A

Peace Agreements between State and Non-State Parties

A Research Endeavour

According to the United Nations Peacemaker Peace Agreements Database, more than six hundred peace agreements have been negotiated to settle intrastate conflicts since 1989.[1] Consequently, contemporary post–Cold War peace agreements became objects of political science research focused *inter alia* on the causes and consequences of intrastate conflicts, the ripeness of conflict parties and constellations for entering into negotiated peace processes, the determinants of the success or failure of peace agreements and peace processes and the role of external actors in negotiating and implementing peace agreements.[2] International legal

[1] United Nations Peacemaker, Peace Agreements Database Search, available at http://peacemaker.un.org/document-search (last visited 25 April 2017).

[2] The following list of examples for the above-described phenomenon claims to be illustrative but not exhaustive: Bannon, Ian, and Collier, Paul, 'Natural Resources and Violent Conflict, Options and Actions', *World Bank Report 2003*; Beardsley, Kyle, 'Agreement without Peace? International Mediation and Time Inconsistency', *American Journal of Political Science* 52 (2008), 723–40; Buckley-Zistel, Susanne, 'In-Between War and Peace: Identities, Boundaries and Change after Violent Conflict', *Millennium – Journal of International Studies* 35 (2006), 3–21; Collier, Paul, Hoeffler, Anke, and Söderbom, Mans, 'On the Duration of Civil War', *Journal of Peace Research* 41 (2004), 253–73; Collier, Paul, and Hoeffler, Anke, 'Greed and Grievance in Civil War', World Bank, November 1999; Collier, Paul, and Hoeffler, Anke, 'On Economic Causes of Civil War', *Oxford Economic Papers* 50 (1998), 563–73; Darby, John, and MacGinty, Roger (eds.), *Contemporary Peacemaking: Conflict, Violence and Peace Processes*, Palgrave Macmillan, 2003; Grimshaw, Allen D., 'Research on the Discourse of International Negotiations: A Path to Understanding International Conflict Processes', *Needed Sociological Research on Issues of War and Peace, Sociological Forum 7 (Special Issue)* (1992), 87–119; Hegre, Håvard, 'The Duration and Termination of Civil War', *Journal of Peace Research* 41 (2004), 243–52; Mack, Andrew, 'Why Big Nations Lose Small Wars: The Politics of Asymmetric Conflict', *World Politics* 27 (1975), 175–200; Rotberg, Robert (ed.), *When States Fail, Causes and Consequences*, Princeton University Press, 2004; Stedman, Stephen John et al. (eds.), *Ending Civil Wars: The Implementation of Peace Agreements*, *Rienner Publishers*, 2002; Zartman, Ira William, and de Soto, Alvaro, *Timing Mediation Initiatives: Peacemaker's Toolkit*, United States Institute for Peace, 2010; Zartman, Ira William, 'The Timing of Peace Initiatives: Hurting Stalemates and Ripe Moments', *Global Review of Ethnopolitics* 1 (2001), Zartman, Ira William (ed.), *Elusive*

scholarship, in contrast, has only hesitantly dealt with the challenges of internationalised and legalised practices of post–Cold War peace agreements. Initially, individual works on peace agreements did not refer to or enter into dialogue with each other. Instead of seeking to unpack shared legalised features of peace agreements or find common ground for their legal analysis from a comparative perspective, most authors stressed the singularity of the respective conflict and agreement(s).[3] Thus, from the mid-1990s until the mid-2000s, a significant and challenging field of legal research developed without being regarded as such and without a shared research agenda. The pioneering works of Christine Bell on human rights and peace agreements and later on the emerging *lex pacificatoria*, Marc Weller's Cambridge Carnegie Project on 'Resolving Self-Determination Disputes Using Complex Power-Sharing' and his 'Legal Tools of Peace Making' project as well as the 'Ius Post Bellum' project of Carsten Stahn opened relevant debates in legal scholarship and framed international legal research on complex and fragmented processes of transitional post-conflict lawmaking and implementation.[4] This book contributes to and

Peace: Negotiating an End to Civil Wars, Brookings Institute, 1995: 8–18; Zartman, Ira William, *Ripe for Resolution: Conflict and Intervention in Africa*, Oxford University Press, 1985.

