

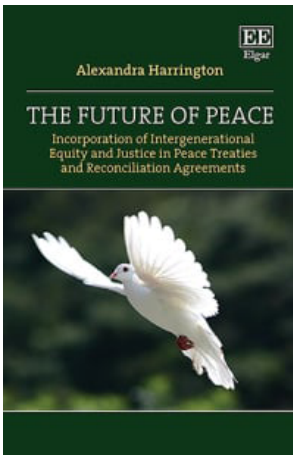


# *The Future of Peace: Incorporation of Intergenerational Equity and Justice in Peace Treaties and Reconciliation Agreements* by Alexandra Harrington

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*The Future of Peace: Incorporation of Intergenerational Equity and Justice in Peace Treaties and Reconciliation Agreements*, Alexandra Harrington (Edward Elgar 2023) 264pp; hardback £103/ebook £35

Most societies that have experienced devastating violence, like Northern Ireland, have made efforts towards creating a durable peace. Such efforts reveal the complexity and multifaceted nature of these internal conflicts, which have devastating long-term effects that harm the present population as well as future generations. Over the last 50 years, states have developed new and creative ways of addressing the past with ceasefire agreements, peace agreements, reparations, truth commissions, prosecutions and institutional reform. Children and young people, as a result of their age and social status, are two of the most vulnerable groups involved in armed conflicts.<sup>1</sup> Likewise, as a result of this vulnerability they are often excluded from policy and decision-making that impacts upon them. It is unsurprising then,

1 A Roche-Mair, 'Challenges to the protection of children's human rights and the perpetuated marginalisation of children in transitional justice' (2017) 49 *Georgetown Journal of International Law* 135–161, 136–137.

that children and young people are often not involved in post-conflict decision-making efforts despite increasing awareness of the impacts of social trauma on the young and future generations. Moreover, with such a focus on ending the violence among the present generations, considerations of future generations are often not a key concern.

*The Future of Peace: Incorporation of Intergenerational Equity and Justice in Peace Treaties and Reconciliation Agreements* is a welcome contribution to transitional justice literature. It recognises the destructive impact of conflict on

children, youths and future generations who will suffer the immediate and durable ramifications of violence, displacement loss, cultural devastation, ingrained distrust, familial breakdown and community rupture, as well as environmental degradation and economic disruption.<sup>2</sup>

Comprising six chapters, this book aims to provide a reference for legal scholars and academics interested in conflict and peace studies as they consider how to respond to intergenerational harm. This is particularly timely since the passing of the controversial Northern Ireland and Troubles (Legacy and Reconciliation) Act 2023, which is aimed at creating one route for dealing with the past through the Independent Commission for Reconciliation and Information Recovery (ICRIR).

The 'Introduction' begins with an overview of the many conflicts that the book will examine. The book is then organised in four thematic parts. Chapter 2 starts by considering peace agreements and detailing their reference to intergenerational equity and intergenerational justice. The subsequent chapters follow suit by examining intergenerational equity and justice references within ceasefire agreements (chapter 3), 'Truth and reconciliation commissions' (chapter 4) and 'Justice mechanisms' (chapter 5). The book offers a comprehensive study of post-conflict responses to violence and state efforts to facilitate a transformation from conflict to peace through the lens of intergenerational equity and intergenerational justice. It does so by examining a large number of conflicts that have taken place across Africa, South and Central America, Asia and Oceania. Alexandra Harrington focuses solely on internal/national armed conflicts and justifies this by stating that 'they create a more complex field to navigate in terms of law, policy and their implementation'.<sup>3</sup>

The introductory chapter is particularly lengthy for a book of 247 pages, at 47 pages long. The length of the chapter is a result of

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2 Alexandra Harrington, *The Future of Peace: Incorporation of Intergenerational Equity and Justice in Peace Treaties and Reconciliation Agreements* (Edward Elgar 2023) 1.

