

CONTENTS

Preface and Acknowledgments	vii
Introduction	1
1 Vigilantes and Global Governance	13
2 Human Rights Vigilantes	47
3 Vigilante Environmentalists	84
4 Vigilantes against Corruption	124
Conclusion	159
List of Nongovernmental Organizations	189
List of Interviews	193
Bibliography	195
Index	223

Introduction

In April 2015, three crew members from the *Bob Barker*, a ship operated by the environmental group Sea Shepherd Conservation Society, clambered aboard a sinking vessel, the *Thunder*, to collect proof of its illegal fishing. As the ship sank, activists hastily grabbed crucial evidence (including the captain's logbooks, a computer, mobile phones, charts, and a decomposing 200-pound toothfish) which they handed over to Interpol.¹ The sinking of the *Thunder*—a renegade trawler on Interpol's most-wanted list since 2013—ended a 110-day-long pursuit, during which environmental activists chased the outlaw fishing boat for more than 10,000 nautical miles before prompting its captain to scuttle his ship.² Once the *Thunder* began to sink, its crew were rescued by Sea Shepherd activists and escorted to shore, where they were met by local police. Based on evidence submitted by Sea Shepherd, the captain and senior crew members were tried and convicted on charges tied to illegal fishing.

In October 2017 Teodorin Obiang, son and heir apparent to the president of the oil-rich West African republic of Equatorial Guinea, was convicted of multiple corruption and money-laundering offences by a French court. Obiang had used the proceeds of his corruption to go on a massive spending spree, including a \$120 million Paris mansion, a \$120 million yacht, a \$38 million private jet, \$20 million at Yves Saint Laurent's estate auction, \$5 million on watches, and \$1.8 million worth of Michael Jackson memorabilia,

1. See Urbina 2015; Hune 2015.

2. Milman 2015.

2 INTRODUCTION

including a \$275,000 white crystal-studded glove from the ‘Bad’ tour—wildly exceeding his \$80,000 official annual salary.³ A group of NGOs in France, Spain, and the United States first followed the money trail to amass proof of Obiang’s looting, and then successfully prosecuted him for corruption and embezzlement in a French court, leading to the confiscation of the mansion and a fleet of luxury cars. They did so in the teeth of opposition from the French and Equatorial Guinean governments, both of which repeatedly tried to sabotage the case.

These examples are far from unique. Whether it is environmental activists intervening to halt illegal fishing or confiscate poached wildlife, anti-corruption campaigners tracing dirty money, or human rights groups prosecuting torturers, nongovernmental organizations (NGOs) are increasingly taking justice into their own hands in compelling compliance with international law. In doing so, they are not lobbying, seeking to persuade or shame targeted actors to abide by international rules; they are intervening directly—often as what controversially might be called vigilantes.⁴ Working from such examples, this book focuses on the growing, but so far neglected, role of NGOs as independent enforcers of international law.

Over the last few decades, more and more NGOs have moved beyond a focus on educating, socializing, and pressuring states to act to instead take direct action aimed at enforcing international laws. Although some of the tools used by these groups—patrolling and surveillance to document criminal conduct, gathering and supplying evidence to police and public prosecutors, and filing cases before national and international courts—may seem familiar, the significance and combined effects of these actions cannot be meaningfully understood as just some passive process of monitoring. When NGOs independently identify, investigate, and pursue suspected criminal actors, bring unsolicited proof of wrong-doing to state police and public prosecutors, and then, if public agents decline to act, pursue criminals through private prosecutions, they are not acting merely as passive monitors or as hired guns for states. When the same NGOs bring legal cases against governments for breach of international human rights and environmental obligations these NGOs cannot meaningfully be seen to act as deputies or delegates of governments. Rather, they are assuming the role of autonomous enforcers of justice, perhaps even vigilantes.

3. United States of America vs. One White Crystal-Covered Bad Tour Glove, U.S. Department of Justice In Rem prosecution, Central District of California, 13 October 2011; Sharman 2017: 4.

4. For a discussion of how we define and use the term ‘vigilante’, see the book’s preface.

At the heart of this book is a proposition that international enforcement by NGOs can be understood within a broader concept of transnational authority which treats states and nonstate actors as co-authors and joint suppliers of global governance. Although much has been written about global governance, observers have been largely blind to the widening pluralization and privatization of international law enforcement. This is due to an overly formalistic conception of law enforcement which holds that actions aimed to compel compliance with the law only qualify as law enforcement if carried out by state authorities, thus ruling out nonstate enforcement by definitional fiat. This narrow perspective limits our understanding and misses the growing reach and importance of transnational enforcement. Consider an analogy.

Imagine that we insist, on formal grounds, that firefighting is officially done only by firefighters. Therefore, when people who are not employed by the fire brigade don a helmet and put out a fire in a burning house, they are not really *firefighting*. Without official credentials, they are doing something that is functionally the same as firefighting, with the same results, but that nevertheless does not count as such. To our mind, this approach is unduly formalistic and restrictive, as it prevents us from recognizing firefighting as a *practice* rather than merely a formal concept. As we seek to demonstrate in this book, as a matter of fact, or practice, actors other than states are increasingly enforcing international laws. Our goal is to explain what drives this phenomenon and to consider its consequences for world politics.

As we discuss in chapter 1, we view enforcement as compelling compliance with international law by helping to hold transgressors to account. This includes a spectrum of activities from surveillance, investigation, and evidence gathering to litigation, prosecution, and interdiction. In focusing on the role of nonstate actors in international law enforcement, our narrative both challenges and expands existing accounts of the pluralization of global politics. Since the 1970s, scholars working from a variety of perspectives have emphasized the growing multiplicity of global actors and voices as human rights activists, environmentalists, religious societies, scientific bodies, banks, and international corporations have taken on political roles once reserved for state representatives.⁵ A large literature has discussed how NGOs pressure and socialize governments into making and enforcing

5. Keohane and Nye 1977; Rosenau and Czempiel 1992; Barnett and Duvall 2005; Avant, Finnemore, and Sell 2010.

4 INTRODUCTION

international rules.⁶ Others have considered how NGOs assist states in implementing rules as contracted agents of governments or as intermediary actors ‘orchestrated’ by international organizations.⁷ Still other work has focused on the rise of transnational regulation in the form of voluntary standards and codes of conduct, created and implemented by private actors.⁸ Yet there has been little attention to NGOs working in an enforcement role. To the extent that NGOs are recognized as participants in monitoring, investigating, and prosecuting international crime, their role is mostly portrayed as contracted monitors acting at the direction of others or as neutral suppliers of information.⁹ This portrayal, we argue, either misses or mischaracterizes a large spectrum of NGO activities.