[3] Again, the following list of examples for the above-described phenomenon claims to be illustrative but not exhaustive: Cassese, Antonio, 'The Special Court and International Law: The Decision Concerning the Lomé Agreement Amnesty', *Journal of International Criminal Justice* 2 (2004), 1130–40; Gaeta, Paola, 'Symposium: The Dayton Agreements: A Breakthrough for Peace and Justice?, The Dayton Agreements and International Law', *EJIL* 7 (1996), 149–63; Kooijmans, Pieter H., 'The Security Council and Non-State Entities as Parties to Conflicts', in Wellens, Karel (ed.), *International Law, Theory and Practice: Essays in Honour of Eric Suy*, Martinus Nijhoff, 1998: 333–46; Ní Aoláin, Fionnuala, and Harvey, Colin, 'The Frontiers of Legal Analysis: Reframing the Transition in Northern Ireland', *Modern Law Review* 66 (2003), 317–45; Ní Aoláin, Fionnuala, 'The Fractured Soul of the Dayton Peace Agreement: A Legal Analysis', *Michigan Journal of International Law* 19 (1998), 957–1004; Quigley, John, 'The Israel–PLO Interim Agreements: Are They Treaties?', *Cornell International Law Journal* 30 (1997), 717–40; Ratner, Steven R., 'The Cambodia Settlement Agreements', *AJIL* 87 (1993), 1–41; Watson, Geoffrey R., *The Oslo Accords: International Law and the Israeli–Palestinian Peace Agreements*, Oxford University Press, 2000; Yee, Sienho, 'The New Constitution of Bosnia and Herzegovina', *EJIL* 7 (1996), 176–92.

[4] Bell, Christine, *Peace Agreements and Human Rights*, Oxford University Press, 2000; Bell, Christine, 'Peace Agreements: Their Nature and Legal Status', *AJIL* 100 (2006), 373–412; Bell, Christine, and O'Rourke, Catherine, 'The People's Peace? Peace Agreements, Civil Society, and Participatory Democracy', *International Political Science Review* 28 (2007), 293–324. Bell, Christine, *On the Law of Peace, Peace Agreements and the Lex Pacificatoria*, Oxford University Press, 2008; Bell, Christine, 'Peacebuilding, Law and Human Rights', in MacGinty, Roger (ed.), *Handbook on Peacebuilding*, Routledge, 2013: 249–60; Stahn, Carsten et al. (eds.), *Jus Post Bellum: Mapping the Normative Foundations*,

expands these debates by examining the internationalisation of peace agreements to settle intrastate conflicts between state and non-state parties. It puts the focus on two key issues that have not yet been dealt with comprehensively in multiple academic articles or a monograph: the question of how international courts and tribunals have handled and treated peace agreements between state and non-state parties and the question of what implications the Security Council's (SC) proactive involvement in the negotiation and implementation of peace agreements has for the agreements' legal nature, the status of the non-state parties to peace agreements and the interpretation and enforcement of peace agreements.

This book starts with the observation that peace agreements are predominantly negotiated in situations in which neither party can claim or is capable of reaching a military victory. Furthermore, external intervention – political or military – has often changed the balance of power on the ground, seating the warring state at the negotiating table with non-state parties. In these settings, external actors can take on the role of mediators but more often function as guides and supervisors during the negotiation and implementation of peace agreements between state and non-state parties. Moreover, the parties to these agreements often are negotiating against the background of a partly or fully collapsed intrastate political and legal order. Hence, what is challenged is often not just the government of a state but its foundational political and legal order. Especially non-state parties to violent conflicts aim to secure positions at the negotiating table and gain influence in the transitional legal and political order in the short-term but also long-term perspective. Consequently, contemporary peace agreements become documents that contain the conflict's asymmetries and ideally translate the violent conflict and underlying incompatibility between the parties into a new, formalised political settlement. Simultaneously, the negotiation and subsequent implementation of peace agreements are also framed by multitudinous assumed and promoted international standards and rules for peacemaking. These initial observations make clear that peace agreements between state and non-state parties are negotiated and drafted in highly sensitive, fragile, politicised, internationalised contexts.

