, Upendra, 218
Bedjaoui, Mohammed, 86–7
Belay, Netsanet, 858
Belgium
DRC proceedings against, 86
universal jurisdiction in, 58–9
Benin, 558–9
Bensouda, Fatou, 650
Beyani, Chaloka, 86–7
Bhojwani, Raj, 498
Bigombe, Betty, 115
binding force, of AUAT, 1050–1
Bishop, Joel Prentiss, 405
blockades, as act of aggression, 329
Boelaert, Sonja, 86–7
Boko Haram, 296
corruption by, 493–4
recruitment of child soldiers, 302
terrorism by, 305, 307
bombardment, as act of aggression, 328–9
Boraine, Alex, 167–9
Botswana, 377
corporate criminal liability in, 783
human trafficking in, 543
bribery, 481–5
active, 482–3
OECD Anti-Bribery Convention, 483, 829
passive, 481–2
Index

bribery (cont.)
  in private sector, 483–5
  in public sector, 481–3

bricolage, 931

Broache, Michael, 114

burden sharing
  complementarity and, 664–73, 679
  global community interests in, 668
  with ICC, 672–3
  national community interests for, 668
  positive, 676–9
  prosecutorial discretion, 676–9
  with RECs, 671–2
  with national courts, 669–73

Burkina Faso, 541

Burundi
  civil war in, 640–1
  withdrawal from ICJ, 501

business organizations, other than corporations, corporate criminal liability for, 288–91

Bustamante, Rafael De, 86–7

Butare Four case, 287–8

CAL. See Coalition of African Lesbians

Camara, Fafré, 86–7

Cambodia Tribunal, 102

Canada
  corporate criminal liability in, 291
  crimes against humanity in, 291
  universal jurisdiction in, 58
  war crimes in, 291

Caribbean Court of Justice, 70, 839

Cassee, Antonio, 86–7

CEDAW. See Convention on the Elimination of All Forms of Discrimination against Women

Central African Republic, 541
  illicit exploitation of natural resources in, 592, 595

Chad. See also Habré, Hissène
  Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and, 83
  Charter of the International Military Tribunal, 908
  Charter of the Military Tribunal for the Far East, 908. See also Tokyo Charter
  Charter on the Rights and Welfare of the Child, 11
  child soldiers, 295, 297

criminal defence for recruitment of, 918–20
  through human trafficking, 551
  in ISIS, 302
  recruitment of, 302

children, under Transitional Justice Policy Framework, 161–2

Chile, transitional justice in, 143–4

Chiluba, Frederick, 499–500

civil society organizations (CSOs). See also non-governmental organizations; regional economic communities

ACJHPR and, 1102–22
  competing obligations in, 1119
  domestic legal standards under, 1119
  financial burdens under, 1122
  harmonization of laws, 1119
  opposition to immunity clause, 1112–14
  restricted access to, 1108–9

ECOSOCC, 1106–10

ICC established by, 1101–3
  involvement in regional courts, 49–50

Malabo Protocol and, 1102–22
  human rights mandate of, implications for, 1109–11, 1115–19
  legal standards setting, 1111–22
  opposition to immunity clause in, 1112–14
  ratification of, campaigns for, 1110–11
  vaguely defined crimes under, 1115–19

Rome Statute and, conflicts with, 1120
  competing obligations, 1120–1
  domestic implementing legislation and, 1121
  financial burdens under, 1122
  overlapping jurisdictions, 1120–1

civil wars
  in Algeria, 411
  in Burundi, 640–1
  mercenarism during, 453
  in Nigeria, 453
  in Rwanda, 640–1

Clarke, Kamari, 22, 469

Coalition of African Lesbians (CAL), 1107

coherence initiatives, 154

Cole, Rowland J. V., 211

colonialism, in Africa. See also toxic colonialism
  mercenarism influenced by, 450–5
  self-determination struggles against, 66
  command responsibility, 820

Commonwealth Secretariat Arbitral Tribunal (CSAT), 1048

Downloaded from https://www.cambridge.org/core. IP address: 54.70.40.11, on 22 Jan 2020 at 14:17:44, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108525343
communication of information, right to, 704–7
in ICC cases, 706–7
in ICTR, 706–7
in ICTY, 705–6
communication with counsel of choice, right to, 707–11
commutation of sentences, 942–3
Comoros, 538
human trafficking in, 538
compensation
under Article 46C, 824
through AUAT, 1051
competence, of ICC, 796–805
complementarity. See also positive complementarity
in abstracto, 659–60
in African Court, 46–8, 646–52
analysis of, 664–79
burden sharing with national courts, 669–73
ICC jurisprudence and, 663–4
legitimacy of, 672–3
primacy compared to, 665
under Article 46C, 827–31
burden sharing and, 664–73, 679
global community interests, 668
with ICC, 672–3
national community interests, 668
positive complementarity and, 676–9
prosecutorial discretion, 676–9
with RECs, 671–2
in concreto, 659–60
criminal law section and, human rights influenced by, 996–1005
under customary international law, 664–5
in DRC, 654–5
Extraordinary African Chambers in Senegal and, 670–1
gravity threshold for, 659–62, 675–6
hierarchical approach, 665
at ICC, 48, 73, 652–9
burden sharing and, 664–73
intent to shield, 675
jurisprudence of, 663–4
positive complementarity, 98–100
test for relevant activity, 673–4
unjustified delays, 675
jurisdiction and, as regulating principle, 96–8
last resort approach to, 665–6
legal analysis of, 645–64
in Libya, 657–9
in Lubanga case, 654–5, 662
in national courts, 664–5
ne bis in idem principle and, 190, 195, 650–2, 659–62
non bis in idem principle and, 650–2
in Ntaganda case, 662
proprio motu referrals, 676–7
under R2P doctrine, 664–5
RECs and, 647–8
burden sharing with, 671–2
in regional courts, 46–8
Rome Statute and, 47, 649–52, 664–5
in ICTR, 654–5
in Al-Senussi case, 657–9
tests for, development of, 673–9
relevant activity as threshold inquiry, 673–4
unwillingness of courts to act, 674–5
in Transitional Justice Policy Framework, 159
UCG and, 670
complicity, 750–5
under Article 46C, 820
Comprehensive Peace Agreement (CPA), 115
concession system jurisdictions, 611
concurrent jurisdiction
with ACC
complementarity and, 190–5
conflicting obligations for, 186–90
scope of, 181–6, 196–7
state cooperation with, 186–90
statutes as influence, 187
defined, 186
with ICC
complementarity and, 190–5
conflicting obligations for, 186–90
scope of, 181–6, 196–7
state cooperation with, 186–90
statutes as influence, 187
confidentiality, 711, 724, 1001–2
conflict diamonds, 595–6
Congo. See Democratic Republic of Congo consent, 918–20
rape and, 919
constitutional immunity, 495
constitutionalism, 174
Constitutive Act (African Union), 24–5, 30, 148
acts of aggression under, 327
aggression as crime under, 279–80
human security under, 75–7
sanctity for human life under, 148–63
Constitutive Act (African Union) (cont.)
  scope of, 171
  steps against impunity under, 79–80
  UCG under, 40–1
  violence management under, 122
Convention against Illicit Traffic in Narcotic
  Drugs and Psychotropic Substances, 508
Convention Against Torture and Other Cruel,
  Inhuman and Degrading Treatment or
  Punishment (Torture Convention),
  82–3, 111, 277–8
Convention for the Elimination of
  Mercenarism, 248, 350
Convention for the Suppression of the
  Financing of Terrorism, 765, 814
Convention for the Suppression of the Traffic
  in Persons and the Exploitation of the
  Prostitution of Others (1949), 532–3
Convention for the Suppression of Unlawful
  Acts Against the Safety of Maritime
  Navigation (SUA Convention), 396
Convention on Combating International
  Terrorism, 410, 413–16
Convention on Cross-Border Co-operation,
  547
Convention on Preventing and Combating
  Corruption, 508–9
Convention on the Elimination of All Forms
  of Discrimination against Women
  (CEDAW), 533–4
Convention on the Prevention and
  Punishment of the Crime of Genocide
  (Genocide Convention), 111, 261–4,
  grave breaches of, 111
Convention on the Rights of the Child (CRC),
  533–4
Convention Relative to the Treatment of
  Prisoners of War, 914
conviction-based asset recovery, 491–2
  cooperation. See also non-cooperation
  between ACC and ICC, through
  concurrent jurisdiction, 186–90
among African States, 730–1
  under Amended (Malabo) Protocol, 512–20
    between states and private actors, 521–5,
    734–8
  ASP and, 732
  competing obligations as factor in, 731,
  738–40
  ICC and, 729–32, 738–40
  importance of, 731–4
  international, for prevention of human
  trafficking, 546–7
  under Rome Statute, 731–2, 740
  in SCSL, with national systems, 282–3
  with state and private actors, in money
  laundering cases, 521–5
  Transitional Justice Policy Framework
    initiatives, 154
  coordination initiatives, 154
  core crimes, 230–46
    under Malabo Protocol, 261–82
    penalties for, 930–1
    sentencing for, 930–1
    UCG, 626–30
  corporate criminal liability, 26–9, 285, 313,
    782–91. See also Article 46C; principal
  corporate criminal liability
    accomplice, 787–91
    for atrocity crimes, 93–4
      in Australia, 785–7
      in Botswana, 783
    for business organizations other than
      corporations, 288–91
      in Canada, 291
      for clandestine military organizations,
      292–304
    corporate culture model, 785
    corporate sanctions, 28
      for La Cosa Nostra, 303–4
      definition and scope of, 288–90, 782
      for displacement of civilians, 298
      under domestic legislation, 783–5
      in Ethiopia, 783
      extension of, 301–4
      for genocide, 294–5
      for human rights violations, 294–5
      for human trafficking, 547–50
      under ICC statutes, 27–8, 304–5
      in ICTY, 298–9
      ILC and, 804–5
      for illicit exploitation of natural resources,
      598
      in ISIS, 301
      in Kenya, 783
      loopholes for, 288–91
      in Malawi, 783
      in Namibia, 783
      at Nuremberg trials, 27, 285
      organizational, 784–5
      for political groups, 292–304
domestic criminal tribunals for, 298–301
international criminal tribunals for,
298–301
in Nazi Germany, 292–3
principal, 786–7
for religious groups, 292–302, 304–12
terrorism by, 304–11
respondeat superior and, 783
Rules of Procedure and Evidence and,
833–4
in Rwanda, 783
in SCsL, 299
for social and religious groups, 292–302
in South Africa, 783
in statelets, 300–1
Islamic State, 301
Palestinian Authority, 301
subsidiary, 754, 831–2
for torture, 294–5
transnational agreements over, 802–3, 807
in Zimbabwe, 783
corporate personnel, 821–3
corporate sanctions, 28, 824–7
under Article 46C, 824–7
corruption, 92–3, 177, 240–9
abuse of functions, 485–6
quality control provisions, 485
ACC and, 842–1
asset recovery and, 489–92, 502–3
conviction-based, 491–2
under AU Convention on Preventing and
Combating Corruption, 508–9
AU response to, 478
by Boko Haram, 493–4
bribery, 481–5
active, 482–3
OECD Anti-Bribery Convention, 483
passive, 481–2
in private sector, 483–5
in public sector, 481–3
case studies, 496–500
Abacha case, 497–9
Chiluba case, 499–500
Obiang case, 496–7
definition of, 609
diversion of state assets, 487–8
in Equatorial Guinea, 496–7
FatF, 478, 481–2, 488–9, 500–1
future legal challenges, 503–4
global scope of, 477–80
grand, 492–3
illicit enrichment, 487
in ECHR, 487
illicit exploitation of natural resources
through, 608–9
immunity provisions, 501–2
constitutional, 495
jurisdiction limitations for, 494–5
investigations into, 489–92
evidence gathering in, 489–91
from whistle-blowers, 489–90
jurisdiction limitations for, 492–5
immunity provisions, 494–5
for international organizations, 494
by region, 493
for serious nature of acts, 492–4
money laundering as, 488–9
in Nigeria, 493–4, 497–9
offences, 480–5 See also specific offences
SDAG response to, 478, 480
secretary and, 490
sentencing for, 489–92, 501–2
penalties in, 491–2
trading in influence, 486
influence peddlers, 486
under UNCAC, 349–50, 478, 484, 491, 493
UNGA response to, 478
in Zambia, 499–500
La Cosa Nostra (Maﬁa), 303–4
under Racketeer Inﬂuenced and Corrupt
Organizations Act, 303–4
cost of trials. See trials
Côte d’Ivoire, 561–2, 592
hazardous waste trafﬁcking in, 561–2
illicit exploitation of natural resources, 592
UCG in, 628–30
Cotonou Agreement, 567–8
Council of Europe, 824–5
counseling, 765–6
instigation and, 766
Covenant of the League of Nations, 1029
CPA. See Comprehensive Peace Agreement
CRC. See Convention on the Rights of the
Child
crime of aggression. See aggression
crimes against humanity
African Court of Justice and Human Rights
international criminal jurisdiction, 87
Malabo Protocol, 249–46, 275–9
in African States, 77–8
by al-Bashir, 948
in Canada, 291
Index

Crimes against humanity (cont.)
   Extraordinary African Chambers in Senegal,
      84–5, 645, 670–1
   in Guatemala, 117
   under Rome Statute, 276–7
   torture in, 243–4