Questions and Answers

Our analysis is devoted to answering two main questions. First, why have we seen the recent rise of independent nonstate enforcement at the international level? Second, why do some NGOs embrace enforcement, while others stick with more traditional strategies of advocacy or delivering services for governments? To answer these questions, this book explores how and under what conditions transnational enforcement has developed across three domains of global politics: human rights, environmental protection, and the fight against corruption.

In the longer historical view, private law enforcement has been the rule rather than the exception. Britain was the first country to develop a professional police force in 1829. Here and in other countries, except for crimes directly against the state (e.g., treason or failure to pay taxes), criminal and civil justice alike were previously handled either on a do-it-yourself basis or by for-profit actors like bounty hunters. In this sense, having a range of enforcers of domestic law apart from state agencies is not new. Likewise transnational law enforcement is not entirely a recent phenomenon. During the nineteenth century, international courts for the suppression of the

6. Risse-Kappen 1995; Meyer et al. 1997; Keck and Sikkink 1998; Finnemore and Sikkink 1998; Price 1998; Florini 2000; Hafner-Burton 2008; Neumann and Sending 2010; Carpenter 2011; Peterson, Murdie, and Asal 2018.

7. Abbott and Snidal 2010; Abbott et al. 2015; Hale and Roger 2014; Tallberg 2015.

8. Biersteker and Hall 2002; Cutler 2002; Pattberg 2005; Lake 2010.

9. McCubbins and Schwartz 1984 developed the concept of ‘fire brigade monitoring’ as opposed to ‘police patrols’ to explain the prevalence of third-party monitoring as a means of congressional oversight.

slave trade heard cases against slave-trading vessels—some brought by private groups¹⁰—and claims commissions adjudicated private litigant disputes arising out of war.¹¹ However, the number and scope of such cases were limited. As we illustrate in the chapters to follow, within each of the three policy domains analyzed in this book, nonstate enforcement has grown in magnitude, variety, and sophistication and has become increasingly cross-boundary in scope. As such, transnational enforcement is a novel phenomenon that demands further attention.

In explaining the recent growth in private international law enforcement, we present an argument which focuses on changing demand and supply conditions wrought by legal and technological innovation, as well as by inter-organizational dynamics. Starting with demand, the number and scope of international treaties and agreements have grown exponentially in recent decades. From human rights to endangered species, from election monitoring to money laundering, and from arms control to financial accounting standards, most policy issues are today subject to multiple transborder agreements.¹² However, enforcement has tended to lag behind; international agreements to safeguard the environment, protect human rights, and combat cross-border corruption often amount to little more than a dead letter. The continuing expansion of international law, along with states' limited capacity (and inclination) to police and enforce international agreements, has produced what we call an 'enforcement gap'.¹³ In turn, this gap has created new demand for nonstate enforcers to step into the breach.

Alongside growing demand triggered by a widening enforcement gap, we point to supply-side factors which have enabled enforcement by transnational actors. In order to contribute to international enforcement, NGOs must have access to effective tools for surveillance, investigation, and, ultimately, intervention. Here technological advances have greatly enhanced the ability of nonstate actors to contribute to enforcement through independent monitoring and investigation. In particular, the diffusion of massive computing power, the availability of satellite imagery, drones, Geographic Information Systems, digital sensors, and vast data leaks from Wikileaks to the Panama Papers have produced a step change in the armoury available to transnational enforcers. NGOs now have access to sophisticated data-gathering and data-analysis techniques which were once the exclusive

10. Martinez 2008.

11. Steinitz 2019.

12. Alter and Meunier 2009.

13. See also Nurse 2013.

6 INTRODUCTION

preserve of state militaries and intelligence agencies. As a result, we see these groups uncovering mass graves, surveilling wildlife poachers, and forensically following trails of dirty money.

A second supply-side factor relates to changes in law. Not only are there more laws governing global issues, but avenues of access for nonstate actors to the international judicial system have also multiplied and widened. The past few decades have witnessed a substantial increase in international dispute settlement institutions: human rights courts, administrative tribunals, arbitrational tribunals, and internationalized criminal courts, among others.¹⁴ At the same time, many national constitutions and regional treaties have widened participation rights for NGOs, granting rights to intervene on behalf of third parties or the general ‘public interest’. The multiplication of legal frameworks and judicial bodies has led many legal scholars to express concern about ‘fragmentation’ of international law. Critics worry about forum-shopping by litigants, rivalry among judiciaries with overlapping jurisdiction, and conflicting application of law which threatens to undermine the coherence of the international legal system.¹⁵ Yet for many NGOs these developments have also had an empowering effect in making the international judicial system more open to strategic litigation and allowing activists to select legal venues hospitable to their claims. As a result, it is increasingly common to see NGOs engage in parallel litigation whereby they bring the same case(s) to different courts and base their claims on both national and international law across different substantive domains—for example, human rights and environmental law.

Organizational Competition and the NGO Scramble

Beyond changing demand and supply factors stimulated by broad legal and technological changes, our third postulated driver of transnational enforcement focuses on relationships among NGOs themselves.¹⁶ One of the most remarkable recent trends in global politics is the explosive growth in international NGOs. Bush and Hadden put the number of legally constituted international NGOs at around sixty thousand in 2012—a fivefold increase from the 1980s.¹⁷ In fact, these are only the larger groups which are suf-

14. Alter 2011a.

15. Guilleume 2001; Benvenisti and Downs 2007; Alter and Meunier 2009.

16. Cooley and Ron (2002) coined the term ‘NGO scramble’ to capture increasingly competitive relations among a growing NGO population.