Oxford University Press, 2014; Weller, Marc, and Nobbs, Katherine (eds.), *Asymmetrical State Design as a Tool of Ethnopolitical Conflict Settlement*, Pennsylvania State University Press, 2010; Weller, Marc, *Contested Statehood: Kosovo's Struggle for Independence*, Oxford University Press, 2009; Weller, Marc, and Wolff, Stefan (eds.), *Internationalized State-Building after Violent Conflict: Dayton after Ten Years*, Routledge, 2007.

Accordingly, conceptualised dichotomies between legal and political mechanisms – between political pledge and legal obligation – become 'fluid'. This fluid character of internationalised and legalised peace agreements, or as Bell would put it, their 'lack of fit', is symptomatic of contemporary peace agreements. Such metaphors illustrate the challenges of analysing internationalised and legalised peace agreements between state and non-state parties from a comparative perspective as a developing form of politico-legal practice in which legal mechanisms can have highly politicised functions, and political mechanisms can be articulated in a highly legalised framework.

The Rambouillet Agreement between the Federal Republic of Yugoslavia (FRY) and representatives of Kosovo's ethnic Albanian majority, negotiated to end a violent intrastate conflict about the status of Kosovo, can serve as an example for the outlined settings and challenges.[5] The Rambouillet Agreement included *inter alia* an interim constitution for Kosovo that was intended to enter into force upon the agreement's signature.[6] All transitional arrangements laid out in the Rambouillet Agreement, including the constitutional framework, were meant to respect the FRY's territorial integrity. Yet, at the same time, the

[5] Rambouillet Accords, Interim Agreement for Peace and Self-Government in Kosovo, Rambouillet/France 23 February 1999, UN-Doc. S/1999/648, 7 June 1999 ['Rambouillet Agreement'], Annex, Preamble, Art. I, para. 6, Art. II, paras. 1–2; on the negotiation framework and process, see UN-Doc. S/1999/214, 26 February 1999; The situation in and around Kosovo, Statement Issued at the Extraordinary Ministerial Meeting of the North Atlantic Council held at NATO Headquarters, Brussels, Press Release M-NAC-1(99)51, 12 April 1999, para. 4: 'NATO's air strikes will be pursued until President Milosevic accedes to the demands of the international community. President Milosevic knows what he has to do. He must . . . provide credible assurance of his willingness to work on the basis of the Rambouillet Accords in the establishment of a political framework agreement for Kosovo in conformity with international law and the Charter of the United Nations'; Agreement on the principles (peace plan) to move towards a resolution of the Kosovo crisis presented to the leadership of the Federal Republic of Yugoslavia by the President of Finland, Martti Ahtisaari, representing the European Union, and Viktor Chernomyrdin, Special Representative of the President of the Russian Federation, UN-Doc. S/1999/649, 3 June 1999, Annex, para. 8; Statements and declarations made by the Ministers for Foreign Affairs of the Countries of South-Eastern Europe, UN-Doc. S/1999/319, 24 March 1999, Annex; UN-Doc. S/RES/1244, 10 June 1999, para. 11(a), (e), Annex 1, Annex 2, para. 8; Report of the Secretary-General Pursuant to Paragraph 10 of Security Council Resolution 1244 (1999), UN-Doc. S/1999/672, 12 June 1999; for a comprehensive collection of documents, see also Krieger, Heike (ed.), *The Kosovo Conflict and International Law: An Analytical Documentation 1974–1999*, Cambridge University Press, 2012.

[6] Rambouillet Agreement, Annex, Art. I, para. 6, Chapter 1 (Constitution), Chapter 1, Art. XI (Entry into Force).

agreement established transitional institutions of democratic self-government for Kosovo that were supposed to function for a three-year interim period until the final status of Kosovo was determined through an internationally mediated negotiation process.[7] As the result of a complex and multilayered internationalised negotiation process, the Rambouillet Agreement was to be signed by the FRY, its constituent Republic of Serbia and representatives of Kosovo, as well as the European Union (EU), the Russian Federation (RF) and the United States of America (USA) as members of the so-called Contact Group, who served as international witnesses to the agreement.[8] The *de facto* representatives of Kosovo signed the agreement, as did delegations from the EU and the USA. However, the RF's delegation and President Slobodan Milošević of the FRY and the Republic of Serbia refused to sign.[9] Consequently, the Rambouillet Agreement was not ratified and did not enter into force, and the violent conflict continued, leading to a disputed military intervention by the North Atlantic Treaty Organisation (NATO).[10] However, the