Crimes Against Humanity Initiative, 804
   criminal law section, of ACJHPR, 682, 959–60, 1007–12
   African Commission on Human and People’s Rights and, 1006–7
      as agent of ICL, 1006–7
      as enforcement agent, 1005–6
      human rights and, 998–1005
      as investigators, 1005
      victim’s justice through, 1006–7
   human and people’s rights section and, 1008–12
   human rights and, 996–1007
   African Commission on Human and People’s Rights, 998–1005
      complementarity as influence on, 996–1005
      criminalization of violations, 997–8
      judicial dialogue between, 1012–19
      non-state actors and, 996–7
      plural entities and, 1012–13
      legal fragmentation in, 1012–13
      systemic harmony within, 1007–12
   criminal liability. See liability

CSAT. See Commonwealth Secretariat
   Arbitral Tribunal

CSOs. See civil society organizations
   culpability, 750, 752
   cultural heritage, terrorist acts as damaging to, 415–16
   customary international law
      complementarity under, 664–5
      immunity under, 33–4, 862–3
   cyber attacks, 427

Dakar, Senegal
   International Commission of Jurists in, 4
   rule of law in, 4

Dar es Salaam, 4

Darfur, Sudan
   AUPD, 125–6
   DDPD, 141
   UNAMID Hybrid Force, 124, 138
   DDPD. See Doha Document of Peace for Darfur

De facto, 297, 668, 762, 817
De jure, 762

De Klerk, F. W., 113, 149–50

Decision on the Abuse of the Principle of
   Universal Jurisdiction (AU), 623

Declaration against Corruption and Bribery in International Commercial
   Transactions (UNGA), 478

Declaration of war, as act of aggression, 324

Declaration on Measures to Eliminate
   International Terrorism (UNGA)
      (1994), 414–15

Decolonization, mercenarism and, 451
   defence of person, 882–5
   defence of property, 885–6
   Defence Office, establishment of, 680–1, 685, 710, 1068–70
   defence exclusions, from terrorism, 445–7
   defensive operations, 882, 916–17
   deferrals. See automatic deferrals
   delayed disclosure, 688–9
   democratic governance deficits, 147
   Democratic Republic of Congo (DRC)
      atrocity crimes in, 60
      complementarity in, 654–5
      human trafficking in, 538
      illicit exploitation of natural resources in, 592, 595, 597
      pillaging in, 825
      proceedings against Belgium, 86
      universal jurisdiction in, 86
   Denard, Bob, 463, 466–7
   depredation, piracy and, 393–4
   deprivation of liberty, 348
      through terrorism, 425–6
   derivative liability, 812–15
      due diligence in, 813
      identification model, 813–15
      vicarious, 812–13, 821
   detention
      international, 944–5
      piracy and, 393–4
      presumption of innocence and, 693
   Detention Management Unit, 1066–7
   deterrence. See also penalties; sentences
      general, 586, 940
      of hazardous waste trafficking, 585–9
      specific, 586
   deterrence theory, 587–8
Deya, Donald, 22, 200
Dicker, Richard, 201
differential participation model, 746, 748–55
diminished mental capacity, 876–8
al-Dine, Ansar, 311–12
direct enforcement systems, 58
 ICL and, 61
disclosure of evidence, right to, 696–704
 in ICC cases, 696–704
 in ICTR, 696–704
 in ICTY, 696–704
 iura novit curia principle, 698
dispersion of armed bands, groups, irregulars or mercenaries, 332–4
displacement of civilians, 298. See also refugees
corporate criminal liability for, 298
disruption of public services, through terrorism, 432–4
Dlamini, C. R. M., 3
Doe, Samuel, 641
dogs of war, 451
Doha Document of Peace for Darfur (DDPD), 141
domestic criminal tribunals, for corporate criminal liability, 298–301
domestic laws. See national laws
double jeopardy, prohibition against, 920
Draft Code of Crimes against the Peace and Security of Mankind, 868–9, 882
Draft Comprehensive Terrorism Convention (UN), 410
DRC. See Democratic Republic of Congo
drug cultivation offences, 373–4
drug supply offences, 371–3
drug trafficking, 92–3, 177, 246–9
 in African States, 375–8 See also specific countries
 in Algeria, 380
 in Botswana, 377
criminalization of, 378–9
definition of, 366
in domestic courts, 381–2, 385–6
global drug control and, changes in, 386
gravity threshold for, 364–5
international scope of, 362–3
jurisdiction over, 363–5, 386–7
 in Action Plan on Drug Control, 363, 366
ECOWAS, 363
 through ILCs, 364
 in Sierra Leone, 363–4
in Kenya
 laws against, 369
 punishment for, 380–1
lawful actions, 369–70
 in Liberia, 377
 in Mauritius, laws against, 370
modes of responsibility for, 378–9
in Namibia, 373
controlled substances, 368
offences for, 370–4
actus reus, 375
drug cultivation, 373–4
drug supply, 371–3
inchoate, 378–9
mens rea, 373, 375
operationalization of, 384–6
possession, 375–8
precursor, 378
punishment for, 341–2, 379–83
purchase, 375–8
supply, 370–3
party liability for, 378–9
prosecution of, challenges in, 341, 383–6
positive complementarity, 383–4
rehabilitation and treatment for users, 383
through social re-integration, 383
under Rome Statute, 364
in Seychelles, 375
NDEA in, 384
in Sierra Leone, 375
jurisdiction over, 365–4
sources of law for, 69–70, 366–7
substances under control, 367–9
international classification systems for, 368
scheduling systems for, 367–8
in Swaziland, 382
in Trinidad and Tobago, 362
under UN Convention against Transnational Organized Crime, 386
under UN Drug Trafficking Convention, 367–8, 370, 379–83
unlawful actions, 369–70
Du Plessis, Max, 44, 201
du Toit, Nick, 468
due diligence, 813
due process, 300, 727, 779–80, 786, 816
under international law, recognition of, 647, 745
nula poena sine lege principle and, 773–4
nullum crimen sine lege principle and, 773–4
Dunér, Bertil, 633
duress, 887–98
duties of state, under Article 46 A bis, 849

early release, 944
East African Court of Justice, 839
ECC. See Extraordinary Chambers in the Courts of Cambodia
Economic, Social and Cultural Council (ECOSOCC), 1106–10
Economic Community of West African States (ECOWAS), 47, 97–8, 363
Court of Justice, 839
ECOSOCC. See Economic, Social and Cultural Council
ECOWAS. See Economic Community of West African States
ECtHR. See European Court of Human Rights
EEZ. See Exclusive Economic Zone
Egypt, terrorism in, 413
EITI. See Extractive Industries Transparency Initiative
emergency. See public emergency
enforcement systems. See also direct enforcement systems; indirect enforcement systems
in AUAT, 1050–1
for hazardous waste trafficking, 572–3
regional, 232, 572–8
for sentencing, 941–5
environmental heritage, terrorist damages to, 428–9
environmental protections, illicit exploitation of natural resources and, 612–15
EO. See Executive Outcomes
Equatorial Guinea, 468, 478
corruption in, 496–7
human trafficking in, 541
Erdemović, Dražen, 890–1
Etete, Dan, 607
Ethiopia, corporate criminal liability in, 783
EU. See European Union
European Convention on Human Rights, 534
European Court of Human Rights (ECtHR)
fundamental rights protections in, 681–2
human rights cases in, 681–2, 1011
illicit enrichment as corruption, 487
Lagos Conference on Primacy of Law influenced by, 3
persuasiveness in case law in, 1015
public hearings in, 685
European Court of Justice, 839
European Union (EU)
human rights norms in, 66
regional human rights in, 66–7
regional human rights law in, 66–7
evidence gathering, in corruption cases, 489–91
evidentiary challenges, in money laundering cases, 520–5, 527
complex financial investigations, 520–1
Exclusive Economic Zone (EEZ), 397–8
Executive Outcomes (EO), 467
Expiry Law (Uruguay), 144
exploitation of natural resources. See natural resources
expressive condemnation, of hazardous waste trafficking, 583–5
expressivism, 940
Extractive Industries Transparency Initiative (EITI), 596
extradition, under Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, 111
Extraordinary African Chambers (Senegal), 84–5, 645, 670–1
Habré and, 171–2, 670–1
Extraordinary Chambers in the Courts of Cambodia (ECCC), 702, 908
facilitation, 763
fact-finding missions, 998–9
factual awareness elements, 905–6
fair labeling, 750, 752–3
fair trials, right to, 685–9, 727–8
ad hoc tribunals and, 686–7, 691–2
adjudicated facts, 692–3
balancing tests for, 687
Defence Office, establishment of, 680–1, 685, 710
delayed disclosure in, 688–9
habeas corpus, 694–6
in ICC cases
right to communication of information in, 706–7
right to disclosure of evidence in, 696–704
Rules of Procedure and Evidence, 681, 728

ICTR and
presumption of innocence in, 690–1
right to communication of information
in, 706–7
right to disclosure of evidence in, 696–704
ICTY and
presumption of innocence in, 690–1
right to communication of information
in, 705–6
right to disclosure of evidence in, 696–704
minimum guarantees for, 694–727
non-derogable rights in, 694–5
presumption of innocence and, 689–94
detention and, 693
in ICTR, 690–1
in ICTY, 690–1
proof beyond reasonable doubt, 690
redactions and, 688–9
right to appeals, 13, 726–7
right to be informed of content of charges,
694
right to be tried in own presence, 712–13
right to communication of information,
704–7
in ICC cases, 706–7
in ICTR, 706–7
in ICTY, 705–6
right to communication with counsel of
choice, 707–11
right to disclosure of evidence, 696–704
in ICC cases, 696–704
in ICTR, 696–704
in ICTY, 696–704
iura novit curia principle, 698
right to examination of witnesses, 723–5
right to freedom from self-incrimination,
725–6
right to interpreters, through free assistance,
725
right to legal representation, 714
in international criminal cases, 720–1
through legal aid provisions, 722–3
with legal assistance in cases of
insufficient means, 719–23
right to legal/factual nature of accusations,
694–6
right to preparation of defence, 707–11
registrés and, 708
right to public pronouncement of
judgments, 726
right to self-representation, 714–17
right to silence, 725–6
right to speedy trial, 711–12
Rules of Procedure and Evidence for, in
ICC, 681
witness anonymity and, 687–8
Falklands War, 142
FATF. See Financial Action Task Force
Federal Republic of Yugoslavia (FRY), 35. See
also Yugoslavia
Fenwick, Charles, 1032
Financial Action Task Force (FATF), 478,
481–2, 488–9, 500–1
money laundering and, 516, 524
financial investigations, of money laundering,
507
complex, 520–1
under International Convention against the
Recruitment, Use, Financing and
Training of Mercenaries, 455–60
financing
of ACJHPR, 42–3, 1072–3
criminal liability for, 764–5
of terrorism, 764–5
under UN Convention for the Suppression
of the Financing of Terrorism, 765, 814
fines, as penalties, 931
fitness to stand trial, 873, 875
FNLA. See National Liberation Front of
Angola
Fofana, Moinina, 942–3
force majeure, 887
forced labor, human trafficking for, 534,
536–7
Ford, Stuart, 44
foreign fighters, 454, 461, 464–5, 471
foreign immunity, in national courts, 845–6
fragmentation, of ICL, 61, 105
France, universal jurisdiction in, 58
freedom. See liberty
FRY. See Federal Republic of Yugoslavia
“Full Stop Law” (Argentina), 134, 142
functional immunities. See ratione materiae
funding, of regional courts, 42–3, 103–4
G20, 494, 500
Gabon, 541
Gaddafi, Saif, 627–8, 636–7
Gambia, withdrawal from ICJ, 501
Ghadeb, Olugbenga, 493–4
Gbagbo, Laurent, 628–30
gender, in Transitional Justice Policy Framework, 161–2
general affairs section, of ACJHR, 1, 11, 24–5
general deterrence, 586, 940
general principles of law, 445–6, 571, 867, 869–70, 923
Geneva Conventions of (1949), 23
Additional Protocol I, 442, 455–60, 465 See also mercenarism
Additional Protocol II, 442
criminal defences under, 903–4
genocide. See also Convention on the Prevention and Punishment of the Crime of Genocide
ACJHPR and, international criminal jurisdiction over, 87
actus reus, 265
Armenian Genocide, 292
by al-Bashir, 948
conventions, 65
corporate criminal liability for, 294–5
ICC statute against, 65
ICTR and, 242–3, 262–4
under Malabo Protocol, 239–46, 258, 261–7
rape as part of, 23, 265
in Rwanda, 184
sexual assault and violence as aspect of, 23, 265
geographies of justice, 59, 71, 199, 390–1, 402, 409, 493, 671, 768, 1086, 1102
Ghana, 543
Ghankay, Charles, 299
al-Ghannouchi, Rashid, 306
global drug control, 386
Global North, hazardous waste trafficking by, 569, 572
Global South
hazardous waste trafficking in, 555, 569, 572
international law in, 218
globalization, toxic colonialism influenced by, 557–8
MNCs and, 558
TNCs and, 558
Goudé, Charles Blé, 630
grand corruption, 492–3
grave crimes, 254
genus
gravity threshold
for complementarity, 659–62, 675–6
for drug trafficking, 364–5
for transnational crimes, 345–9
criminal criteria in, 346–9
Greenpeace, 562–3
Guatemala
crimes against humanity in, 117
Historical Classification Commission in, 116–17
national reconciliation law in, 116–17
Guinea, Republic of, 4
Guinea-Bissau, 558–9