3 Ibid.

Harrington providing a summary of each conflict (22 in total) that the book will examine. At first glance this can be overwhelming but, as the book explains, it is a source of reference for academics in the field and as such the level of detail is necessary. The introduction is particularly good at scene-setting and explaining the methodology of the book whilst also providing much needed context and definitions of what Harrington understands to be intergenerational equity and intergenerational justice. In line with scholarship,<sup>4</sup> intergenerational equity is defined by Harrington as ‘reflecting the need for moral, social and economic equity and fairness between the generations currently living and existing in the future’.<sup>5</sup> Intergenerational justice lacks an agreed definition under international law but has been referred to as ‘closely related, [to intergenerational equity] but can be understood as a broader concept which involves, apart from distributive, also procedural, restorative and retributive dimensions’.<sup>6</sup> It is understood in this book as ‘reflecting principles of law – notably human rights law – legal norms and concepts of justice for those who lived in the past, those currently living and those who live in the future’.<sup>7</sup> As the focus of the book is on intergenerational justice and as it is a relatively new concept in legal and political arenas, an expansion on its meaning would have been beneficial.

As a result of the focus on intergenerational justice, Harrington feels that transitional justice is best grounded in an understanding of social, cultural, economic and political realities of the state seeking to shift from conflict to peace. Thus, by including the drivers, harms, consequences and long-term impacts of the conflict into the transitional justice remit we are more likely to prevent the violence from re-occurring. As such, Harrington provides a more nuanced definition of transitional justice as:

the legal and socio-legal process of facilitating the shift from conflict to a peace that is based on instruments addressing (1) the past, in terms of truth-gathering, information sharing, recognition of harms and violence and justice for those who were volitional perpetrators, (2) the present, in terms of the availability of the truth, reparations and restitution that fits the holistic needs of current and intergenerational victims, and (3) the future, in terms of creating systems to advance knowledge and accountability, strengthen institutions to prevent future repetition, and the incorporation of justice and equity.<sup>8</sup>

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4 Edith Brown Weiss, ‘Intergenerational equity’ in Anne Peters and Rüdiger Wolfrum (eds), *Max Planck Encyclopedia of Public International Law* online edn (MPEPIL April 2021).

5 See Harrington (n 2 above) 14.

6 United Nations General Assembly, ‘Intergenerational solidarity and the needs of future generations’ (15 August 2013) (A/68/322) 4.

7 See Harrington (n 2 above) 14.

8 *Ibid* 6.

These definitions are important in understanding how the chosen post-conflict mechanisms are studied through an intergenerational lens by Harrington as she considers how these mechanisms have considered the past, the present, and the future.

Chapter 2, another lengthy chapter, analyses numerous forms of peace agreements adopted by a variety of states from the 1990s onwards. The peace agreements were examined for references (implicit and explicit) to children, youth and future generations. The chapter demonstrates that intergenerational equity and intergenerational justice are advanced through various aspects of peace agreements such as through the establishment of truth commissions, reformation of the national military and policing institutions and recognition of sexual violence and gendered harms. Harrington recognises that efforts to 'craft peace are necessarily fragile and yet profoundly powerful exercises of hope and commitment to legal, societal and political capacities'.<sup>9</sup> As a result, by their very nature peace agreements are future-looking in efforts to foster sustainable peace. What is interesting about this chapter is the way it teases out less obvious implicit references that will impact on young people and future generations such as endorsement of international human rights laws and norms, options for disarmament, demobilisation and reintegration (DDR) – as seen in Colombia under Ley 418 of 1997 – provisions for returning refugees and internally displaced persons, and recognition of children born of wartime sexual violence as victims with agency. For example, in the Democratic Republic of Congo (DRC) the 2003 Sun City Agreement provided for efforts to reintegrate children and the establishment of a specific national policy to assist them moving forward.<sup>10</sup>

Chapter 3 investigates a topic that is perhaps overlooked in the literature: ceasefire agreements and their references to intergenerational equity or justice. Since ceasefire agreements are intended to focus on suspending aggression and facilitating further negotiations and dialogue, it is unsurprising that there is little explicit reference to children, youth and future generations. The chapter is creative as it considers implicit references to children and young persons in terms of allowing child soldiers to participate in DDR programmes, cessation of land mines (DRC) and the removal of civilians to safe areas (Sri Lanka). Likewise, references to amnesties within ceasefires are discussed as having an impact on future generations and international justice more broadly. This chapter is particularly clever in the fact that it has found implicit references to children and future generations in documents whose primary purpose is the cessation of

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9 Ibid 125.

10 Ibid 61.

violence amongst the present population/generation. For example, the inclusion of amnesties in ceasefire agreements, as seen in Chad and the DRC, has long-lasting ramifications not only on the present population but on future generations.