[7] Rambouillet Agreement, Preamble, Art. I, paras. 2, 4, Chapter 1 (Constitution), esp. Chapter 1, Art. I, paras. 3, 8, 9, Chapter 1, Art. II, Chapter 7, Art. I, para. 1 (a), Chapter 8, Art. I, para. 3, on the interim period and the determination of a final status: 'Three years after the entry into force of this Agreement, an international meeting shall be convened to determine a mechanism for a final settlement for Kosovo, on the basis of the will of the people, opinions of relevant authorities, each Party's efforts regarding the implementation of this Agreement, and the Helsinki Final Act, and to undertake a comprehensive assessment of the implementation of this Agreement and to consider proposals by any Party for additional measures.'

[8] Rambouillet Agreement, Annex, Chapter 8, Art. II (Final Clause).

[9] Rambouillet Agreement, Annex, Chapter 8, Art. II (Final Clause).

[10] The NATO intervention was and is widely discussed in the literature, e.g. by Cassese, Antonio, 'Ex iniuria ius oritur: We Are Moving towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community', *EJIL* 10 (1999), 23–30; Charney, Jonathan I., 'Anticipatory Humanitarian Intervention in Kosovo', *AJIL* 93 (1999), 834–41; Chinkin, Christine, 'Kosovo: A "Good" or "Bad" War?', *AJIL* 93 (1999), 841–47; Falk, Richard A., 'Kosovo, World Order, and the Future of International Law', *AJIL* 93 (1999), 847–57; Francioni, Francesco, 'Of War, Humanity and Justice: International Law after Kosovo',*UNYB* 4 (2000), 107–26; Franck, Thomas M., 'Lessons of Kosovo', *AJIL* 93 (1999), 857–60; Henkin, Louis, 'Kosovo and the Law of "Humanitarian Intervention"', *AJIL* 93 (1999), 824–28; Koskenniemi, Martti, 'The Lady Doth Protest Too Much: Kosovo and the Turn to Ethics in International Law', *Modern Law Review* 65 (2002), 159–75; Krisch, Nico, 'Unilateral Enforcement of the Collective Will: Kosovo, Iraq, and the Security Council', *UNYB* 3 (1999), 59–102; Orford, Anne, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*, Cambridge University Press, 2003; Reisman, Michael W., 'Kosovo's Antinomies', *AJIL* 93 (1999), 860–62; Simma, Bruno, 'NATO, the UN and the Use of Force: Legal Aspects', *EJIL* 10 (1999) 1–22; Stein, Torsten, 'Kosovo and the International Community: The Attribution of Possible Internationally Wrongful Acts – Responsibility of NATO or

United Nations (UN) put the Rambouillet Agreement back on the agenda. Security Council Resolution (S/RES) 1244, which established United Nations Interim Administration Mission in Kosovo (UNMIK), explicitly referred, and gave quasi-effect, to the agreement.[11] By including the Rambouillet Agreement in the operative part of a resolution acting under Chapter VII of the UN Charter,[12] the SC seemed to have effectively elevated the status of the Rambouillet Agreement from an unsigned peace agreement to settle a conflict between a state and a non-state party to a key legal and political framework guiding UNMIK and thus the internationalised politico-legal transformation process for Kosovo.[13] In sum, with S/RES/1244 the SC gave *de facto* and also *de jure* effect to an unsigned peace agreement by facilitating its implementation until Kosovo's status was finally settled. In retrospect, this SC measure did more than determine the legal and political settlement for the transformation from violent conflict to peace, as the SC's reference to the Rambouillet Agreement was key to creating a new internationalised constitutional order that in effect also paved the way for Kosovo's unilateral declaration of independence. The international legal regime established to govern Kosovo was also strongly discussed during the advisory opinion proceeding on the Unilateral Declaration of Independence of Kosovo of the International Court of Justice (ICJ). Meanwhile, the Rambouillet Agreement is not the only example of an internationalised negotiation and implementation process of a peace agreement to settle an intrastate conflict.

Its Member States?', in Tomuschat, Christian (ed.), *Kosovo and the International Community*, Brill, 2002: 181–92; Wedgwood, Ruth, 'NATO's Campaign in Yugoslavia', *AJIL* 93 (1999), 828–34.