habeas corpus, 694–6, 1017
Habré, Hissène, 9, 14, 966
criminal prosecution of, 82–5
Extraordinary African Chambers and, 171–2, 670–1
torture under, 499, 949
Hague Convention for the Pacific Settlement of International Disputes, 1029
Hamas, 306
Harding, Christopher, 287
harmonization of judgments, 692
hazardous wastes, trafficking in, 49, 177, 246–9.
See also toxic colonialism
Amnesty International response to, 562–3
in Benin, 558–9
causes of, 556–8
in Côte d’Ivoire, 561–2
global increase in, 556–8
by Global North, 569, 572
global scope of, 555–6
in Global South, 555, 569, 572
Greenpeace response to, 562–3
in Guinea-Bissau, 558–9
in Nigeria, 560–1
OAU resolution on, 563–4, 568
prosecution of, 578–89
regional criminalization of, 578–89
through deterrence, 585–9
through enforcement, 572–3
expressive condemnation, 583–5
for Heads of States, 580
in IACtHR, 582, 585
as restorative justice, 581–3
as retributive justice, 579–81
regional enforcement against, 574–8
through criminalization, 572–3
interpretative challenges, 574–6
Index

practical challenges, 577–8
regulation of, international legal framework for, 564–78
under Bamako Convention, 49, 428–9, 568–74, 576
under Basel Convention, 564–74
under Cotonou Agreement, 567–8
inadequacy of, 564–74
under Lomé Convention, 567
UNEP and, 558
through waste disposal contracts, 558–9
in Zimbabwe, 584
Heads of State, in Africa, 136–7
immunity for, 283–4, 843–4
from hazardous waste trafficking, 580
under Rome Statute, 1113
high seas piracy, 396–8
Historical Classification Commission, 116–17
Hoare, Mike, 466
Holá, Barbora, 937
Holmes, John, 664
Homicide Act (1957) (UK), 876–7
Honrét, Tony, 670
human and people’s rights section, of
ACJHPR, 11–12, 25–6, 682, 959–60
criminal law section and, 1008–12
ratione personae, 1011–12
human rights
ACCHR, 5
African Charter on Human and Peoples’ Rights, 2–4, 77, 424–5
liberation and self-determination struggles and, 440
African Commission on Human and Peoples’ Rights, 3–5, 100
in African states, 3
in Botswana, 541
in Comoros, 538
in Central African Republic, 541
in DRC, 538
in Equatorial Guinea, 541
in Gabon, 541
in Ghana, 543
in the Americas, 65–6
in Africa, 66
enforcement of, 63–75
under AU Convention on Cross-Border Co-operation, 547
in Angola, 535
in Burkina Faso, 541
in the Americas, 65–6
in Europe, 66–7
UNGA establishment of courts systems for, 68
universal enforcement of, 65–75
Human Rights Strategy for Africa, 1019
human rights Watch, 135–6, 201
human security
in illicit exploitation of natural resources, 612–15
as protected value, 320
human trafficking, 92–3, 177, 246–9, 354, 551–2
in Angola, 535
under AU Convention on Cross-Border Co-operation, 547
in Botswana, 543
in Burkina Faso, 541
in Central African Republic, 541
in Comoros, 538
confiscation of criminal proceeds, 549
conscription of child soldiers through, 551
under Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, 532–3
definition of, 535–9
demographics for, 520–30
in DRC, 538
elements of, 535–9
in Equatorial Guinea, 541
in Gabon, 541
in Ghana, 543
in the Americas, 65–6
in Africa, 66
under apartheid, 66
Ben Kiwi Charter, 5, 87, 100–1
criminal law section and, 996–1007
African Commission on Human and People’s Rights, 998–1005
complementarity as influence on, 996–1005
criminalization of violations, 997–8
judicial dialogue between, 1012–19
through non-state actors, 996–7
plural entities and, 1012–13
in ECtHR cases, 681–2, 1011
under ICCPR, 13
human rights law. See also international human rights law
development of, 64
domestic laws as influence on, 991–3
international, 63–8
International Bill of Rights, 67–9
international criminal tribunals created for, 64–5
NGOs for, 902
quasi-criminal jurisdiction of, 67
regional, 63–8
in Africa, 66
in the Americas, 65–6
enforcement of, 63–75
in Europe, 66–7
UNGA establishment of courts systems for, 68
universal enforcement of, 65–75

Downloaded from https://www.cambridge.org/core. IP address: 54.70.40.11, on 22 Jan 2020 at 14:17:44, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108525343
human trafficking (cont.)
global scope of, 529–31
historical development of, 531–4
under ICCPR, 534
ICESCR and, 545
individual responsibility over, 547–51
corporate criminal liability, 547–50
resource issues, 548–9
under International Agreement for the Suppression of the White Slave Traffic, 531
under International Convention for the Suppression of the Traffic in Women and Children, 532
under International Convention for the Suppression of the Traffic in Women of Full Age, 532
under International Convention for the Suppression of the White Slave Traffic, 531–2
under international human rights law, 533–4
under treaties and conventions, 533–4
in Kenya, 535–6, 541–2
in Lesotho, 543–4
in Liberia, 541–2
in Malawi, 541–2
in Mauritius, 543–4
modus operandi in, 541–2
in Mozambique, 543–4
by organized criminal groups, 541–2
under Protocol against the Smuggling of Migrants by Land, Sea and Air, 538–9
in Seychelles, 541–2, 544
in slavery and forced labor context, 534.
536–7
smuggling compared to, 538–9
in South Africa, 541, 543–4
state responsibility over, 539–47
through international cooperation, 546–7
observance of non-refoulement, 543–4
for prohibition and prosecution, 540
for protection of victims, 542–3
in Sub-Saharan Africa, 529
in Tanzania, 543
under Trafficking Protocol, 530
in Uganda, 543
under UNTOC, 530
in Zambia, 541–2, 544
IAC. See international armed conflict
IACiHR. See Inter-American Court of Human Rights
ICC. See International Criminal Court
ICCPR. See International Covenant on Civil and Political Rights
ICD. See International Crimes Division
ICESCR. See International Covenant on Economic, Social and Cultural Rights
ICGLR. See International Conference on the Great Lakes Region
ICJ. See International Court of Justice
ICL. See international criminal law
ICRC. See International Committee of the Red Cross
ICTJ. See International Centre for Transitional Justice
ICTR. See International Criminal Tribunal for Rwanda
ICTY. See International Criminal Tribunal for the Former Yugoslavia
identification model, in Article 46C, 813–15
identification of victims, 953
IFAD. See International Fund for Agricultural Development
IHL. See international humanitarian law
IHRL. See international human rights law
ILC. See International Law Commission
illicit enrichment, 487
in ECtHR, 487
illicit exploitation, of natural resources, 177, 246–9, 617–18
in accession system jurisdictions, 611
in Angola, 592, 595, 600
in Central African Republic, 592, 595
in concession system jurisdictions, 611
conflict diamonds, 595–6
corporate criminal liability for, 598
through corruption, 608–9
in Côte d’Ivoire, 592
criminalization of, 591–7
definition of, 590
in DRC, 592, 595, 597
ETTI and, 596
environmental protection compliance and, 612–15
human security issues, 612–15
ICC and, 598
ICGLR response to, 594, 615–17
in kleptocracies, 502
KPCS, 595–6, 615–16
in Liberia, 595, 607–8
in Libya, 612
natural resource certification mechanisms
and violations of, 615–17
ICGLR, 615–17
KPCS, 615–16
in Nigeria, 607
nullum crimen sine lege principle and, 596–7
without official state agreements, 610–12
through one-sided agreements, 609–10
pillage and, 591, 593–4
scope of, 590–5, 597–617
sub-offences in, 603–4
travaux préparatoires, 597
seriousness requirements for, 598–601
in Sierra Leone, 592, 595
in South Africa, 614
by state authorities, 606–8
in Tanzania, 614
in Uganda, 591
as violation of people’s sovereignty, 601–6
for indigenous peoples, 605–6
ILOAT. See Statute of the Administrative
Tribunal of the International Labour
Organization
immunity
under Article 46 A bis, 851–64
doctrinal arguments on, 856–64
ratione materiae, 854–6, 860
ratione personae, 854–6, 860
scope of, 853–6
from corruption, 501–2
constitutional, 495
jurisdiction limitations for, 494–5
under customary international law, 33–4,
862–3
foreign, in national courts, 845–6
for Heads of State, 283–4, 843–4
from hazardous waste trafficking, 580
in ICJ, 31, 33–4
under Malabo Protocol, 2
Article 46 Abis, 29–36
ratione materiae, 30–4
ratione personae, 30–4
temporary, 14, 253
in Nuremberg trials, 861
as procedural rule, 33
under Rome Statute, 738–9
for Heads of State, 1113
for senior state officials, 2, 30, 33
in Tokyo Tribunals, 861
from transnational crimes, 356–8
ratione materiae, 358
ratione personae, 358
impunity, 59
African Court attitude towards, 95–6
under Article 46 A bis, 863–4
under Constitutive Act, 79–80
ICC attitude towards, 95–6
IHL prohibitions on, 444–5
under Malabo Protocol, 95–6
prevention of, 60
under Rome Statute, 95–6
from terrorism, 444–5
in absentia trials, 712, 834, 928
in abstracto, 659–60
in concreto, 659–60
inchoate offences, for drug trafficking, 378–9
incitement, instigation and, 759–60
indictments
against al-Bashir, for war crimes, 7–9, 966
of Heads of State See specific leaders
indigence, 825
indigenous peoples, illicit exploitation of
natural resources as violation of, 605–6
indirect enforcement systems, 58
ICL and, 61
indirect liability system, 230
influence peddlers, 486
innocence. See presumption of innocence
innovations
in jurisdiction of range of crimes, 37–9, 91–5
in regional courts, 23–6
instigation, incitement and, 350, 378, 759,
770–2
counseling and, 766
intent to shield, 675
intentionally wrongful use of state’s armed
forces, as act of aggression, 330–1
Inter-American Commission on Human
Rights, 134
Inter-American Court of Human Rights
(IACHR), 70, 134–5
hazardous waste trafficking in, 582
jurisprudence in, 142–3
Lagos Conference on Primacy of Law
influenced by, 3
intergovernmental organizations, 5, 259, 970
International Agreement for the Suppression
of the White Slave Traffic (1904), 531
international armed conflict (IAC), 244–5
war crimes and, 267
international banking systems, money laundering in, 523
International Bill of Rights, 67–9
International Centre for Transitional Justice (ICTJ), 152
International Commission of Jurists, 4, 1103–4
International Committee of the Red Cross (ICRC), 112, 244, 270, 442
International Conference on the Great Lakes Region (ICGLR), 594, 615–17
International Conference on the Great Lakes Region (ICGLR) illicit exploitation, of natural resources, ICGLR response to, 594
International Convention against the Transnational Smuggling of Migrants by Land, Sea and Air, 455–60
International Convention against the Transnational Smuggling of Migrants by Land, Sea and Air (1950), Article 4, 463
International Convention for the Suppression of the Traffic in Women and Children (1921), Article 31, 532
International Convention for the Suppression of the Traffic in Women of Full Age (1933), 532
International Convention for the Suppression of the White Slave Traffic (1910), 531–2
international cooperation, in ICL, 729–31
International Court of Justice (ICJ)
ACJHPR compared to, 1024–8
Arrest Warrant case, 31–2, 58–9
Article 46 A bis and, 852
AUAT and, 1040–3
Burundi withdrawal from, 501
Gambian withdrawal from, 501
immunity in, 31, 33–4
legal interest in political stability, 132–3
South African withdrawal from, 501
Statute of, 131
international courts. See also European Court of Human Rights; Inter-American Court of Human Rights; International Criminal Court
international crimes in, prosecution of, 57
International Covenant on Civil and Political Rights (ICCPR), 13, 25
human trafficking under, 534
terrorism under, 424
UCG and, 653
International Covenant on Economic, Social and Cultural Rights (ICESCR), 545
international crimes, 227–36. See also transnational crimes
in ACJHPR, expansion of, 91–2, 1085–6, 1088–9
in Africa, 74–82, 92–3
in African States, 75–82
analytical framework for, 232–6
characteristics of, 227–8, 234
core crimes, 239–46
definition of, 795
delimitation of, 233
under ICL, 229
in international courts, prosecution of, 57
jurisdiction of, 37
under Malabo Protocol, 37–8, 238–46
partly international crimes, 240–52
in national courts, prosecution of, 57
nature of, 225–32
right to legal representation for, 720–1
under Rome Statute, 112
in Rwanda, 184
transnational crimes compared to, 229–30, 255–6
International Crimes Division (ICD), 932
International Criminal Court (ICC). See also Malabo Protocol; Rome Statute
accountability of, 206–7, 215, 678, 699, 743, 841
ACJHPR and, 2, 62, 95–100
legal relationship with, 7–9, 88–95
in Africa, 62, 88–95
ACC influenced by, 203–8
innovations in criminal jurisdiction, 91–5
national endorsement of, 91
OTP activities, 88, 113, 130
support for, 178–9
undermining of, 13–14, 104–5
African Court and, 2, 62, 95–100
shared goals towards impunity, 95–6
African States and, 62, 88–95
undermining of ICC by, 13–14, 104–5
aiding and abetting in, 767
Article 17 and, 97, 190, 192–5, 364–5
ASP, 107, 139
AU and, 62–3
tension with, 851–3
burden sharing with AC, 672–3
complementarity at, 48, 73, 652–9
burden sharing and, 664–73
intent to shield, 675
jurisprudence of, 663–4
positive, 98–100
test for relevant activity, 673–4
unjustified delays, 675
composition of, 57
concurrent jurisdiction of, with ACC complementarity and, 190–5
conflicting obligations for, 186–90 scope of, 181–6, 196–7
state cooperation with, 186–90
statutes as influence, 187
cooperation within, 729–32, 738–40
corporate criminal liability under, 27–8
competence for, 796–805
as court of last resort, 682–3
crime of aggression in, 315
CSO establishment of, 1101–3
future challenges for, 106–7
genocide statute of, 65
illicit exploitation of natural resources and, 598
international scope of, 59–63
interventions by
denunciations of, 207
negative repercussions of, 205–6
political selectivity of, 205
JCE in, 775–80
in Kenya, 90, 192, 205–6
in Libya, 189
Malabo Protocol and, 1–2, 23–4
undermining of ICC by, 13–14, 104–5
money laundering and, 505–7
investigations into, 524, 526
jurisdiction for, 514
national cooperation with, 186–90
non-cooperation in, among African States, 730–4
non-member states, 188
OTP, 88, 113, 130
piracy and, 401
racism of, 284
registry, 708
right to communication of information in,
706–7
right to disclosure of evidence in, 696–704
Rome Statute and, 14–15
scope of jurisdiction under, 182
Rules of Procedure and Evidence in, 681, 728