17. Bush and Hadden 2019.

ficiently established to be recorded in official databases. The actual total is therefore probably closer to six figures. This staggering population growth has intensified competition for scarce resources, such as public funding and political and media attention. The NGO representatives we interviewed for this book repeatedly spoke of having to seek out or create their own particular niche to differentiate themselves from competitors. The result has been increasing strategic and tactical innovation, differentiation, and experimentation with new ideas, along with heightened receptiveness to the need for organizational learning and adaptation.

In a competitive environment which encourages differentiation, why do some NGOs embrace enforcement while others stick to more traditional approaches such as lobbying governments to pass new legislation or assisting state-led policy implementation? In explaining this pattern, we point to intrinsic characteristics of NGOs which can make it less costly for some to engage in enforcement, and to patterns of learning. As ‘instrumentally principled’ actors, that is, actors driven by competitive market incentives as well as by principled commitment to particular causes,¹⁸ NGOs tend to favour strategies that enhance organizational growth and survival. Yet NGOs cannot endlessly re-invent themselves. Strategic flexibility is often tightly circumscribed by prior organizational legacies and pre-existing resources. We find that groups that have invested heavily in gaining privileged access to policy-makers, or in building strong ties to corporate actors, are often reluctant to adopt confrontational or risky strategies like enforcement. In contrast, groups are more likely to engage in enforcement if they lack secure access to policy-makers and/or define themselves as outsiders in opposition to ‘mainstream’ advocacy groups.

An important determinant of NGO strategy is money. Over the past three to four decades, major NGOs such as Amnesty International, Greenpeace, Transparency International, and World Vision have vastly increased their financial resources and, as a result, public profiles.¹⁹ Starting from humble beginnings, such NGOs today have multimillion-dollar budgets, sprawling global bureaucracies, and extensive ties to state and corporate actors which sometimes limit what they are willing to say or do publicly and lead them to favour moderate strategies so as not to alienate supporters.²⁰ The increasing concentration of financial resources, lobbying power, and media attention

18. Cooley and Ron 2002; Bob 2005; Mitchell and Schmitz 2014.

19. Thrall, Stecula, and Sweet 2014.

20. Stroup and Wong 2017; Zelko 2013: 316.

8 INTRODUCTION

among a small cluster of large, mainstream global advocacy organizations has reduced the resource space in which other NGOs can operate. In turn, this trend has created incentives to adopt more aggressive strategies, such as enforcement, which are often cheaper to execute and less dependent on political access and media exposure. Depicted by some as ‘second best’,²¹ in contrast we regard such choices as evidence of the growing pluralization of actors and strategies in international law enforcement.

In summary, the emergence of new global issues, impacts of technology, innovations in law, and a proliferation of nonstate actors have combined to produce a novel context for transnational activism. Together these structural changes have created wider opportunities, greater capacity, and stronger organizational incentives for NGOs to autonomously enforce international law. Whereas NGOs have long engaged in private and public interest litigation and other forms of enforcement at the domestic level, the private enforcement we focus on in this book is increasingly *transnational* in scope. Not only are the laws in question international, but increasingly so are the NGOs involved in monitoring and enforcement. By their nature, the problems to be addressed more commonly have a strong cross-border dimension, from global climate change and illegal fishing on the high seas to complex corruption schemes that snake through multiple jurisdictions.

Implications for World Politics

If transnational enforcement is increasingly practiced by nonstate actors, what are the implications for the international legal order? The question of ensuring compliance with international law constitutes a proverbial holy grail for those studying international law and politics. How can international rules be enforced in the absence of a world state or supranational police force? Nonstate enforcement may present a partial answer. Since human rights violations, corruption, or mass environmental degradation often involve crimes committed by state officials, or with government complicity, the state often has a conflict of interest when it comes to prosecuting such offences.²² Rather than the law enforcers, governments are too often the law-breakers. NGO vigilantes can help to secure justice where governments are conflicted or directly culpable. Yet it is important to emphasize that the relationship between state and nonstate enforcers is not necessarily antagonistic.

21. Grant 2001; Stroup and Wong 2017.

22. Michel and Sikkink 2013.

Transnational enforcement can often provide a welcome supplement to state actions, bringing additional resources to an under-resourced system. Sometimes, states simply lack the capacity or technical knowledge to rigorously enforce rules set out in international treaties.²³ Our interviews with those in public law enforcement bodies and NGOs often revealed a subtle game of tacit cooperation between state and nonstate enforcers, as each sought to hold law-breakers accountable. NGO enforcement can thus help to secure global public goods in areas where governments are hostile, weak, absent, or merely indifferent.

Whether it supplements or substitutes for state-led enforcement, transnational enforcement challenges governments' (purported) monopoly on law enforcement. This in turn raises thorny questions about the legitimacy and accountability of NGO enforcers. NGO enforcers often present themselves as selfless crusaders advancing the global public good. But given the concerns evoked by the phrase 'vigilante justice', and the methods of questionable legality adopted by some NGOs in the name of law enforcement, what are the downsides of transnational enforcement? In reflecting on this question, one consideration is whether (and under what circumstances) vigilante justice can be regarded as morally acceptable and legitimate. A second set of questions turns on effectiveness: NGOs may supply a public good but, by doing so, may tempt governments to put even less effort into enforcement, reasoning that NGOs will pick up the slack. More questions follow: If transnational vigilantism presents a warranted addition to state-led enforcement, what mechanisms can ensure due process and guard against self-interested application of law by unrepresentative 'special interest' groups? We address these questions in the final chapter but, perhaps unsurprisingly, do not provide conclusive answers. Our goal is more modest and logically prior: to document and explain the recent rise of private enforcement. Until we recognize nonstate enforcement for what it is, it is impossible to evaluate these practices in either political or moral terms.

This book argues that international law enforcement can no longer be conceived merely in terms of governmental control and self-policing by sovereign states. International law enforcement now involves a plurality of different actors. In some respects this development is not new. What we are witnessing represents in part a return to an earlier historical model in which states neither exercised nor claimed a monopoly on law enforcement. Yet this (re)turn has not been reflected in scholarship. Few scholars today

23. Chayes and Chayes 1993.

10 INTRODUCTION

dispute that political, legal, and technological changes have fundamentally transformed relationships between governments and nongovernmental actors and limited the scope of state autonomy and control. Nevertheless, these developments have failed to shift the presumption that international law enforcement is a state monopoly. Our theories and concepts have failed to keep up with the pace of change in the way world politics works.