[11] UN-Doc. S/RES/1244, 10 June 1999, para. 11(a), (e), Annex 1, Annex 2, para. 8.

[12] Acting explicitly under its Chapter VII powers, the SC '[d]ecided that the main responsibilities of the international civil presence will include: (a) Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo, taking full account of annex 2 and the Rambouillet accords (S/1999/648)', ibid.

[13] UN-Doc. S/RES/1244, para. 11(a), see also para. 11(e), Annex 1, Annex 2 para. 8; the parts of S/RES/1244 referring to the Rambouillet Agreement were later especially discussed during the official status negotiations led by UN Special Envoy Martti Ahtisaari and similarly examined after Kosovo's unilateral declaration of independence by the ICJ in its Advisory Opinion on the Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo; see *inter alia* 'Report of the Special Envoy of the Secretary-General on Kosovo's future status', UN-Doc. S/2007/168, 26 March 2007 ['Ahtisaari Plan']; Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, Advisory Opinion, ICJ Reports 2008, 409 ['*Kosovo* opinion'].

A.I Analysing the Internationalisation and Legalisation of Peace Agreements between State and Non-State Parties

'Internationalised and legalised peace agreement' will serve as an umbrella term denoting written arrangements between state and non-state parties, the negotiation and implementation processes of which are decisively framed and guided by the involvement of external actors. Such actors effectively become third parties to the negotiation and implementation processes of peace agreements to end mainly intrastate conflicts between a state and non-state parties. These agreements range from ceasefire to power-sharing arrangements to transitional constitutions. 'Legalisation' is a way of institutionalising a peace agreement between a state and at least one non-state party. It refers to qualities and their intensity that characterise the institutionalisation of peace agreements in terms of the varying degrees to which peace agreements' provisions are formulated as obligatory, the degree of their precision and the degree of delegation of some functions to external or third parties when it comes to peace agreements' interpretation and to dispute settlement and enforcement during the implementation of an agreement. Such a broad understanding of the internationalisation and legalisation of peace agreements indicates that these agreements tend to float between the quest for legal clarity, often manifested in stringently legal-looking form and structure, and the substantive flexibility and ambiguity that prevent zero-sum games between the parties in the short-, medium- and long-term-perspectives.[14] Insertion of international law and international standards into these processes, in particular through the involvement of third parties, is a core characteristic of highly dynamic internationalised practices of negotiating and implementing peace agreements to settle intrastate conflicts.

Altogether, these observations nourish the assumption that international law and international standards serve as frameworks for the parties involved and are taken as normative or functional authoritative yardsticks for the negotiation and implementation of peace agreements between state- and non-state parties. Moreover, international law, taken as a functional authoritative framework, is also a means by which the parties to peace agreements seek to remedy objections concerning their status, i.e. their legitimacy and even legality, during negotiations

[14] Arnault, Jean, 'Good Agreement? Bad Agreement? An Implementation Perspective', Center of International Studies Princeton University (n.d.), 21, available at www.stanford.edu/class/psych165/Arnault.doc (last visited 25 April 2017).

and the implementation process of an agreement. Finally, as indicated earlier, the delegation of competencies to third parties and international institutions by peace agreements in order to guarantee the agreements' implementation and the peaceful settlement of disputes about their interpretation and application is another characteristic of the contemporary internationalised peace agreements practice. Throughout this book, briefly outlined scenarios will feature different forms of international involvement and various roles for external actors that will be referred to as 'third parties'. Third parties are, for example, contact groups, groups of friends and international organisations such as the UN. The UN and in particular the SC explicitly and implicitly use their international normative and functional authority in the course of their increasingly proactive involvement during the negotiation and implementation of peace agreements between state and non-state parties.

Why is it relevant to investigate the legal dimensions of the negotiation and implementation of internationalised peace agreements between state and non-state parties? Why does it matter whether and how transitional post-conflict lawmaking is positioned? Political science literature – which mostly focuses on causes of and correlations with the success or failure of peace agreements and peace processes and on normative as well as empirical indicators of the formulation of successful (hence, good) agreements – seems to assume that the legal (looking) form and the projected binding force of peace agreements between state and non-state parties exert a constant pull towards compliance with the agreement and the overall peace process.[15] Yet, this literature does not identify the circumstances under which parties in fact create legally binding agreements. Moreover, it does not deal with the fact that even though peace agreements between state and non-state parties have a high non-compliance and failure rate, failed peace agreements usually remain reference points and quasi-sources for the negotiation and implementation of subsequent peace agreements. Investigation of the legalised dimension of internationalised peace agreements or obligations created by them remains challenging. The legalised dimensions of peace agreements set the formal and substantive constraints for their interpretation and implementation and for the transition from violent conflict to peace. Constraints can, for example, contribute to effective dispute settlement in cases where parties