corporate criminal liability and, 833–4
reparations in, 951
sentencing by, 927–9
in Sudan, 88–90, 114, 116, 189
terrorism and, 410
TFV, 952, 955–6, 960–1
TFV and, 952
UCG and, 622, 626–7
in Uganda, 205–6
universality of, 215
UNSC and, 182
international criminal jurisdiction for crimes against humanity, 87
for crimes of aggression, 87
for genocide, 87
for war crimes, 87
international criminal law (ICL). See also
human rights law
ACC and, 218 See also automatic deferrals in Africa, 177–8
African Commission on Human and People’s Rights as agent of, 1006–7
cooperation factors in, 720–31
criminal liability under, 747–57, 766–81
aiding and abetting, 766–70
developmental frameworks for, 69–73
direct enforcement systems and, 61
expansion of, 71–3
fragmentation of, 61, 105
indirect enforcement systems and, 61
international crimes under, 229
in Malabo Protocol, 1077
mercenarism under, 449–50
in “one court” concept, 12–15
regionalism and, 105
sexual violence under, 23
Transitional Justice Policy Framework and, 170
transnational crimes under, 229
transnational criminal law compared to, 229–30
UCG under, 634–5
international criminal law section, of
ACJHPR, 1, 11–12, 1081–2
Detention Management Unit, 1066–7
jurisdiction of, 12
prosecutorial independence, 45–6
Victims and Witness Unit, 1066–7
international criminal liability, for crimes of aggression, 318
International Criminal Tribunal for Rwanda (ICTR)
aiding and abetting in, 768–70
budget of, 43
creation of, 35, 57, 184
genocide and, 242–3, 262–4
International Criminal Tribunal for Rwanda (ICTR) (cont.)

- jurisprudence in, 262–4
- money laundering in, 521
- presumption of innocence in, 690–1
- right to communication of information in, 706–7
- right to disclosure of evidence in, 696–704
- sentencing at, 932–4, 942
- witness anonymity in, 687–8

International Criminal Tribunal for the Former Yugoslavia (ICTY)

- aiding and abetting in, 768–70
- creation of, 35, 57
- criminal defences in, 874–8, 913–16
- money laundering in, 521
- presumption of innocence in, 690–1
- right to communication of information in, 705–6
- right to disclosure of evidence in, 696–704
- state sovereignty approach in, 231
- terrorism and, 409
- war crimes and, 274
- witness anonymity in, 687–8

International Criminal Tribunal for the Former Yugoslavia, sentencing at, 932, 942

International criminal tribunals. See also ad hoc courts and tribunals; specific tribunals

- advantages of, 109
- corporate criminal liability in, 298–301
- criticism of, 109–10
- genocide conventions and, 65
- legal paradox of, 110–11
- location of, 71
- tribunal fatigue, 72
- international detention, 944–5

International Fund for Agricultural Development (IFAD), 1042

International human rights, 63–8

- International Bill of Rights and, 67–9
- international criminal law and, 69–73
- regionalization lessons from, 69–73
- under Universal Declaration of Human Rights, 65–6

International human rights law (IHRL), 65–8

- See also African Court on Human and Peoples’ Rights; European Court of Human Rights; Inter-American Court of Human Rights
- human trafficking under, 533–4, 542–3
- under treaties and conventions, 533–4
- ICL and, 990–5
- beneficial relationship between, 990–4
- historical development of, 991–3
- negative relationship between, 994–5
- Inter-American Commission on Human Rights, 134
- international, 63–8
- International Bill of Rights, 67–9
- international criminal law and, 69–73
- regionalization lessons from, 69–73
- under Universal Declaration of Human Rights, 65–6
- Lagos Conference on Primacy of Law and, 3
- under Malabo Protocol, 17, 973–5
- jurisdiction for, 974–5
- in Africa, 66
- African Convention on Human Rights, 66
- American Declaration on the Rights and Duties of Man, 65
- in the Americas, 65–6
- in EU, 66–7
- OAU and, 4–5, 66
- international humanitarian law (IHL)
- criminal liability under, 743
- lex specialis of, 442
- mercenarism under, 449–50, 456–7, 461, 470
- terrorism under, 410–11, 421
- acts excluded from definition of, 441–5
- impunity prohibitions, 444–5
- liberation and self-determination and, 441

International Labour Organization, 1037

international law

- through ACC, 842 See also automatic deferral
- for corruption, 840–1
- for ICC crimes, 841–2
- jurisdiction over Rome Statute, 841
- for non-ICC crimes, 839–41
- customary, 33–4
- complementarity under, 664–5
- immunity under, 33–4, 862–3
- Eurocentric origins of, 170
- in Global South, 218
- Nuremberg Tribunal judgments, 14–15
- piracy in, 589–92
- regional arrangements under, 838–9
- terrorism under, 423–4
- TWAIL, 801
International Law Commission (ILC), 28, 77–8
  corporate criminal liability and, 804–5
criminal defences, consideration of, 868–70
on drug trafficking jurisdiction, 364
mercenarism and, 469
piracy and, 402
UNGA and, 232
International Maritime Organization, 397
International Military Tribunal for the Far East, 868
International Support Mission to the Central African Republic (MISCA), 124
interpreters
  in ACJHPR, 1095
  right to free assistance by, 725
interventions, by ICC
denunciations of, 207
negative repercussions of, 205–6
political selectivity of, 205
intimidation, through terrorism, 431–2
intoxication, as criminal defence, 878–81
  involuntary, 880
  limitations of, 880
  voluntary, 879
investigative teams
  for ACJHPR, 1087–8
  for corruption, 480–92
evidence gathering in, 480–91
whistle-blowers and, 480–90
modus operandi for, 1003
for money laundering
  as evidentiary challenge, 520–1
  financial investigations, 507
  by ICC, 524, 526
  in U. S., 524
  for transnational crimes, 359–60
Iran, politico-military organizations in, 293
Iraq, terrorism in, 308–9, 430
ISIS. See Islamic State of Iraq
Islamic Salvation Front, 411–12
Islamic State of Iraq (ISIS), 308–9
  corporate criminal liability in, 301
  mercenarism and, 471
  recruitment of child soldiers in, 302
  terrorism by, 305
iura novit curia principle, 698
Jackson, Robert, 285, 846–7
Jacobs, Dov, 35, 287
Jalloh, Charles, 23, 210
Jammeh, Yahya, 251, 637
joint criminal enterprise (JCE), 775–80
joint criminal liability, 772–81
  conspiracy as, 774–5
  in Nuremberg Charter, 774–5
  in Tokyo Charter, 774–5
judges
  in ACHPR, 976–7, 987
  in ACJHPR, 16
judgments. See also public pronouncement of judgments
  in ACHPR, execution of, 980–2
  judicial reform, 174
judicial persons, 807, 836–7. See also legal persons
jurisdiction. See also African Court for Justice and Human and People’s Rights;
concurrent jurisdiction; universal jurisdiction
  of ACC, 227, 794
  in accession systems, 611
  of ACHPR, 967–9, 971–3
    limitations of, 967–9, 971–3
    treaties within, 977
  of African Court, for range of crimes, 37–9
  African Court on Human and People’s Rights, 967–9, 971–3
  of appellate courts, 12–13
  under Article 46C, 866–12
  for AUAT, for appellate decisions, 1040–53
    applicable law for, 1047–50
    scope of, 1043–7
  complementarity as regulating principle, 96–8
  in concession systems, 611
  for corruption, limitations for, 492–5
  immunity provisions, 494–5
    for international organizations, 494
    by region, 493
    for serious nature of acts, 492–4
  over crimes of aggression, 315–19
  for drug trafficking, 363–5, 386–7
    in Action Plan on Drug Control, 363, 366
    ECOWAS, 363
    through ILCs, 364
    in Sierra Leone, 363–4
  of Malabo Protocol, for human rights, 974–5
  for money laundering, 512–20
    application of preconditions, 518–20
  for ICC, 514
jurisdiction. (cont.)
  inclusion in, 505–7
  opinion juris, 513–14
  scope of, 515–18
in “one court” concept, 18
over piracy, 391–2
  limitations of, 396–8
universal, 402–4
ratione loci, 972–3, 1039
ratione personae, 50–4
ratione temporis, 972–3, 1039
of regional courts, 106
of Rome Statute, CSOs in conflict with, 1120–1
over transnational crimes, 92–3, 106, 356–8
for ICC, 337
jurisprudence, 97, 155, 645, 659, 663–4. See also international criminal law;
  international law; national laws
codification of, 265
in IACHHR, 142–3
in ICTR, 262–4
rape acts and, 243
in regional courts, 67
jus ad bellum, 436–7, 461, 475
jus in bello, 436–7, 461, 465, 640
justice. See also geographies of justice;
  restorative justice; retributive justice;
  transitional justice
peace and, as secondary to, 112
peace sequencing and, 128–34
  accountability and, 141–6
in Argentina, 141–3
in Chile, 143–4
in Mozambique, 144–5
in Namibia, 145
in Uruguay, 144
peace taking precedence over, 112

Kabuye, Madame Rose, 87
Kagame, Paul, 87
Karadzic, Radovan, 135, 716
Kariri, Jemima Njeri, 856
Katanga case, 700–1
Kenya
  corporate criminal liability in, 783
  drug trafficking in
    laws against, 369
    punishment for, 380–1
  human trafficking in, 535–6, 541–2
  ICC in, 90, 192, 205–6
money laundering in, 353
  politico-military organizations in, 293
  post-election violence in, 90
UGC in, 627
Kenyatta, Uhuru, 10–11, 90, 200, 627, 966
Kimberley Process (KPCS), 595–6, 615–16
Kioko, Ben, 86–7
Klein, Pierre, 86–7
kleptocracies, 502
Kony, Joseph, 115, 136–7. See also Lord’s Resistance Army
KPCS. See Kimberley Process
Kushayb, Ali, 137–8
Kyriakakis, Joanna, 27, 288