Some of the enforcement practices we discuss in this book are new; some are older. It is easy to fall into the trap of regarding one or the other as predominant; nonstate enforcement is either an unprecedented novel phenomenon or ‘nothing new under the sun’. We reject this simplistic either/or stance. Surveillance and investigation, for example, have long been used by transnational activists and written about by scholars, especially in the area of human rights. However, the nature and significance of these activities have often been mischaracterized as advocacy designed only to shame law-breakers by highlighting the plight of victims. We argue for the possibility that such autonomous monitoring, investigation, and prosecution by NGOs may comprise a strategy to hold law-breakers directly to account, and hence is better understood as enforcement than advocacy. Too often, we have been looking at NGO enforcement without recognizing it as such. The growing frequency, scope, and sophistication of NGO investigation and prosecution infuse new meaning into seemingly familiar processes and actions, producing a system of nonstate international enforcement in parallel to the state-based system.

The Shape of the Book

What do we mean by enforcement? What explains the growing role of NGOs in enforcement? Chapter 1 is devoted to laying out our answers to these questions. The first task is to explain how we define NGO enforcement and distinguish it from advocacy or service delivery. The second part of the chapter identifies the conditions under which transnational enforcement is likely to unfold. We set out our explanation for the rise of transnational vigilantism by elaborating the main drivers of this trend: (1) a growing misalignment between the reach and depth of international legal agreements on the one hand, and lagging and inadequate state enforcement efforts on the other hand (the ‘enforcement gap’); (2) growing opportunities for private actors to engage in international enforcement thanks to advances in law and technology; and (3) growing competition among NGOs which stimulates strategic innovation and specialization, including a turn to autonomous enforcement.

The third part of the chapter considers why some NGOs are more likely to embrace enforcement than others.

Having laid out the frame of our argument, in the following three chapters we then apply it to the fields of human rights, environmental protection, and the fight against corruption. In addition to their inherent importance, we focus on these areas for three main reasons. First, they each demonstrate a strong upward trend in NGO enforcement. Second, while all three domains offer fertile conditions for nonstate enforcement, these conditions also vary, which allows us to explore how different contexts shape NGO action. Third, the different timing of the emergence of vigilante enforcement across the three domains allows us to scrutinize how ideas and practices spread across different issue areas of global politics. In many ways, the pioneering NGOs in enforcing international law were human rights groups in Latin America. When governments sought to draw a veil over the past, these groups gathered evidence and privately prosecuted those individuals guilty of torture and disappearances, basing their work on international human rights law. Environmental and later anti-corruption groups learned from these experiences and, as relevant laws and technologies became available, applied, extended, and innovated enforcement strategies in their domains. In some cases, the same NGOs pursued enforcement strategies across more than one of these areas.

In addition to exploring differences in autonomous transnational enforcement across the domains of human rights, environment, and corruption, each chapter reveals that only some NGOs within each domain have embraced vigilante enforcement, while others have stuck with more conventional advocacy and service delivery roles. Early adopters of vigilante strategies have often been small and relatively resource-poor groups striving to find a niche in a densely populated world of competing transnational groups. Over time, however, the growing visibility of NGO enforcement has in some cases created pressure for other groups to adopt enforcement strategies so as to not lose out to their peers. In backing up our claims, we draw on a wide range of primary documents, court records, and numerous interviews conducted by both authors over the last decade, supplemented by secondary sources.

Finally, in the conclusion we integrate and extend our arguments and findings and look to the future. We start by drawing out lessons and patterns from a comparison of NGO enforcement across different policy areas. Next, we consider the wider implications of vigilante justice for the international legal order. The global NGO community has important resources to bring

12 INTRODUCTION

to international law enforcement, especially in weak jurisdictions where governments may lack capacity to enforce laws that transcend international boundaries. Yet these positive effects may be cancelled out by negative influences on state incentives if the contributions of NGOs invite governments to shirk their duty by reducing efforts to enforce international law. At the same time, transnational vigilante enforcement raises thorny questions about legitimacy, due process, and accountability. Although our goal is to offer a new understanding of law enforcement beyond the state rather than advocate for or against vigilante enforcement on normative grounds, it is impossible to avoid the vexed moral aspects of these questions.

INDEX

- Aarhus Convention (1998), 37, 90–93
Abacha, Sani, 143
abortion, 163–64
accounting standards, 5, 25
ActionAid, 157
Advisory Service for Squatters, 164
advocacy, 24–25, 171; enforcement versus, 10, 27–28, 42–44, 121–22, 172
Afghanistan, 62
African Charter on Human and Peoples’ Rights, 95
African Commission on Human and Peoples’ Rights, 55, 135
African Court on Human and Peoples’ Rights, 35, 54, 55
Alien Torts Act (U.S., 1789), 56–58, 62, 100
Alley, Patrick, 156
American Academy for the Advancement of Science, 72
American Bar Association, 180
American Convention on Human Rights, 94
American Declaration of the Rights and Duties of Man (1948), 47
Amnesty International, 7, 47; Alien Torts Act and, 57; Eyes on Darfur project of, 72; founding of, 79; human rights treaties and, 58; Human Rights Watch and, 49, 79–82, 170–71; North Korea and, 72; Pinochet case and, 60
Amos, John, 111
Andean Tribunal of Justice, 36
Angola, 134–35
Anti-Bribery Convention (OECD, 1997), 126, 127, 129
anti-corruption enforcement, 124–59, 161–62, 186; by civil law, 141–44; gap in, 128–30; human rights organizations and, 83, 128, 133, 161; by international law, 47, 58, 130–36; legal drivers of, 130–44; technology for, 144–51; Transparency International on, 129. *See also* enforcement
Anton Piller orders, 142
Arab Spring, 144
Argentina, 38, 53, 58; ‘dirty war’ of, 62; *Poder Ciudadano* of, 132
Argor-Heraeus mining company, 139–40
arms sales, 5, 32, 165–66
Asociación Pro Derechos Humanos (Peru), 55
Asociación Pro Derechos Humanos de España (APDHE), 62, 63, 132, 135, 157
Assad, Rifaat al-, 135–36, 144
Asylum Access, 55
Austin, Kathi Lynn, 139
Australia, 96, 115, 119, 178
authority, delegated, 25–26
‘authority trap’, 169
Automatic Identification Signal (AIS), 105–7
Autonomous Nation of Anarchist Libertarians, 164
BAE Systems (arms firm), 136
Bangladesh Environmental Lawyers Association, 103
Bashir, Omar al-, 67
Belgium, 60, 61, 95, 103
Bellingcat (NGO), 39, 73–75, 77–78, 145–46; Global Witness and, 157; on Yemen conflict, 165–66
big-data investigations, 73, 107–8, 147–48. *See also* Open Source Intelligence
biological diversity, 88
Birds Directive (EU, 1979), 91–92
Black Fish (NGO), 89, 116, 123, 170
Blackwater Corporation, 18
Blue Seals (organization), 116
Bolivia, 93
Bosnia, 62
Bosque Antiguo (NGO), 109–10
Both ENDS (NGO), 103–4
bounty hunters, 4
Brazil, 88, 105