[15] E.g. Fortna, Virginia Page, 'Scraps of Paper? Peace Agreements and the Durability of Peace', *IO* 57 (2003), 337–72; Licklider, Roy, 'The Consequences of Negotiated Settlements in Civil Wars, 1945–1993', *APSR* 89 (1995), 681–90.

disagree about the interpretation or violation of peace agreements. Peace agreements could also provide for a transitional rule-of-law basis for transformative decision-making during the peace process. In sum, the rise of complex peace agreements as governance tools of internationalised peacemaking addressed to intrastate conflicts has created intricate legal and political constellations of and relations between actors, rights and obligations, reflecting the multidimensional quality of intrastate conflicts and the challenges of peacemaking in the late twentieth and early twenty-first centuries.

To further explore the legal and politico-legal dimensions of the internationalisation and legalisation of peace agreements to settle intrastate conflicts between state and non-state parties, this book will focus on how international courts and tribunals have handled and treated peace agreements between state and non-state parties and what implications the involvement of the SC during the negotiation and implementation of peace agreements has for the agreements' legal nature, the status of the non-state parties to peace agreements and the interpretation of peace agreements. The following questions will shape the analysis: What are the legal dimensions of the internationalisation of peace agreements between state and non-state parties? Have common or standardised practices emerged with regard to the form and/or substance of peace agreements between state and non-state parties? Who has the authority to decide on the interpretation and implementation of peace agreements? How do international courts and tribunals address and treat internationalised peace agreements between state and non-state parties? What effect does the involvement of the UN and especially the SC as third parties during the negotiation and implementation of peace agreements have on the status of the non-state parties, the agreements' status and the specific norms and obligations created by the peace agreements? A focus on answering these questions throughout this book will help to unpack how processes of negotiating and implementing peace agreements between state and non-state parties to settle intrastate conflicts increasingly follow internationalised normative and procedural blueprints that frame the agendas of internal and external actors. During the negotiation and implementation of peace agreements, international organisations and their organs, above all the SC, function as authoritative promoters of international legal and political standards and rules, contributing decisively to the creation of internationalised obligations for both state and non-state parties to peace agreements. As a result, peace agreements and the non-state parties to those agreements can obtain a temporary

international legal status that is limited to the negotiation and implementation of one or a cluster of peace agreements between state and non-state parties. Based on analysis of international courts' and tribunals' handling of contemporary peace agreements between state and non-state parties as well as the UN's and SC's engagement during the negotiation and implementation of peace agreements, this book will approach peace agreements as laboratories for the making of new transitional and post-conflict laws. Contemporary processes of negotiating and implementing internationalised peace agreements to settle intrastate conflicts open new spaces for the interaction of domestic, regional and international law. Examination of the role of international law in the negotiation and implementation of contemporary peace agreements to settle intrastate conflicts will further reveal the multidimensional legal character of these agreements and the increasingly internationalised governance and administration of the negotiation and implementation of peace agreements between state and non-state parties by international organisations and their organs, e.g. the UN and the SC. At the same time, the analysis will also reveal the limits of the international law perspective and of using international law to characterise and analyse the status of peace agreements between state and non-state parties and the nature of obligations created by them.

A.II Structure of this Book

Besides this introduction and the conclusion and outlook presented in Chapter E, this book includes three chapters that build upon each other. However, each chapter can also be consulted by readers individually. Chapter B introduces peace agreements between state and non-state parties more broadly, with a focus on the question of whether and how peace agreements can be accommodated to either domestic or international law categories according to their form, substance and parties. Chapter C concentrates on how international courts and tribunals have addressed the international legal dimensions of peace agreements. It discusses potential legal implications and politico-legal limitations of these proceedings and their implications for the legal analysis of peace agreements. Chapter D focuses specifically on SC involvement based on Chapter VII of the UN Charter during the negotiation and implementation of peace agreements and on that involvement's implications for the legal nature of peace agreements, the obligations that are created and the status of their parties.