labor. See forced labor
Lagos Conference on Primacy of Law, 3
Lamony, Steven, 858
land mercenarism, 451
Latin America, UCG in, 40
Lauterpacht, Hersch, 1032
law. See administrative law; international human rights law; international humanitarian law; international law;
  national laws
“The Law of Lagos,” 66
lawyers. See legal representation
League of Nations
  Covenant of the League of Nations, 1029
  on piracy, definitions of, 405–6
  terrorism and, 410
Lebanon. See Special Tribunal for Lebanon
legal aid
  in ACHPR, 982–3
  provisions for, right to, 722–3
legal assistance, right to, 719–23
legal counsel. See legal representation
legal duty, of African states, 75–82
legal infrastructure, 43–4
legal persons. See also Article 46C
  attribution of criminal legal responsibility, 956
  derivative, 822
  organizational, 822
  definition of, 807
in STLs, 798–9
legal representation, right to, 714
  communication with counsel of choice in, 707–11
  in international criminal cases, 720–1
  through legal aid provisions, 722–3
with legal assistance in cases of insufficient means, 719–23
right to preparation of defence in, 707–11
registries and, 708
through self-representation, 714–17
legalism, 199–203, 208
ACC and, 199–203
LEITI. See Liberian Extractive Industries
Transparency Initiative
Lesotho, human trafficking in, 543–4
Lesotho High Court, 493
lex specialis, 351–2, 442
liability, criminal. See also corporate criminal liability
actus reus requirements, 762, 776
under AU Statute, 743–7
See also corporate criminal liability; international criminal liability
under AU Statute, 743–7
Article 28N, 757–9, 766–81
multiple modes of liability under, 759–60
complicity, 750–5
counseling, 765–6
instigation and incitement and, 766
culpability and, 750, 752
defences to, 922–4
alibi as, 919–20
codification of, 870
consent as, 918–20
defence of person, 882–5
defence of property, 885–6
defensive operations, 882, 916–17
diminished mental capacity, 876–8
duress, 887–98
exclusion of, grounds for, 894
excuses in, 870
force majeure, 887
under Geneva Conventions, 903–4
in ICTY, 874–8, 913–16
ILC consideration, 868–70
intoxication as, 878–81
legal scope of, 866–70
under Malabo Protocol, 867
mental disease or defect, 872–8
military necessity, 911–12
mistakes of fact, 902–7
mistakes of law, 902–7
necessity, 898–902
non bis in idem principle, 650–1, 920–1
for recruitment of child soldiers, 918–20
reprisals and, 911, 913–16
in SCSL, 901, 918–20
self-defence as, 882, 916–17
sources of law for, 870–2
statute of limitations for, 922
superior orders, 907–10
tu quoque, 911–13
UNWCC, 868, 887–90, 911–12
in war crimes, 903, 905, 910–17
youth as, 921–2
expansion of, 743–4
facilitation, 763
fair labeling in, 750, 752–3
financing of, 764–5
of terrorism, 764–5
under UN Convention for the Suppression of the Financing of Terrorism, 765
ICL approach, 747–57, 766–81
aiding and abetting, 766–70
under IHL, 743
instigation and incitement, 350, 378, 759, 770–2
counseling and, 766
joint, 772–81
conspiracy as, 774–5
JCE, 775–80
in Nuremberg Charter, 774–5
in Tokyo Charter, 774–5
mens rea requirements, 762, 776–7
modes of, 744
accessory, 747–60, 772–81
under AU Statute, 759–60
differential participation model, 746, 748–55
new, 760–6
principle, 747–60
unitary perpetrator model, 746–8, 750–5
modifications to, 743–4
nulla poena sine lege principle, 745, 773–4
nullum crimen sine lege principle, 745, 773–4
organizing and directing, 761–3
under Rome Statute, 755–7, 775
liberation and self-determination, as exclusive of terrorism, 439–41
under African Charter on Human and Peoples’ Rights, 440
under IHL, 441
Liberia, 377. See also Taylor, Charles
human trafficking in, 541–2
illicit exploitation of natural resources in, 595, 607–8
money laundering in, 510–12
Liberian Extractive Industries

Liberia (cont.)
pillage in, 594
RUF in, 510–11
Liberian Extractive Industries Transparency Initiative (LETII), 607–8
liberty. See also liberation and self-determination
deprivation of, 348
Libya
complementarity in, 657–9
ICC in, 189
illicit exploitation of natural resources in, 612
politico-military organizations in, 203
UCG in, 627–8
Lieber Code of 1863, 931
life endangerment, from terrorism, 425–6
likelihood of criminal activity. See reasonable likelihood
Locke, John, 632
Lomé Convention, 567
Lomé Peace Agreement, 135
Lord’s Resistance Army (LRA), 114–16, 136–7
terrorism by, 305
Luanda Trial, 453, 473
Lubanga, Thomas, 60, 102
Lubanga case, 102, 654–5, 662, 697, 700, 956–7
MAES. See AU Electoral and Security Assistance Mission to the Comoros
Mafia. See La Cosa Nostra
Malabo Protocol. See also civil society organizations; Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights
Amended Protocol, 512–20
cooperation between states and private actors, 521–5, 734–5
Article 1, 277–8 See also torture
Article 2, 121
Article 3, 250, 360
Article 4, 646
Article 5, 333–4, 540
Article 6, 17–18
Article 8 bis, 279–81 See also aggression
Article 16, 15
Article 17, 660, 976–7
Article 18, 49
Article 19A, 955
Article 20, 950–1
Article 22, 45–6, 360, 710
Section B, 957, 1066
Article 27, 980, 985, 1113
Article 28, 455–60, 469–73, 480–9, 512–20, 601–17, 780, 919, 921–2, 977, 1030–1, 1115–16
Section A, 23, 39, 169–78, 314, 388–9, 480, 488–9, 590–1, 623 See also acts of aggression; aggression; corruption; illicit exploitation; piracy; transnational crimes
Section B, 23, 241–2, 258, 262 See also genocide
Section C, 49, 241–2, 275–9, 550–1 See also crimes against humanity; human trafficking
Section D, 241–2, 258, 267–74 See also war crimes
Section E, 24, 250–2, 283, 619–21, 625–6
See also unconstitutional change of government
Section G, 250, 409, 421–47 See also Organization of African Unity; terrorism
Section I, 480–8, 498, 515–18 See also corruption; money laundering
Section J, 537, 550 See also human trafficking
Section L, 49, 428–9, 574–8, 589, 601–17
See also hazardous wastes
Section M, 169–78, 258, 279–82, 314–35
See also acts of aggression; aggression
Section N, 266, 436–7 See also terrorism
Article 29, 119–20, 128–9
Article 30, 401
Article 33, 130–4
Article 34, Section A, 119–20, 128–34
Article 43, 491, 525–6 See also sentences
Section A, 927–9
Article 44, 130–4
Article 45, 491, 525, 951–2 See also victims’ rights
Article 46, 356–8 See also Article 46 A bis; corporate criminal liability; transnational crimes
extension of, 301–4
rationes materiae, 30–4
rationes personae, 30–4
Section A, 494–5, 680–9, 694–727 See also fair trials; rights of accused
Section B, 37
Section C, 18–29, 210, 285–6, 288–91, 301–2, 483, 485, 494–5 See also corruption
Section D, 929
Section E, 49, 210, 495, 518–20 See also money laundering
Section F, 209, 212
Section H, 47, 97, 209, 646–52 See also complementarity
Section L, 212, 489–91, 734–8 See also cooperation
Section M, 548–9, 722, 824, 941, 955
Article 49, 150–2
Article 53, 112–13, 181, 185–6, 979, 1109
ATJF and, 119
AU and, 1–2
mental capacity. See diminished mental capacity
mental disease or defect, as defence, 872–8
mercenaries

definition, 449–50, 454–74
carried out acts of violence by, 466
direct participation by, 465
material compensation for, 464–5
membership in armed forces, 465
prerequisites for, 461–2
territorial residency requirements for, 464
EO, 467
foreign fighters as, 454, 461, 464–5, 471
under International Convention against the
Recruitment, Use, Financing and
Training of Mercenaries, 455–60
as prisoners of war, 457
mercenarism, 80, 92–3, 177, 246–9, 338
in ACJPR, 454–5
in acts of aggression, 332–4
in Angola, 453, 460, 462–3
colonialism as influence on, 450–5
under Convention for the Elimination of
Mercenarism, 248, 350
during decolonization period, 451
definition of, 449–50, 454–74
carried out acts of violence in, 466
direct participation in, 465
material compensation in, 464–5
membership in armed forces, 465
prerequisites for, 461–2
territorial residency requirements in, 464
dogs of war and, 451
under domestic law, 462
in Equatorial Guinea, 468
by foreign military actors, 454
under ICL, 449–50
under IHL, 449–50, 456–7, 460, 470
ILC and, 469
under International Convention against the
Recruitment, Use, Financing and
Training of Mercenaries, 455–60
international regulatory framework for,
472
ISIS and, 473
jus ad bellum, 456–7, 461, 475
jus in bello, 456–7, 461, 465
land, 451
Luanda Trial, 453, 473
in Nigeria, 454
during Nigerian Civil War, 453
under OAU Convention for the Elimination
of Mercenarism, 350, 453
limitations with regards to definition of,
468–9
OAU on, 449
PMSC and, 451–2, 464–7, 471–2, 474–5
limitations and loopholes for, 469–73
recruitment for, 462–3
resurgence of, in Africa, 450–5 See also
specific countries
under Rome Statute, 469
sea, 451
in Sierra Leone, 460, 467
soldiers of fortune and, 451
in South Africa, 467
under Regulation of Foreign Military
Assistance Act, 462, 467
through UCG, 460
UN on, 449, 451–2
in Zaire, 460
military necessity, as criminal defence, 911–12
military occupation, as act of aggression, 327–8
military organizations
clandestine, 292–304
Corporate criminal liability for, 292–304
Mills, Kurt, 201
Milosevic, Slobodan, 714–15
MINUSCA. See UN Multidimensional
Integrated Stabilization Mission to
Central African Republic
MIOC. See AU Military Observer Mission in
the Comoros
MISCA. See International Support Mission to
the Central African Republic
mistakes of fact, as defence, 902–7
mistakes of law, as criminal defence, 902–7
mitigating factors, 878
in sentencing, 877–8, 880, 893, 935–6, 941
MNCs. See multinational corporations
Mobutu, Sese Seko, 604
modus operandi
in human trafficking, 541–2
for investigators, 1003
Mohamed, Saira, 490
monarchies, UCG and, 632
money laundering, 92–3, 177, 246–9, 526–8.
See also Taylor, Charles
asset recovery and reparations, 525–6
under AU Convention on Preventing and
Combating Corruption, 508–9
corruption and, 488–9
criminalization of, 489
domestic, 508
as state practice, 513–14
definition of, 543
evidentiary challenges in, 520–5, 527
complex financial investigations, 520–1
cooperation with state and private actors, 521–5, 734–8
FATF response to, 516, 524
ICC and, 505–7
investigations by, 524, 526
jurisdiction of, 514
in ICTR, 521
in ICTY, 521
integration stage, 488
international banking system structure and, 523
investigations into
as evidentiary challenge, 520–1
financial, 507, 520–1
by ICC, 524, 526
in U. S., 524
jurisdiction over, 512–20
application of preconditions, 518–20
for ICC, 514
inclusion in, 505–7
opinion juris, 513–14
scope of, 515–18
in Kenya, 353
layering stage, 488
in Liberia, 510–12
mens rea requirements, 515
nullum crimen sine lege principle and, 506,
512–15, 519, 526–7
placement stage, 488
prosecution of, 507–12
under Rome Statute, 509–10, 513
in SCSL, 507, 510–12
Taylor case and, 526
under UNCAC, 508–9, 516
under UNTOC, 508–9, 516
under Vienna Convention, 508
Montreux process, 333
Moynier, Gustav, 74–5
Mozambique
human trafficking in, 543–4
transitional justice in, 144–5
MPLA. See Popular Movement for the Liberation of Angola
Mtambo, Timothy, 112–13
Mulgrew, Roísín, 944
multinational corporations (MNCs), 558
Mumba, Florence, 685
Murungu, Chaha Bhoke, 856–8
Museveni, Yoweri, 144–5
Musila, Godfrey, 20–1
Muslim Brotherhood, 305–6
Mwanawasa, Levy, 499
Naidoo, Kumi, 562–3
Namibia
corporate criminal liability in, 783
drug trafficking in, 573
transitional justice in, 145
national courts
burden sharing with African Court, 669–73
complementarity in, 664–5
drug trafficking offences in, 581–2, 585–6
foreign immunity in, 845–6
international crimes in, prosecution of, 57
piracy in, 408
positive complementarity for, 98–100, 344
prosecution of third states in, 58
sovereignty of, 106
National Drugs Enforcement Agency (NDEA), 584
National Islamic Front, 305–6
national laws
corporate criminal liability under, 783–5
human rights law influenced by, 991–3
mercenaryism under, 462
money laundering under, 508
transnational crimes under, 344–5
National Liberation Front of Angola (FNLA), 453–473
national reconciliation laws, in Guatemala, 116–17
National Union for the Total Independence of Angola (UNITA), 467, 603–4
natural persons, under Article 46C, 793–6
natural resource certification mechanisms, 615–17
ICGLR, 615–17
KPCS, 615–16
natural resources. See also illicit exploitation
terrorism as damaging to, 427–8
Nazi Germany, 270
criminal actors in, 290–1
NDEA. See National Drugs Enforcement Agency
Ndombasi, Abdulayae Yerodia, 86
nulla poena sine lege principle, 745, 773–4, 931
due process and, 773–4
nullum crimen sine lege principle, 300, 745
in Article 46C, of ACC, 816
due process and, 773–4
illicit exploitation of natural resources,
596–7
money laundering and, 506, 512–15, 519,
526–7
Nuremberg Principles, Third Principle, 845–9
Nuremberg trials, 875–6. See also Charter of
the International Military Tribunal
Charter of
Article 6, 908
ne bis in idem principle, 190, 195
complementarity and, 650–2, 659–62
sentencing and, 944–5
necessity. See also military necessity
as criminal defence, 898–902
NGOs. See non-governmental organizations
NIAC. See non-international armed conflict
Nigeria
Boko Haram in, 296
Civil War in, 453
corruption in, 493–4, 497–9
drug trafficking in, 341
controlled substances, 368
of controlled substances, 368
hazardous waste trafficking in, 560–1
illicit exploitation of natural resources in,
607
mercenarism in, 454
terrorist organizations in, 310–11
Nmehielle, Vincent, 94, 202
non bis in idem principle, 650–1, 920–1
complementarity and, 650–2
in criminal defences, 920–1
Non-Aggression and Common Defence Pact
(AU), 330–1
non-compliance, under Article 46C, 820
non-cooperation, among African States, 730–4
non-derogable rights, 694–5
non-governmental organizations (NGOs), 992
access to courts for, 50–1
non-interference, 122
non-international armed conflict (NIAC),
244–5, 443–4
non-intervention principles, 634–41
non-refoulement, in human trafficking, 543–4
non-state actors, 996–7
Ntaganda case, 662, 701
nulla poena sine lege principle, 745, 773–4, 931
due process and, 773–4
nullum crimen sine lege principle, 300, 745
in Article 46C, of ACC, 816
due process and, 773–4
illicit exploitation of natural resources,
596–7
money laundering and, 506, 512–15, 519,
526–7
OASAT. See Administrative Tribunal of the
Organization of American States
OAU. See Organization of African Unity
Obiang, Teodoro, 478, 496–7, 503
OECD Anti-Bribery Convention, 483, 829
Office of the Prosecutor (OTP), 88, 113, 150,
1067–8
O’Keefe, Roger, 86–7
Omotola, Shola, 625
“one court” concept, 15–23
ICL and, 12–15
individual criminal responsibility, 16, 18–19
jurisdiction of, 18
merging of legal divisions in, 15
state responsibilities in, 16, 18–19
as transitional justice mechanism, 20–3
Ongwen, Dominic, 204
opinion juris, 513–14
Optional Protocol to the Convention on the
Rights of the Child on the Involvement
in Armed Conflict, 271–2
Organization of the Islamic Conference
(OIC), 138
Convention on Combating International
Terrorism, 410, 413–16
Organization of African Unity (OAU)
African Charter on Human and Peoples’
Rights, 2–4
AU as replacement of, 79
Convention for the Elimination of
Mercenarism, 248, 350, 453
limitations with regards to definition of, 468–9
Convention on the Prevention and
Combating of Terrorism, 410–19,
447–8
criminalization of terrorist acts, 415–16
definition of terrorist acts, 414–15
development of, 411–12
drafting of, 412–14
preamle, 414
Article 7, 846–7, 908
Article 8, 908
Article 29, 908
conspiracy in, 774–5
corporate criminal liability at, 27, 285
crime of aggression in, 314–16
immunity in, 861
international law at, 14–15
war as evil in, 642