224 INDEX

- bribery, 147–48; definition of, 124; legality of, 124, 129; OECD convention on, 126, 127, 129; online reporting of, 150–51; Saudi arms deals and, 136
- British Petroleum (BP), 106
- Browder, Bill, 140–41, 143
- Burkina Faso, 134–35
- Burma, 57
- Bush, George H. W., 61
- Bush, Sarah S., 6–7
- Caesar-Files Support Group, 66–67
- Cambodia, 65, 156
- Cameroon, 73–74, 118–19
- Campaign Against the Arms Trade (NGO), 136
- capacity building, 34, 120
- Carnegie Mellon University Center for Human Rights Science, 75
- ‘cause-lawyering’, 30
- censorship, internet access and, 40
- Center for Advanced Defense Studies (C4ADS), 166–67
- Center for Constitutional Rights, 56
- Center for Justice and Accountability, 56, 62
- Center for Justice and International Law (CEJIL), 55
- Center for Public Integrity, 146
- Central Intelligence Agency (CIA), 62
- Centro de Estudios Legales y Sociales* (CELS), 53–54
- Chad, 60–61, 77
- Chevron Corporation, 57
- children’s rights, 50
- Chile, 53
- China, 120; illegal fishing by, 106, 108; Xinjiang human rights abuses in, 38, 73
- Christian Aid, 157
- CIJA. *See* Commission for International Justice and Accountability
- citizen’s arrest, 28–29
- civil law enforcement, 56–58; of corruption, 141–44; of environmental protections, 99–101
- civil litigation, 21–22
- Civil Society Coalition, 127
- Civitas Maxima (NGO), 61, 63, 132
- ClientEarth, 92, 103
- Climate Action Network Europe, 96
- climate change, 20, 22, 84; human rights and, 94–95; legal cases on, 90–99; litigation risk and, 177–78
- Coalition for the International Criminal Court, 64n91
- Cobra Collective (NGO), 110
- Coca-Cola, 57
- Codpeace (organization), 113
- Cold War, 78–79, 126
- Colombia, 58
- Comisión Ecuémica de Derechos Humanos* (Ecuador), 55
- Comité Catholique contre la Faim et pour le Développement*, 133
- Commission for International Justice and Accountability (CIJA), 81–82; ICC and, 66–67; Syrian atrocities and, 66–67
- compliance, 17–18, 21. *See also* enforcement
- Conflict Awareness Project (NGO), 132, 139, 157
- Congo-Brazzaville, 133–35
- Congo-Kinshasa, 62, 68; gender-based violence in, 81, 180–81; illegal gold mining in, 139–40; TRIAL International lawsuit in, 70
- Conservation Drones (NGO), 110
- Conservation International (NGO), 110
- Convention Against Torture, 59
- Convention on Biological Diversity, 88
- Convention on International Trade in Endangered Species (CITES), 26, 86, 87
- Convention on the Elimination of All Forms of Discrimination against Women, 163
- coral reefs, 87
- Corner House (NGO), 136–39, 157
- corruption, 11, 46–47, 58, 124–59. *See also* anti-corruption enforcement
- Cossart, Sandra, 99
- Costa, Andrea, 107, 108
- court access, 34–38
- crimes against humanity, 59–61; Rwandan, 61; Syrian, 63, 66–67
- Danske Bank, 141
- Darfur, 72
- Deepwater Horizon oil spill, 106
- deforestation, 38, 100, 105
- de Gheldere, Serge, 103
- De Groot, Laurens, 116
- Del Monte Corporation, 57
- Deloitte and Touche accounting firm, 155
- desertification, 38, 88
- diamond trade, 157
- DigitalGlobe (satellite imagery company), 71, 166
- disappearances, 11, 50, 53
- DNA analysis, 109–10
- DoZorro accounting system, 150
- Drohi, Ofir, 117–18