Numerous truth and reconciliation commissions established around the world are explored in detail in Chapter 4. Focused on providing as full and official acknowledgment of past abuses as possible, truth commissions are implemented 'to establish an accurate record of country's past, clarify uncertain events, and lift the lid of silence and denial from a contentious and painful period of history'.<sup>11</sup> This chapter adds to the substantive literature on truth commissions and demonstrates the creative ways in which truth commissions, through their investigations and their final reports, can include children and future generations within their work. References to young people in truth commission reports were found in findings that related to general human rights violations that involved children, forced disappearance of children (Argentina), use of torture and sexual violence against children, violation against communities and families, and the use of child soldiers. As commissions do not follow strict legal rules, they have the ability to be creative in what their mandate will cover. Creating an authoritative account of the past conflict not only gives agency to past generations and current generations but also provides a useful resource and understanding of agency to future generations. This chapter is particularly relevant for the newly established Independent Commission for Reconciliation and Information Recovery (ICRIR) in Northern Ireland, tasked with investigating deaths and serious injuries related to the Troubles between 1966–1998. Lessons can surely be learnt from this chapter for the ICRIR which is already facing questions over its independence and criticisms for its slow progress and low case load.

Chapter 5 concludes the substantive chapters of the book and focuses on national legislative responses undertaken by states addressing violations of human rights. The author made the editorial decision not to include international or hybrid court systems and instead considered legislative measures from Argentina, Brazil, Colombia and Rwanda. As a result, this chapter is particularly short compared to other chapters. The content focuses on the legislation in place in these countries and does not consider the application of the laws in depth in any court cases other than a brief discussion of the Rwandan Gacaca court system. Harrington laments that it is rare for national judicial systems to include children and youth within their overall terms. Perhaps a consideration of international or hybrid

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11 P Hayner, *Unspeakable Truths: Facing the Challenges of Truth Commissions* (Routledge 2002) 25.

court systems would have shed more light on intergenerational justice within justice mechanisms. For example, the prosecution of Al Mahdi at the International Criminal Court for the destruction of cultural heritage demonstrated intergenerational harm.<sup>12</sup> Moreover, the book's discussion of the Rwandan case would have perhaps benefited from a consideration of the International Criminal Tribunal for Rwanda (ICTR) as part of the legislative response to the genocide. The ICTR had primary jurisdiction over national proceedings and its omission seems strange. Likewise, a consideration of international legislation ratified by national states would have been beneficial in considering provisions protecting children and future generations as international legislation in this area often informs national legislation.

Overall, the book makes a number of key contributions to the field. It is the first comprehensive inquiry into references to intergenerational equity and intergenerational justice in post-conflict management of 22 contemporary internal armed conflicts. Moving beyond the typical discussion of intergenerational justice in the area of climate justice, it remedies a gap in the literature by examining how legal measures in peace agreements, ceasefire agreements, truth commissions and justice mechanisms are intended to impact current and future generations. It does an impressive job of analysing patterns within peace agreements, ceasefire agreements, truth commissions and justice mechanisms in referencing intergenerational equity and justice. It is at its strongest when Harrington offers a new nuanced definition of transitional justice that focuses on ensuring the focus on generational equity and justice whereby transitional justice mechanisms can include the needs of young people, current and future generations. Although we do need to be wary of adding more to an already overburdened field.

The book's core message, reiterated in the concluding chapter, is that:

[p]eace also requires States, communities and individuals to search their capacities for punishment and forgiveness, amnesty and justice, reparations and restitution for themselves, those who came before and were made victims and those who will come after and inherit the legacies of war.<sup>13</sup>

This will resonate particularly with all those involved in Northern Ireland's more recent attempts at addressing the legacies of the past following the Legacy and Reconciliation Act 2023. Moreover, it acts as a stark reminder that current generations should consider the interests of past and future generations.

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12 *Prosecutor v Al Mahdi, Reparations Order* [2017] ICC-01/12-01/15 (International Criminal Court).

13 See Harrington (n 2 above) 241.

In summary, this well-written publication meets its intended aim as it provides a comprehensive overview of references to intergenerational equity and justice within several different post-conflict mechanisms. It is written in a way that allows the reader to approach the chapters in any order, which is particularly helpful for academics and policy-makers to easily navigate the text. Those seeking to familiarise themselves with concepts of intergenerational equity and intergenerational justice will benefit from this comprehensive study. Those already familiar with the impact of conflict will find the book to be a useful additional guide in comprehending how states are already considering these harms within their post-conflict management, as, for example, in Northern Ireland.