Declaration on a Code of Conduct for Inter-African Relations, 412
hazardous waste trafficking resolution, 563–4, 568
human security motivations, 75–7
on mercenarism, 449
regional human rights and, 4–5, 66
response to violence, 122
state sovereignty and, 147–8
Statute of the Administrative Tribunal of the Organization of African Unity, 1045
UCG and, 40–1
organizational model
international versions of, 821
progressive, 823
organizational model, in Article 46C, 815–23
aggregation of knowledge in, 818–19
corporate knowledge in, 818–19
corporate personnel in, 821–3
international versions of, 821
nullum crimen sine lege principle in, 816
OTP. See Office of the Prosecutor
Ouguergouz, Fatsah, 985
Palestinian Authority, 301
Pan African Lawyers Union (PALU), 9, 128
ACJHPR and, 90, 1104–5
terrorism recommendations for, 419–20
pan-African Doctrine, 211
Pan-African Parliament (PAP), 122
Panama Papers, 490, 504
Panel of the Wise, 117
PAP. See Pan-African Parliament
par in pares non habet imperium, 845–6
pards, 942–3
partly international crimes, 249–52
partly transnational crimes, 252–4
passive bribery, 481–2
Patterson, David S., 1033
PCIJ. See Permanent Court of Justice
PCRD. See Post-Conflict Reconstruction and Development Policy Framework
peace. See also violence
justice as secondary to, 112
justice sequencing and, 128–34
accountability and, 141–6
in Argentina, 141–3
in Chile, 143–4
in Mozambique, 144–5
in Namibia, 145
in Uruguay, 144
legal interests in, 128–34
under Malabo Protocol
Article 29, 128–9
Article 33, 130–4
Article 34A, 128–34
Article 44, 130–4
Article 49, 130–2
prioritizing of, 134–46
in Sierra Leone, 135–6
in Sudan, 137–41
in Uganda, 136–7
Peace and Security Council (PSC), of AU, 80, 121
institutional reform, 172
management of violence through, 122–6
peaceful protest, 1115–16, 1118–19
peaceful settlement of disputes, 172, 1026
peacekeeping missions, through AU, 123–4
penalties, 491–2. See also sentences for core crimes, 930–1
fines as, 931
per argumentum a contrario, 637–8
Permanent Court of International Justice, 235
Permanent Court of Justice (PCIJ), 1032
ACJHPR compared to, 93–4, 1024–8
personal immunity. See ratione personae persons. See juridical persons; legal persons
persuasive authority, 373, 1014, 1018
in EChHR, 1015
Peru, 134–5, 397–8
Peter, Chris Maina, 86–7
pillage, 593–4
in DRC, 825
in Liberia, 594
in Sierra Leone, 594
in Uganda, 591
Pinochet, Augusto, 143–4
piracy, 92–3, 177, 246–9
Achille Lauro incident, 396
definition of, 588–9, 391
by ILC, 407
for League of Nations, 405–6
EEZ and, 397–8
facilitating acts of, 402–3
high seas, 396–8
ICC and, 401
ILC and, 402, 407
inciting of, 402–3
Index

preparation of defence, right to, 786–7
Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, 687–9, 691, 710–11
prisoners of war, 457
under Convention Relative to the Treatment of Prisoners of War, 914
mercenarys as, 457
private ends, piracy and, 404–8
private military and security companies (PMSC), 451–2, 464–7, 471–2
in African States, 476
limitations and loopholes for, 469–73
in U. S., 475
private sector, bribery in, 483–5
progressive organizational model, 823
Promotion of National Unity and Reconciliation Act (1995) (South Africa), 149–50
proof beyond reasonable doubt, 690
property damage, terrorism and, 426–7
proportionality, requirements of, 896
proprio motu, 45, 676–7
prosecute or extradite (aut dedere or aut judicare)
under Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, 111
UCG and, 635
protest. See peaceful protest
Protocol against the Smuggling of Migrants by Land, Sea and Air, 538–9
Protocol of the Court of Justice of the African Union, 259–60, 449–50. See also mercenarism
Article 28H, 468–74
Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 260
Protocol on the African Investment Bank, 1077
Protocol on the Establishment of the African Monetary Fund, 1077
Protocol on the Rights of Women in Africa (Maputo Protocol), 1104
Protocol on the Statute of the African Court of Justice, 260

pajury (cont.)
International Maritime Organization and, 397
interpretation of, 403–8
jurisdiction over, 391–2
limitations of, 396–8
universal, 403–4
legal history of, under international law, 389–92
in national courts, 408
primary offences, 392–8
depredation, 395–4
detention, 393–4
illegal acts of violence, 393–4
private ends, 394–5, 404–8
“two ship rule,” 395–6
scope of, 388–9
Somalia and, 392, 399
under SUA Convention, 396
under UNCLOS, codification of, 391
voluntary participation in, 398–403
Plan of Action on the Prevention and Combating of Terrorism in Africa (AU), 418–19
PMSC. See private military and security companies
political groups, corporate criminal liability for, 292–304
domestic criminal tribunals for, 298–301
international criminal tribunals for, 298–301
in Nazi Germany, 292–3
Popular Movement for the Liberation of Angola (MPLA), 453, 473
positive complementarity, 62
burden sharing through, 676–9
in ICC, 98–100
legal scope of, 62
under Malabo Protocol, 98–100
for national courts, 98–100, 344
in prosecution of drug trafficking, 383–4
for regional courts, 98–100
under Rome Statute, 98–100
possession offences, for drug trafficking, 375–8
Post-Conflict Reconstruction and Development Policy Framework (PCRD), 174–6
precursor offences, for drug trafficking, 378
preparation of defence, right to, 707–11
registries and, 708
President/Presidency, of ACJHPR, 976, 1060–1, 1064–6
presumption of innocence, 689–94
detention and, 693
in ICTR, 690–1
in ICTY, 690–1
principal corporate criminal liability, 786–7
Principles and Guidelines on the Right to a Fair Trial and Legal Assistance, 687–9, 691, 710–11
prisoners of war, 457
under Convention Relative to the Treatment of Prisoners of War, 914
mercenarys as, 457
private ends, piracy and, 404–8
private military and security companies (PMSC), 451–2, 464–7, 471–2
in African States, 476
limitations and loopholes for, 469–73
in U. S., 475
private sector, bribery in, 483–5
progressive organizational model, 823
Promotion of National Unity and Reconciliation Act (1995) (South Africa), 149–50
proof beyond reasonable doubt, 690
property damage, terrorism and, 426–7
proportionality, requirements of, 896
proprio motu, 45, 676–7
prosecute or extradite (aut dedere or aut judicare)
under Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, 111
UCG and, 635
protest. See peaceful protest
Protocol against the Smuggling of Migrants by Land, Sea and Air, 538–9
Protocol of the Court of Justice of the African Union, 259–60, 449–50. See also mercenarism
Article 28H, 468–74
Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights, 260
Protocol on the African Investment Bank, 1077
Protocol on the Establishment of the African Monetary Fund, 1077
Protocol on the Rights of Women in Africa (Maputo Protocol), 1104
Protocol on the Statute of the African Court of Justice, 260
Index