- drones, 38, 110, 111, 149–50; medical care with, 163
drug trafficking, 32
Duterte, Rodrigo, 173
Duty of Vigilance Law (France), 58
Duvalier, Jean-Claude ‘Baby Doc’, 142
- Earth First!, 114
Earth League International (ELI), 107–8
Earthlife (NGO), 98
EarthRights International, 56–58
Earth Summits, 85, 87, 88
Eco Activists for Governance and Law Enforcement (EAGLE), 112, 117–18
economic sanctions, 50–51
eco-terrorist groups, 31, 114
Ecuador, 106; environmental protections in, 93, 100; human rights abuses in, 58
EG Justice (NGO), 135
Egypt, 134–35
Eigen, Peter, 152, 154–55
Ekozashchita! (Ecodefence!), 172–73
election monitoring, 5
embezzlement, 126, 135–36, 143
endangered species, 26, 86, 107–8, 110–11, 117, 156
enforcement, 13–24, 28–31, 124–59, 161–62; advocacy versus, 10, 27–28, 42–44, 121–22, 172; capacity building for, 34; civil law, 56–58, 99–101, 141–44; compliance and, 17–18, 21; definitions of, 16–17; direct-action, 112–19, 121; effectiveness of, 176–84; of global governance, 15–24, 28–31, 176; legitimacy of, 184–87; as NGO niche, 104, 110–12, 121–22; private, 4–5; soft, 176; surveillance and, 23, 28; technological advances in, 68–78, 104–12; ‘turn’ to, 78, 83. *See also* anti-corruption enforcement; transnational enforcement
‘enforcement gap’, 5; in anti-corruption laws, 128–30; in environmental protection, 86–89; in human rights, 49–51; in international law, 32–34
Engels, Chris, 66
ENI (Italian oil firm), 137–39
entrepreneurship, ‘norm’, 24, 27, 171
Environmental Investigation Agency, 121, 156
Environmental Justice Foundation, 170
Environmental Law Association (South Africa), 103
environmental protection, 11, 84–123; anti-corruption groups and, 161; civil law for, 99–101; ‘enforcement gap’ in, 86–89; Heathrow Airport expansion and, 20, 22; international laws for, 47, 58, 162; legal cases for, 29–30, 35, 89–104
Equatorial Guinea, 1–2, 30, 132–34
Eswatini (formerly Swaziland), 63
Etete, Dan, 137–39
European Center for Constitutional and Human Rights, 63, 66–67
European Convention on Human Rights (ECHR), 47, 92–95
European Court of Human Rights, 36, 54, 74, 95–96
European Court of Justice, 36
Europol, 69
evidence gathering, 28–29; phone apps for, 69–70; of sexual violence, 71; for Syrian atrocities, 66–67; technological advances with, 68–78, 104–12
ExxonMobil, 57, 155
eyeWitness to Atrocities, 69–70
- Fédération des Congolais de la Diaspora*, 133
Fédération Internationale des Ligues des Droits de l’Homme (FIDH), 60, 63, 75
Filartiga, Joelito, 56
Ford Foundations, 79
Ford Motor Company, 57
‘forensic architecture’, 39–40, 75–76
fracking, 111
France, 133–34; Duty of Vigilance Law of, 58; World Organization for the Protection of the Environment in, 103
Franco, Francisco, 62
Free Trade Unions of Burma, 57
Friends of the Earth, 42, 91–92, 113–14; ClientEarth and, 103; mission of, 170–71
- Gabon, 118, 133, 135
Gaddafi, Muammar, 75–76
Gaddafi, Saadi, 144
Galapagos Islands, 106
‘general interests’ (*actio popularis*), 36
General Motors, 57
Geographic Information Systems (GIS), 5, 38, 105
Geospatial Technologies and Human Rights program, 72
German Code of Crimes against International Law, 67
Germanwatch (NGO), 101
Gharib, Eyad al-, 63
Giannini, Tyler, 57
Gjerde, Kristina, 45
Global Fishing Watch, 105–6, 111, 167
Global Forest Watch, 105

226 INDEX

- global governance, 13–15, 25–28; definitions of, 24; enforcement of, 15–24, 28–31, 176; transnational actors in, 24–25
- globalization, 22–23, 173–76; ‘dark side’ of, 126
- Global Legal Action Network (GLAN), 63, 74, 165
- global politics. *See* world politics
- Global Positioning Systems (GPS), 38
- Global Witness, 125; advocacy by, 171; anti-corruption enforcement by, 137–39; Environmental Investigation Agency and, 156; founders of, 138, 156; on Obiang, 133; staff of, 157; Transparency International and, 152, 154–58
- Gomez, Krizna, 173–74
- Goncharenko, Andrey, 164
- Gooch, Charmian, 156
- Google Earth, 105
- Grandmothers of the Plaza de Mayo (Argentina), 53
- Grant, Philip, 65–66, 67
- Greenpeace, 7, 113–16, 170–71; civil disobedience by, 121–22; ClientEarth and, 103; membership of, 120; Sea Shepherds and, 116, 122
- Greenpeace v. Norway* (2017), 93, 102
- Guatemala, 58, 62, 77
- Guengueng, Souleymane, 60
- Habitats Directive (EU, 1992), 91–92
- Habré, Hissène, 60–61, 77, 171
- Haiti, 96
- Hassan, Jamil, 66–67
- Heathrow Airport, 20, 22
- Heimann, Fritz, 152
- Helsinki Watch, 65, 79
- Hermitage Capital investment firm, 140–41, 143, 157
- Higgins, Eliot, 74–75
- human rights, 11, 47–83, 162; anti-corruption enforcement and, 83, 128, 133, 161; ‘cause-lawyering’ for, 30; civil law enforcement of, 56–58; climate change and, 94–95; ‘enforcement gap’ in, 49–51; environmental NGOs and, 83; private lawsuits for, 30–31; training in, 82
- Human Rights Data Analysis Group, 77
- human rights ‘turn’, 95–96
- Human Rights Watch (HRW), 47; Amnesty International and, 49, 79–82, 170–71; creation of, 55; Habré trial of, 77, 171; Helsinki Watch, 65, 79; Khashoggi case of, 62–63; Pinochet case and, 60
- human trafficking, 32, 168
- Hunter, Bob, 120
- IBM, 57
- Imazon (NGO), 105
- immigrants, 50, 75–76
- India, 93, 150, 151
- Indonesia, 58, 109, 110
- Instant Detect Program, 109
- Institute for Science and International Security, 166
- Inter-American Commission on Human Rights, 54, 55, 96
- Inter-American Court of Human Rights, 54–55, 94
- Intergovernmental Panel on Climate Change (IPCC), 98
- International Accounting Standard Board, 25
- International Anti-Poaching Foundation (IAPF), 117
- International Bar Association, 69
- International Commission of Jurists, 60
- International Consortium of Investigative Journalists (ICIJ), 145, 146, 157
- International Court of Justice, 35
- International Covenant on Civil and Political Rights, 96
- International Criminal Court (ICC), 35, 49, 64–69; anti-corruption laws and, 131–32; CIJA and, 66–67; NGOs and, 64–65, 67–68; Rome Statute of, 59, 60, 64, 180; universal criminal jurisdiction and, 62
- international dispute settlement institutions, 6
- International Humanitarian Law, 165–66
- International Labor Rights Fund, 56–58
- international law, 8–10, 32–34; domestic use of, 52–54; enforcement of, 8–10, 32–34, 47, 58, 130–36, 176–84; ‘forum-shopping’ in, 37; human rights and, 11
- International Monetary Fund (IMF), 126
- International Partnership for Human Rights, 70
- International Rights Advocates, 58
- International Tribunal for the Law of the Sea, 35
- International Union for Conservation of Nature, 26n41, 45
- Interpol, 1, 20, 89, 118, 140n65, 175
- Inuit, 94, 113
- Iran, 166–67
- Iraq, 18, 66
- Janaagraha Centre for Citizenship and Democracy, 150–51
- Japanese whaling, 22, 113–15, 119, 178, 186

- Johnson, Martina (Liberian official), 61
Jonathan, Goodluck, 138, 139
journalism, investigative, 145
- Kaleck, Wolfgang, 63
Kenya, 71; election-related violence in, 65;
environmental protections in, 93; gender-
based violence in, 81; ICC and, 65
Khashoggi, Jamal, 63
Kickstarter, 145
King, Rodney, 70
Kirchner, Nestor, 53
Kiribati, 106
Klimaatzaak (NGO), 95, 103
Konkola Copper Mines, 101
Koroleva, Alexandra, 172–73
Kyoto Protocol (1997), 88
- Larmour, Peter, 152
Lawyers' Environmental Action Team
(Tanzania), 103
Leigh Day law firm, 137, 143
Lesotho, 63
Liberia, 58, 61, 118
Liberian Global Justice and Research
Project, 61
Libya, 75–76, 135, 144, 167
Lincoln, Abraham, vii
litigation financing firms, 144
Lliuya, Saúl Luciano, 101
- Magnitsky, Sergei, 140
Mahdi, Ahmad al-, 76
Malawi, 63
Malaysian airliner MH17, 74
Mali, 76–77
Malibu Oil and Gas (Nigeria), 137–39
mangrove destruction, 87
Mareva injunctions, 142
Mauritania, 62
McNamara, Robert, 152
medical forensic records, 71
Microsoft Corporation, 106
Milieudefensie (NGO), 99n82, 101
Moldova, 146
money laundering, 5, 32, 127; by Rifaat al-
Assad, 135–36; databases for, 147–48;
Moldovan, 146; by Obiang, 1–2, 133, 134;
Russian, 140–41, 143, 164
Monfrini, Enrico, 143
Moody-Stuart, George, 152
Moratorium on Commercial Whaling, 114–15
Morocco, 163
Mossack Fonseca law firm, 146
- Moudeina, Jacqueline, 60
Myanmar, 57
- Namibia, 119
'naming and shaming', 2, 18, 23, 24, 51
National Council of Resistance of Iran, 166
Navalny, Aleksei, 173
Nefertari, Evelyn, 75
Neier, Aryeh, 79, 80
nepotism, 126
Nicaragua, 58
Nigeria, 127, 137–39; environmental protec-
tions in, 93, 100–101; human rights abuses
in, 63
nongovernmental organizations (NGOs),
189–92; autonomy of, 18–20; branding of,
42; Cold War and, 78–79; collaboration
among, 41, 43, 171–72; competition among,
6–8, 41–43, 78–83, 108, 119–22, 151–58;
definitions of, 15–16; emulation by, 160;
flexibility of, 65–66; funding of, 44, 119–20;
ICC and, 64–65, 67–68; 'niche', 69, 71, 104,
110–12, 121–22, 169–70; number of, 6–7;
regional international courts and, 54–55;
strategic differentiation among, 71, 168–72;
tactics of, 42–44, 80–81, 112–13
- Nordbank, 141
'norm entrepreneurship', 24, 27, 171
North Korea, 38, 58, 72, 167
Norway, 93, 102
'no win, no fee' arrangement, 137, 143–44
nuclear proliferation, 166–67
Nuremberg Trials (1945–46), 59
- Obiang, Teodorin, 1–2, 30, 132–35, 144, 155
Obiang, Teodoro, 132–33
Oceana (NGO), 105
Ó Cuinn, Gearóid, 165
Offshore Leaks Database, 147
OpenCorporates (NGO), 147–48
Open Society Foundations (OSF), 63, 139–40,
142–43; Bellingcat and, 145; Global
Witness and, 157; ICIJ and, 146; Trans-
parency International and, 154
Open Society Justice Initiative, 180
Open Source Intelligence, 39, 74–78, 107–8,
145–48, 164
Organization of Economic Co-operation and
Development (OECD), 126, 127, 129
Organized Crime and Corruption Reporting
Project, 145, 154, 157
Outlaw Ocean (NGO), 167
Oxfam (NGO), 42, 57, 98, 157
ozone depletion, 84