Protocol on the Statute of the African Court of Justice and Human Rights (Sharm el Sheikh Protocol), 1030–4
Protocol to Prevent, Suppress and Punish Trafficking in Persons 2000 (Trafficking Protocol), 550
development of, 965–6
PSC. See Peace and Security Council
public defender model, ACJHPR and, 94–5
public emergency, 444–16, 421–2, 633
through terrorism, 432, 434
public hearings, right to, 685–9
ECtHR on, 685
public perception influenced by, 686
public pronouncement of judgments, 726
public sector, bribery in, 481–3
purchase offences, for drug trafficking, 375–8
Al Qaeda, 297–8, 305–9
September 11th attacks and, 307, 434
quality control provisions, in bribery, 485
quasi-criminal jurisdiction, of human rights mechanism, 67
R2P doctrine. See responsibility to protect doctrine
racism, of ICC, 284
Racketeer Influenced and Corrupt Organizations Act (US), 303–4
rape, 23, 265
consent and, 919
ratione loci, 972–3, 1039
ratione materiae (functional immunities), 30–4
Article 46 A bis, 854–6, 860
from prosecution of transnational crimes, 358
ratione personae compared to, 32
UCG and, 638
ratione temporis, 972–3, 1039
reasonable likelihood, 426
rebellion. See right to rebel
reconciliation processes
AU and, 174–6
transitional justice and, 169
RECs. See regional economic communities
Red Cross. See International Committee of the Red Cross
redactions, in fair trials, 688–9
refugees, as result of terrorism, 311–12
regional courts. See also European Court of Human Rights; Inter-American Court of Human Rights; Malabo Protocol; specific courts
in Africa See also specific courts
legal context of, 62–3
legal duty of African states, 75–82
complementarity in, 46–8
Habré, Hissène and, 9, 14
ICC and, legal relationship with, 357
innovation in, 23–6
jurisdiction of, 106
key challenges for, 42–51
access to court, 50–1
civil society organizational involvement, 49–50
commitment of African States, 44–5
drafting issues, 49–50
human resources issues, 43–4
inadequate funding issues, 42–3, 103–4
lack of infrastructure, 43–4
prosecutorial independence as, 45–6
Malabo Protocol and, 980–90
positive complementarity for, 98–100, 344
recommendations for, 107
terrorism as crime in, 423–4
transnational crimes in, 258–61, 337–40
universal jurisdiction of, 86–8
regional economic communities (RECs), 9, 46, 174
ACJHPR and, 1104
complementarity and, 647–8
burden sharing with, 671–2
management of violence in, 124–5
Transitional Justice Policy Framework and, 154
regional human rights, 63–8
  in Africa, 66
  African Convention on Human Rights, 66
  American Declaration on the Rights and
  Duties of Man, 65
  in the Americas, 65–6
  in EU, 66–7
regional human rights law, 63–8
  in Africa, 66
  in the Americas, 65–6
  enforcement of, 63–75
  in EU, 66–7
  UNGA establishment of courts systems for,
  68
regionalism, ICL and, 105
registries
  for defence, 708
  for reparations, 957–61
Registry, for ACJHPR, 708, 1066–7
Regulation of Foreign Military Assistance Act
  (1998) (South Africa), 462, 467
rehabilitation
  of drug users, 383
    through social re-integration, 383
  as reparations, under Article 46C, 824
religious groups. See also specific religious
groups and organizations
  corporate criminal liability for, 304–12
  terrorism by, 304–11
remedies
  through ACHPR, 980
  through AUAT, 1051
reparations, 172. See also fines
  through ACHPR, 172, 980
  under Article 46C, 824
  asset recovery and, after money laundering,
  525–6
implementation of, 958–61
  institutional framework supportive of, 955–8
  registry for, 957–61
  rehabilitation as, under Article 46C, 824
  in Rules of Procedure and Evidence, 951
  standard-setting for, 160–1
  through TFV, 952, 955–6, 960–1
retractions, as defence, 911, 913–16
Republic of Guinea. See Guinea
  resource conflicts, 93
  respondeat superior, 783, 908
  responsibility to protect (R2P) doctrine, 664–5
restitution, under Article 46C, 824
restorative justice, 109
through AU, 172
  for hazardous waste trafficking, 581–3
rettributive justice, 109
through ACJHPR, 171–2
through AU, 171–2
  for hazardous waste trafficking, 579–81
Revolutionary United Front (RUF), 510–11
Reydams, Luc, 287
right to appeals. See appeals
right to be informed of content of charges, 694
right to be tried in own presence, 712–13
right to communication of information. See
right to communication with counsel of
choice. See communication with
counsel of choice
right to disclosure of evidence. See disclosure
evidence
right to legal representation. See legal
representation
right to preparation of defence. See preparation
defence
right to rebel, UCG and, 630–4, 637
right to silence. See silence
  rights of accused, 680–3. See also fair trials
    equality before courts, 683–5
Robinson, Darryl, 753
Rome Conference, 94, 509–10, 794, 799, 804,
  885
Rome Statute. See also liability
  ACC jurisdiction over, 841
  accountability under, 24
  aiding and abetting under, 767
  Article 5, 346–7
  Article 6, 23, 513
  Article 7, 513
  Article 8 bis, 268–9, 315–19, 322–4, 513
    See also aggression
  Article 15, 281–2
  Article 16, 89, 138–9, 622
  Article 17, 47, 60, 96–7, 647–8
  Article 18, 97
  Article 19, 97
  Article 27, 36, 845–5, 847, 856–9
    See also
immunity
  Third Nuremberg Principle, 845–9
  Article 28, 210
  Article 31, 872–922
  See also liability
  Article 32, 902, 904–5
  Article 33, 909–10
  Article 53, 112–13
<table>
<thead>
<tr>
<th>Index</th>
<th>1159</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 67, 680–3 See also fair trials</td>
<td>Article 72, 736–7</td>
</tr>
<tr>
<td>Article 91, 736</td>
<td>Article 96, 736</td>
</tr>
<tr>
<td>Article 97, 737</td>
<td>Article 98, 736, 739</td>
</tr>
<tr>
<td>Article 750–7</td>
<td>complementarity and, 47, 649–52, 664–5</td>
</tr>
<tr>
<td>Article 850–99</td>
<td>crime of aggression under, 279–80, 315,</td>
</tr>
<tr>
<td>Article 98</td>
<td>322–4, 909</td>
</tr>
<tr>
<td>Article 1025</td>
<td>crimes against humanity under, 276–7</td>
</tr>
<tr>
<td>Article 91</td>
<td>criminal liability under, 755–7, 775</td>
</tr>
<tr>
<td>CSOs and, conflicts with, 1120</td>
<td>competing obligations, 1120–1</td>
</tr>
<tr>
<td>domestic implementing legislation and,</td>
<td>financial burdens under, 1122</td>
</tr>
<tr>
<td>1121</td>
<td>overlapping jurisdictions, 1120–1</td>
</tr>
<tr>
<td>drug trafficking under, 364</td>
<td>ICC and, 14–15</td>
</tr>
<tr>
<td>jurisdiction under, 182</td>
<td>immunity under, 738–9</td>
</tr>
<tr>
<td>for Heads of State, 113</td>
<td>for Heads of State, 95–6</td>
</tr>
<tr>
<td>impunity under, 95–6</td>
<td>international cooperation under, 731–2, 740</td>
</tr>
<tr>
<td>international crimes under, 112</td>
<td>international crimes under, 95–6</td>
</tr>
<tr>
<td>Malabo Protocol and, 23–4, 95–6</td>
<td>mercenarism under, 469</td>
</tr>
<tr>
<td>money laundering under, 509–10, 513</td>
<td>positive complementarity under, 98–100</td>
</tr>
<tr>
<td>sentencing under, 936, 938–42</td>
<td>sentencing under, 936, 938–42</td>
</tr>
<tr>
<td>UCG under, 624, 638–9</td>
<td>UCG under, 624, 638–9</td>
</tr>
<tr>
<td>victims’ rights under, 953–5</td>
<td>victims’ rights under, 953–5</td>
</tr>
<tr>
<td>Rouget, François Richard, 466–7</td>
<td>Rouget, François Richard, 466–7</td>
</tr>
<tr>
<td>RUF. See Revolutionary United Front</td>
<td>RUF. See Revolutionary United Front</td>
</tr>
<tr>
<td>rule of law</td>
<td>rule of law</td>
</tr>
<tr>
<td>in African States, 40–1</td>
<td>in African States, 40–1</td>
</tr>
<tr>
<td>in Dakar, 4</td>
<td>in Dakar, 4</td>
</tr>
<tr>
<td>transitional justice and, 169</td>
<td>transitional justice and, 169</td>
</tr>
<tr>
<td>Rules of Procedure and Evidence, in ICC, 681,</td>
<td>Rules of Procedure and Evidence, in ICC, 681,</td>
</tr>
<tr>
<td>728</td>
<td>728</td>
</tr>
<tr>
<td>corporate criminal liability and, 833–4</td>
<td>corporate criminal liability and, 833–4</td>
</tr>
<tr>
<td>reparations in, 951</td>
<td>reparations in, 951</td>
</tr>
<tr>
<td>Ruto, William, 10–11</td>
<td>Ruto, William, 10–11</td>
</tr>
<tr>
<td>Rwanda. See also International Criminal</td>
<td>Rwanda. See also International Criminal</td>
</tr>
<tr>
<td>Tribunal for Rwanda</td>
<td>Tribunal for Rwanda</td>
</tr>
<tr>
<td>atrocity crimes in, 60</td>
<td>atrocity crimes in, 60</td>
</tr>
<tr>
<td>civil war in, 640–1</td>
<td>civil war in, 640–1</td>
</tr>
<tr>
<td>corporate criminal liability in, 783</td>
<td>corporate criminal liability in, 783</td>
</tr>
<tr>
<td>genocide in, 184</td>
<td>genocide in, 184</td>
</tr>
<tr>
<td>international crimes in, 184</td>
<td>international crimes in, 184</td>
</tr>
<tr>
<td>politico-military organizations in, 293</td>
<td>politico-military organizations in, 293</td>
</tr>
<tr>
<td>sentencing in, 932–3</td>
<td>sentencing in, 932–3</td>
</tr>
<tr>
<td>universal jurisdiction in, 86–8</td>
<td>universal jurisdiction in, 86–8</td>
</tr>
</tbody>
</table>

**SADC. See Southern African Development Community**

**Saland, Per, 880**

**sanctions**

corporate, 28, 824–7
state non-compliance, 739, 981
Sankoh, Foday, 293–4, 299
Saudi Arabia, terrorism in, 305
Savimbi, Jonas, 294
Schabas, William, 207
Schramme, Jacques, 466
SCSL. See Special Court for Sierra Leone
sea mercenarism, 451
security sector reform, 174
self-defence, as legal defence, 882, 916–17
See also liberation and self-determination
as African legacy, 214, 217
against colonialism, 66
exclusion of, under Malabo Protocol, 439–41
self-incrimination, right to freedom from, 725–6
self-representation, right to, 714–17
Senegal. See also Dakar; Habré, Hissène
Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and, 82
Extraordinary African Chamber, 84–5, 645
International Commission of Jurists in, 4
universal jurisdiction in, 58
senior state officials, immunity for, 2, 30, 33
sentences, sentencing and
through bricolage, 931
commutation of, 942–3
for core crimes, 930–1
for corruption, 489–92, 501–2
penalties in, 491–2
early release and, 944
enforcement of, 944–5
guidance for, 930–8
by ICC, 927–9
by ICTR, 932–4, 942
by ICTY, 932, 942

Downloaded from https://www.cambridge.org/core. IP address: 54.70.40.11, on 22 Jan 2020 at 14:17:44, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108525343
sentences, sentencing and (cont.)
military affairs in, 890–3
international detention and, 944–5
mitigating factors in, 877–8, 880, 893, 935–6, 941
ne bis in idem principle and, 944–5
nulla poena sine lege principle and, 931
pardon of, 942–3
penal aspirations in, 941–5
penalties and, 930–8
reduction of, 942
under Rome Statute, 936, 938–42
in Rwanda, 932–3
scope of, 927–9
by SCSL, 927–9, 934, 942–3
in Uganda, 932
Al-Senussi, 627–8, 657–9
September 11th attacks, 307, 434
Sesay, Issa, 510–11
sexual assault, violence and, 878–9
_genocidal context for, 23, 265
under ICL, 23
rape, 23
Seychelles, 375
human trafficking in, 541–2, 544
NDEA in, 584
al-Shabaab, 307
Sharm el Sheikh Protocol. See Protocol on the
Statute of the African Court of Justice and
Human Rights
Shaw, Malcolm, 637–8
Shelton, Dinah, 64
Sherman Anti-Trust Act, 290–1
Sierra Leone. See also Special Court for Sierra
Leone; Taylor, Charles
atrocity crimes in, 60
drug trafficking in, 375
jurisdiction over, 363–4
illicit exploitation of natural resources in,
592, 595
Lomé Peace Agreement, 135
mercenarism in, 460, 467
pillage in, 594
prioritizing of peace in, 135–6
TRCs in, 149–50
silence, right to, 725–6
silent accomplice, 787–8
_sine qua non_, 38, 642
Sirleaf, Mattiagai, 36
Situation in Kenya case, 627
slavery, human trafficking for, 534, 536–7
Smith, Peter, 499
smuggling, human trafficking compared to,
538–9
_socioeconomic justice_, in transitional justice,
164
soldiers, children as, 295, 297
soldiers of fortune, 451
Somalia, piracy and, 392, 399
South Africa
apartheid in, 66, 149–50
criminalization of, 77–9
corporate criminal liability in, 783
human trafficking in, 541, 543–4
illicit exploitation of natural resources in, 614
Marikana Massacre in, 614
mercenarism in, 467
under Regulation of Foreign Military
Assistance Act, 462, 467
Promotion of National Unity and
Reconciliation Act, 149–50
terrorism laws in, 433–4
Truth and Reconciliation Commission,
149–50
withdrawal from ICJ, 501
Southern African Development Community
(SADC), 478, 480
sovereignty
illicit exploitation of natural resources as
violation of, 601–6
for indigenous peoples, 605–6
of national courts, 106
non-interference and, 122
of OAU, 147–8
state, 231
Special Court for Sierra Leone (SCSL)
ACJHR compared to, 1096–7
cooperation with national systems, 282–3
corporate criminal liability in, 299
creation of, 57, 184
criminal defence in, 901, 918–20
funding of, 1070–1
location of, 72
money laundering in, 507, 510–12
polïto-military organizations and, 293–4
sentencing at, 927–9, 934, 942–3
terrorism and, 409, 422–3
witness anonymity in, 687–8
Special Tribunal for Lebanon (STL), 409
legal persons in, 798–9
_mens rea_ definition in, 625
UGC and, 625
witness anonymity in, 687–8
Index

Specialized Technical Committee (STC), of AU, 10

speedy trials, right to, 711–12

staff members
  for ACJHPR, 1059, 1091–6, 1098 interpreters, 1095
  of AU, 1035–9, 1043–6, 1053

state insurrections, from terrorism, 414–35

state non-compliance, for sanctions, 739, 981

state responsibility, for human trafficking, 539–47

  through international cooperation, 546–7

  non-refoulement and, 543–4

  prohibition and prosecution of, 540

  for protection of victims, 542–3

state sovereignty, 231

  OAU and, 147–8

statelets, corporate criminal liability in, 300–1

  Islamic State, 301

  Palestinian Authority, 301

statute of limitations, for criminal defence, 922

Statute of the ACJHPR, 177–8, 190–5

Statute of the Administrative Tribunal of the International Labour Organization (ILOAT), 1040–1

Statute of the Administrative Tribunal of the Organization of African Unity, 1045

STC. See Specialized Technical Committee


Sub-Saharan Africa. See also specific countries

  human trafficking in, 529

  subsidiaries, corporate criminal liability for, 754, 831–2

Sudan. See also al-Bashir, Omar Hassan Ahmed; Darfur, Sudan

  CPA in, 115

  ICC in, 88–90, 114, 116, 189

  National Islamic Front in, 305–6

  politico-military organizations in, 293

  White Army, 312

  superior orders, as defence, 907–10

  supply offences, for drug trafficking, 370–3

Swaziland, 382

Syria

  politico-military organizations in, 293

  terrorist organizations in, 309–10

Tanzania. See also Dar es Salaam

  human trafficking in, 543

  illicit exploitation of natural resources in, 614

Taylor, Charles, 135, 299, 594, 604, 641, 1113

  cost of trial of, 43

  incarceration of, 942–3

  lack of counsel for, 716–17

  money laundering case against, 526

  temporary immunity, 14, 253

terrorism, as crime, 92–3, 177, 250

Additional Protocol I and, 442

Additional Protocol II and, 442

in Africa, 311–12

See also specific countries under African Charter on Human and Peoples’ Rights, 424–5

  liberation and self-determination struggles and, 440

African Commission on Human and Peoples’ Rights and, 428 in Algeria, 411

Arab League on, 413, 445–16

Convention on the Suppression of Terrorism 1998, 420

AU counter-terrorism developments, 417–19

  African Model Anti-Terrorism Law, 417–8, 420, 431–2, 447

  Plan of Action on the Prevention and Combating of Terrorism in Africa, 418–19

by Boko Haram, 305, 307

  conventions and treaties on, 422–3

  criminal liability for, 435–8

  under Security Council Resolution 1566, 424–5, 431

  cultural heritage and, 415–16

  through cyber-attacks, 427

  defence exclusions, 445–7

  definition of, 304–5, 419–47

    cultural heritage damages in, 429–30

    damage to natural resources, 427–8

    deprivation of liberty in, 425–6

    environmental heritage damages in, 428–9

    general damages in, 426–30

    life endangerment in, 425–6

    property damage in, 426–7

    drafting history for, 419–21

    in Egypt, 413

    elements of, 419–47

    financing of, 764–5

Downloaded from https://www.cambridge.org/core. IP address: 54.70.40.11, on 22 Jan 2020 at 14:17:44, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108525343
terrorism, as crime (cont.)
under UN Convention for the
Suppression of the Financing of
Terrorism, 765, 814
under ICCPR, 424
ICTY and, 409
under IHL, 410–11, 421
acts excluded from definition of, 441–5
impunity prohibitions, 444–5
liberation and self-determination and, 441
intention as factor for, 430–5
through disruption of public services,
432–4
through intimidation, 431–2
state insurrections as result of, 414–35
under international law, 423–4
interpretation of, 421–3
in Iraq, 308–9, 430
by ISIS, 305
League of Nations and, 410
liberation and self-determination as
exclusion from, 439–41
under African Charter on Human and
Peoples’ Rights, 440
under IHL, 441
in Mali, 450
motive requirements for, 430–5
national criminalization of, 410
in Nigeria, 310–11
OAU Convention on the Prevention and
Combating of Terrorism, 410–19, 447–8
criminalization of terrorist acts, 415–16
definition of terrorist acts, 414–15
development of, 411–12
drafting of, 412–14
preamble, 414
under OAU Declaration on a Code for
Conduct for Inter-African Relations,
412
OIC Convention on Combating
International Terrorism, 410, 413–16
PALU recommendations for, 419–20
public emergency as result of, 432, 434
purposes of, 430–5
by Al Qaeda, 305–9
September 11th attacks, 307, 434
refugee flows as result of, 311–12
under regional laws, 423–4
in Saudi Arabia, 305
scope of, 423–47
in African States, 411
SCSL and, 409, 422–3
September 11th attacks on U. S., 307, 434
in South Africa, laws for, 433–4
STL, 409
in Syria, 309–10
transnational crime, 422–3
in Uganda, 305
under UN Convention for the Suppression
of the Financing of Terrorism, 765
UN Draft Comprehensive Terrorism
Convention, 410
Terrorist Bombings Convention (1997), 438
Terrorist Financing Convention (1999), 431
TFV. See Trust Fund for Victims
Thiam, Doudou, 869, 888
Third World Approaches to International Law
(TWAIL), 801
Tladi, Dire, 33
TNCs. See transnational corporations
Tojo, Hideki, 846
Tokyo Charter
conspiracy in, 774–5
crime of aggression under, 316 See also
Charter of the Military Tribunal for the
Far East
Tokyo Tribunal
Charter of, 846
crime of aggression in, 314–15
immunity in, 861
torture, 443–4
Convention Against Torture and Other
Cruel, Inhuman and Degrading
Treatment or Punishment, 82–3, 111,
277–8
under Habré, 419, 949
Torture Convention. See Convention Against
Torture and Other Cruel, Inhuman
and Degrading Treatment or
Punishment
toxic colonialism, in Africa, 555–64
economic globalization as influence on,
557–8
MNCs and, 558
TNCs and, 558
historical development of, 558–64
in Somalia, 559–60
trading in influence, as corruption, 486
influence peddlers, 486
traditional justice and reconciliation
mechanisms, 158–61
accountability in, 159
index
transnational crimes (cont.)
jurisdiction for, 92–3, 106, 356–8
ICC, 337
under Malabo Protocol, 92–3, 238–9, 246–9, 338
partly transnational crimes, 252–4
modes of responsibility, 349–52
lex specialis rule, 351–2
money laundering, 92–3, 177, 246–9
definition of, 343
in Kenya, 353
national laws and, 344–5
nature of, 228–32
piracy, 92–3, 177, 246–9
primary rules for, source of, 343–4
procedural issues, 358–61
investigations, 359–60
punishment of, 352–6
state practices for, 352–5
regional criminal courts for, 258–61, 337–40
under Rome Statute, 346–7
scope of, 356–7
suppression of, 342–3
terrorism as, 422–3
trafficking in hazardous wastes, 49, 177, 246–9
UCG as, 623
UN Convention against Transnational Organized Crime, 386
transnational criminal law, 228–9
ICL compared to, 229–30
indirect liability system in, 230
Transparency International, 480
travaux préparatoires, 262, 323–4, 597
TRCs. See truth and reconciliation commissions
Treaty of Pelindaba. See African Nuclear Weapon Free Zone Treaty
trials. See also Nuremberg trials; Tokyo Tribunal
costs of, 43, 103–4
tribunal fatigue, 72
Trinidad and Tobago, 69–70
drug trafficking in, 362
Trust Fund for Victims (TFV), 952, 955–6, 960–1
truth and reconciliation commissions (TRCs), 149–50
Transitional Justice Policy Framework and, 158–61
tu quoque defence, 911–13
Turkey, politico-military organizations in, 293
Tutu, Desmond, 284
TWAIL. See Third World Approaches to International Law
“two ship rule,” in piracy, 395–6
US. See United States (US)
UCC. See unconstitutional change of government
Uganda
amnesty laws in, 932
High Court in, 114–16
human trafficking in, 543
ICC in, 205–6
ICD in, 932
illicit exploitation of natural resources in, 591
LRA, 114–16, 136–7
terrorism by, 305
pillage in, 591
sentencing in, 932
UPDA in, 114–15
Ugandan People’s Democratic Army (UPDA), 114–15
UK. See United Kingdom
ultimum remedium, 633–4
UN Convention against Transnational Organized Crime, 386
UN Dispute Tribunal (UNDT). See United Nations
UN Draft Comprehensive Terrorism Convention, 410
UN Drug Trafficking Convention, 367–8, 370
UN Multidimensional Integrated Stabilization Mission to Central African Republic (MINUSCA), 124
UN Seminar on the Creation of Regional Commissions on Human Rights, 3
UNAMID Hybrid Force. See United Nations African Union Mission in Darfur
UNAT. See United Nations
UNCAC. See United Nations
unconstitutional change of government
(UCG), 39–41, 619–21
in African States, 40–1, 338
“Arab Spring” as, 641
AU and, 39–41, 622
Constitutional Act, 40–1
through civil strife, 640–1
Index

complementarity and, 670
constituent elements of, 624–6
core crimes and, 626–30
in Côte d’Ivoire, 628–30
criminalization of, 621, 630–41
definition of, 625
establishment of special criminal chamber, 621–6
ICC response to, 622, 626–7
ICCPR and, 633
under ICL, 634–5
jus in bello, 640
in Kenya, 627
in Latin America, 40
in Libya, 627–8
Malabo Protocol and, 41, 250–2
through mercenarism, 460
in monarchies, 632
non-intervention principles and, 634–41
OAU and, 40–1
per argumentum a contrario, 637–8
prosecute or extradite for, 635
ratione materiae and, 638
ratione personae, 638
right to rebel and, 630–4, 637
under Rome Statute, 624, 638–9
static forms of, 625
STL and, 625
as transnational crime, 623
ultimum remedium, 633–4
universal jurisdiction for, 622–3
UNDT. See United Nations
UNEP. See United Nations
unequal access to court, AUAT and, 1040–3
ICJ response to, 1040–3
UNGA. See United Nations General Assembly
UNHCR. See United Nations
UNITA. See National Union for the Total
Independence of Angola
unitary perpetrator model, 746–8, 750–5
United Kingdom (UK)
Falklands War, 142
Homicide Act, 87–6
United National Appeal Tribunal (UNAT).
See United Nations
United Nations (UN). See also Special Court
for Sierra Leone; United Nations
Convention on the Law of the Sea;
United Nations General Assembly
Charter of, 64
Article 2(1), 345, 536–7, 846
Article 24(2), 180
Article 25, 180
Article 53, 181
Article 103, 180–1
crime of aggression under, 322–4
Convention for the Suppression of the
Financing of Terrorism, 765, 814
Draft Comprehensive Terrorism
Convention, 410
on mercenarism, 449, 451–2
MINUSCA, 124
Security Council Resolution 1566, 424–5,
431
UNAT, 1043
UNCAC, 349–50, 478, 484, 491, 493
money laundering, 508–9, 516
UNDT, 1043
UNEP, 558
UNHCR, 447
Universal Declaration of Human Rights,
65–6
UNSC, 139–40, 180. See also concurrent
jurisdiction
ICC and, 182
UNTOC, 508
human trafficking under, 530
money laundering, 508–9, 516
UNWCC, 869, 879–90, 911–12
United Nations African Union Mission in
Darfur (UNAMID Hybrid Force), 124,
138
United Nations Convention against
Corruption (UNCAC). See United
Nations
United Nations Convention against
Transnational Organized Crime, 236
United Nations Convention against
Transnational Organized Crime
(UNTOC). See United Nations
United Nations Convention on the Law of the
Sea (UNCLOS), 248, 343, 388–91
Articles, 389–90, 393
28, 388–9, 398–403
101, 388–9, 398–403
103, 398–400
105, 391, 404
codification of piracy under, 391
Peruvian response to, 397–8
primary offences, 392–8
United Nations Environment Program
(UNEP). See United Nations

Downloaded from https://www.cambridge.org/core. IP address: 54.70.40.11, on 22 Jan 2020 at 14:17:44, subject to the Cambridge Core terms of use, available at https://www.cambridge.org/core/terms. https://doi.org/10.1017/9781108525343
United Nations General Assembly (UNGA) on corruption, official response to, 478
Declaration against Corruption and Bribery in International Commercial Transactions, 478
Declaration on Measures to Eliminate International Terrorism, 444–15
ILC and, 232
regional human rights court systems, 68
United Nations High Commissioner for Refugees (UNHCR). See United Nations
United States (US)
money laundering in, 524
PMSCs in, 475
Racketeer Influenced and Corrupt Organizations Act, 503–4
September 11th attacks, 307, 434
War Crimes Act, 503
Universal Declaration of Human Rights, 65–6
Preamble of, 631
universal jurisdiction, 58–9
abuse and misuse of, 85–8
AU and, 86–8
Decision on the Abuse of the Principle of Universal Jurisdiction, 623
in DRC, 86
expansion of, 85–6
over piracy, 403–4
in Rwanda, 86–8
for UCG, 622–3
UNSC. See United Nations
UNTDOC. See United Nations
UNWCC. See United Nations
UPDA. See Ugandan People’s Democratic Army
Uruguay
Expiry Law in, 144
transitional justice in, 144
use of state territory for aggressive acts against another state, as act of aggression, 331–2
use of weapons, as act of aggression, 328–9
van den Herik, Larissa, 829
Versailles Treaty of 1919, Article 227, 848
vicarious liability, 812–13, 821
Vice President/Vice Presidency, of ACJHPR, 976, 1060
Victims and Witness Unit, 1066–7
victims’ rights. See also reparations future prospects for, 961–2
historical reference to, 948–50
identification of victims, 953
international courts and tribunals and, 950
legal framework on, 950–5
under Malabo Protocol, 948–50
participation of victims and, 953–5
under Rome Statute, 953–5
TFV, 952, 955–6, 960–1
Victores, Óscar Humberto Mejía, 116
Vienna Convention on the Law of Treaties, 1008
violence. See also sexual assault
management of, 121–8
African Commission of Human and Peoples Right, 122
by AU, 122–8
under Constitutive Act, 122
through peacekeeping missions, 123–4
through PSC, 122–6
RECs and, 124–5
transitional justice and, 167
OAU response to, 122
sexual assault and, 878–9
transitional justice and, 125–8
war crimes
ACJHPR, international criminal jurisdiction of, 87
amnesties for, 134, 683
AU and, 7–9
by al-Bashir, indictments against, 7–9, 88, 137–8
in Canada, 291
criminal defences for, 903, 905, 910–17
IAC and, 267
ICTY and, 274
under Malabo Protocol, 239–46, 267–74
pillage as, 591, 593–4
War Crimes Act (US), 303
wars. See civil wars
waste disposal contracts, 558–9
WBAT. See World Bank Administrative Tribunal
weapons of mass destruction, 244–5, 272, 417
Wet, Erika de, 1033
whistle-blowers, 489–90
White Army, 312
witnesses
  anonymity of, 687–8
  right to examination of, 723–5
World Bank, 1037
World Bank Administrative Tribunal (WBAT), 1044–6
Wright, Quincy, 1032–3
Yeo, Stanley, 874, 883, 898
youth, as defence, 921–2

Yugoslavia, the former, Human Rights Watch in, 135. See also International Criminal Tribunal for the Former Yugoslavia

Zaire, mercenarism in, 460
Zambia
  corruption in, 499–500
  human trafficking in, 541–2, 544
Zerrougui, Leila, 297
Zimbabwe
  corporate criminal liability in, 783
  hazardous waste trafficking in, 584
  politico-military organizations in, 293