228 INDEX

- Pakistan, 173
Panama Papers, 5, 146–47, 164
Paraguay, 56
Parfitt, Gerald, 152
Paris Agreement on Climate Change (2015), 20, 22, 97–99, 173, 181–82
Paso Pacifico (NGO), 109
Peru, 55, 101
Philippines, 173
phone apps, 69–70, 109, 163
Physicians for Human Rights, 71
Pinochet, Augusto, 57, 59–61, 64, 78, 186
piracy, 18, 59
Plan B (NGO), 97–98, 103–4
Poder Ciudadano (NGO), 132
Pope, Jeremy, 152
Portugal, 163
Portuguese Youth (NGO), 96
Price, Richard, 185
Protective Costs Order, 137
ProZorro accounting system, 150
- Qatar, 162
- Ramsar Convention on Wetlands, 27
Raslan, Anwar, 63
Re:Common (NGO), 137–39, 157
Redford, Katie, 57
Riggs Bank, 133
Ríos Montt, Efraín, 77
Rockefeller Foundations, 79
Rodríguez-Garavito, César, 173–74
Rome Statute (1998), 59, 60, 64, 180
Rotary International, 42
Royal Dutch Shell, 98–99, 103–4; in Nigeria, 95, 100–101, 137–39
Rule of Law Index, 50
Russia, 75; foreign NGOs in, 172–73; Malaysian airliner destroyed by, 74; money laundering in, 134, 140–41, 164; Ukraine invasion of, 70
Rwandan genocide, 61, 62
Rwandan International Criminal Tribunal, 65
- Sahelian droughts, 84
Sakala Community Center for Peaceful Alternatives, 96
Salman, Mohamed bin (Saudi crown prince), 62–63
satellite technology, 5, 68, 71–73, 76–78, 104–7; artificial intelligence for, 111; Iranian nuclear facilities and, 166; uses of, 38–39
Saudi Arabia, 136; Khashoggi murder and, 62–63; Yemen conflict of, 74, 165–66
seal hunts, 113–14
Sea Shepherd Conservation Society (SSCS), 1–2, 22, 44–45, 89, 106, 186; Australia and, 178; direct actions by, 114–16; government partnerships with, 118–19; Greenpeace and, 116, 122; *Thunder* capture by, 1, 20, 22, 45, 118, 175; website of, 170
sea turtles, 109
Senegal, 60
Senior Women for Climate Protection (Switzerland), 90
Sentry (NGO), 132, 157
Serbia, 62
‘seven sisters’ (environmental groups), 120–21
sexual violence, 71, 81, 180–81
sharks, 110
Sharon, Ariel, 61
Shell oil company. *See* Royal Dutch Shell
Sherpa (NGO), 99, 133–36, 157; Qatar lawsuit of, 162; Transparency International and, 155
Sierra Club (NGO), 113
Sierra Leone, 65
Silverstein, Ken, 133
SITU (architectural firm), 75–78
Skylight (NGO), 106
SkyTruth (NGO), 105–7, 111
slave trade, 5
SmartParks (NGO), 111
SoarOcean (NGO), 110
social media, 69–70, 148–51
Soros, George, 142
South Africa, 93, 98, 103
Southern African Litigation Centre, 67
Southern Ocean whaling, 22, 115, 119
Spain, 63, 135; Franco-era crimes in, 62; Pinochet trial and, 61–62
SSCS. *See* Sea Shepherd Conservation Society
Sterling Committee for Human Rights, 76
Stitching Urgenda v. The Netherlands Government (2015), 92, 96
Stockholm Declaration on the Human Environment (1972), 32
Stolen Asset Recovery (StAR) Initiative, 130
Streep, Meryl, 166
Sudan, 38, 67
surveillance, 10; enforcement and, 23, 28; technological advances in, 68–78, 104–12
Survie (NGO), 133
Swaziland (now Eswatini), 63
Swedbank, 141
Swedish Society for Nature Conservation, 91
Switzerland, 90
Synthetic Aperture Radar, 76
Syria, 135, 167
Syrian Civil War, 66–67, 70; atrocities in, 63, 66–67; satellite evidence of, 72

- Tanzania, 103
Tauli-Corpuz, Victoria, 173
Taylor, Charles, 61
Taylor, Simon, 138, 156
technological advances, 38–40, 68–78, 104–12
terrorism, 32, 39, 173, 186
TexacoChevron, 57, 100
third generation rights, 50
Thornton, James, 103
Thunder (illegal fishing ship), 1, 20, 22, 45, 118, 175
Tibet, 38
Timbuktu, 76–77
Todd, Omar, 44–45, 119
Tokyo Trials (1946–48), 59
tort law, 22, 56
torture, 11, 50, 56
Total (French energy firm), 58
TRACE (NGO), 110–11
TRAFFIC (NGO), 26, 27
Transitional Justice Research Collaborative, 52
transitional justice trials, 65
transnational enforcement, 8–10, 13–46;
 definitions of, 15–17; effects of, 29–31;
 growth of, 31–32, 166–67; typology of,
 28–29. *See also* enforcement
Transparency International, 7, 125; Bellingcat
 and, 146; on enforcement, 129, 134, 151–56,
 171; establishment of, 152; in France, 155;
 Global Witness and, 152, 154–58; mission
 of, 153–54, 161, 170–71; on Obiang pros-
 ecution, 155; Open Society Foundations
 and, 154
'treaty fatigue', 35, 89
TRIAL International (NGO), 63, 65–66,
 157; gold mining lawsuit of, 139–40; video
 evidence of, 70
Trump, Donald, 128
Truth Hounds, 70
tuna fishing, 115–16
Tunisia, 135
Turkey, 58
Type-II Partnership Initiatives, 88

Uganda, 62
Ukraine, 76, 150, 151; Malaysian airliner
 destroyed over, 74; Russian invasion of,
 70; Truth Hounds in, 70
UN Convention Against Corruption
 (UNCAC), 124, 126, 131, 135, 136
UN Convention on Transnational Organized
 Crime, 127
UN Convention to Combat Desertification, 88
UN Environmental Protection Agency, 33
UN Environment Programme, 33–34, 88–89

UN Framework Convention on Climate
 Change (UNFCCC), 88, 97
UN Human Rights Council, 72
United Arab Emirates (UAE), 74, 165–66
universal criminal jurisdiction, 58–64
Universal Declaration of Human Rights
 (1948), 32, 47, 50
universality laws, 37–38
Unocal Corporation, 57–58
UN World Charter for Nature, 114
Urgenda (NGO), 92, 96
U.S. Securities and Exchange Commission, 22

van de Werf, Wietse, 89, 116, 123
vigilantism, 2, 17n11, 20; drivers of, 10, 31–32;
 transnational, 9–11. *See also* enforcement

war crimes, 60, 63; Liberian, 61; Syrian,
 66–67; World War II, 59
Washington Office on Latin America
 (WOLA), 55
Watson, Paul, vii, 89, 114–15
Watt-Cloutier, Sheila, 94
whaling, 22, 113–15, 119, 156, 178, 186
Whish-Wilson, Peter, 115
Wikileaks, 5
WILDLABS, 111
WildLeaks, 39, 107
Wildlife Justice Commission, 110
Wildlife Protection Solutions, 111
wildlife trafficking, 26, 84, 107–8, 110–11, 117, 156
Wiley, William, 67, 82–83
WITNESS, 70
wolves, 91
Women on Waves (NGO), 163–64
Women on Web (WOW), 40
World Bank, 126, 130, 152
World Health Organization, 167
World Organization for the Protection of the
 Environment (France), 103
World Vision, 7
World Wildlife Fund (WWF), 42, 110, 170–71;
 staff of, 119–20; TRAFFIC initiative of, 26n41

Xinjiang, 38, 73

Yadana natural gas pipeline (Burma), 57
Yanukovich, Viktor, 75
Yemen, 74, 165–66
YouTube, 73
Yugoslav International Criminal Tribunal, 65

Zambia, 63, 101
Zero Corruption Coalition (Nigeria), 127
Zimbabwe, 117