Now I turn to a more detailed overview of each chapter and the ways the chapters specifically relate to each other as explorations of the internationalisation and legalisation of peace agreements to end intrastate conflicts between state and non-state parties. Chapter B explains key terms used throughout this book, e.g. 'intra-state conflict', 'internationalised peace process' and 'internationalised peace agreement'. The chapter's focus then turns to how state and non-state parties to intrastate peace agreements use the negotiation and implementation of peace agreements as an opportunity to define the legal and political order of the state. Additionally, Chapter B discusses the increased involvement of external actors as proactive third parties who frame the negotiation and implementation of peace agreements with a set of functionalist authoritative international standards, norms and rules for peacemaking and constitution-making. Chapter B concludes that the negotiation and implementation processes of internationalised peace agreements between state and non-state parties create new post-national spaces of transitional post-conflict lawmaking and constitution-making in which different legal regimes, permanent and temporary arrangements, legal practices and norms overlap and even coincide. The state and non-state parties to peace agreements create documents of ambiguous politico-legal character that defy clear binary divisions between international and domestic law and between law and non-law.

Based on these preliminary findings, Chapter C investigates how international courts and tribunals have explicitly or implicitly dealt with the legal status of peace agreements between state and non-state parties. The chapter examines proceedings of the SCSL and the ICJ and the role of (international) arbitration, e.g. arbitration clauses in peace agreements and the referral of the parties' dispute about the interpretation and implementation of peace agreements to permanent or ad hoc arbitral tribunals, in the cases of the *Abyei* arbitration and the *Brčko* arbitration. The analysis of how international courts and tribunals have treated and interpreted peace agreements between state and non-state parties also highlights the practice and the potential implications of the involvement of the UN and SC during the negotiation and implementation of peace agreements.

Chapter D then turns the focus to the SC's exercise of functional authority, reflected in its involvement, and specifically its quasi-legislative findings and quasi-judicial actions, during the negotiation and implementation of peace agreements to settle intrastate conflicts. Using selected examples, the chapter provides a novel and in-depth

analysis of the mandates and competences involved in the SC's increasingly proactive engagement in intrastate conflicts and post-conflict situations from a peace agreement perspective. The chapter reveals that it is specifically the SC's involvement that brings about the temporary internationalisation of intrastate peace agreements, as well as their non-state party's/parties' temporary, partial legal subjectivity, by addressing the non-state party/parties to peace agreements directly and by holding these parties accountable for their non-compliance with the terms of peace agreements, in effect pushing towards internationalised status for the agreements and for their non-state party/parties. The final section of Chapter D discusses the analytical challenges of synchronising the interpretation and implementation of peace agreements to settle intrastate conflicts with the interpretation and implementation of SC resolutions addressing intrastate peace agreements and their parties. Therewith the chapter also deals with the tension and dissonance between the transformative law and politics of peace agreements and the temporary obligatory nature of the SC's Chapter VII resolutions by focusing on the factual rules and practices of the interpretation of peace agreements, on the one hand, and of SC resolutions, on the other hand. The SC's practice of quasi-interpretation and quasi-enforcement of peace agreements to settle intrastate conflicts often strongly dominates their negotiation and implementation. Therefore, Chapter D also considers the risk that SC involvement may remove control and effective authority over the interpretation and implementation of peace agreements from the state and non-state parties to agreements and makes SC Chapter VII resolutions the source of obligations, interpretation and implementation. In sum, the chapter's analysis reveals how hybrid forms of internationalised interpretation and enforcement of peace agreements can create new spaces where transitional post-conflict lawmaking occurs between the international and domestic spheres.

Chapter E summarises the main findings on practices of negotiating and implementing internationalised and legalised peace agreements between state and non-state parties through the lens of international courts' and tribunals' treatment of peace agreements and the SC's proactive involvement as an effective third party during the negotiation and implementation of peace agreements. The chapter concludes that it is the involvement of the SC based on Chapter VII of the UN Charter that fosters the internationalisation of what at first glance appears to be an intrastate agreement to settle an intrastate conflict between a state and at least one non-state party. However, the book's analysis does not

ultimately conclude that the parties to internationalised intrastate peace agreements have created international treaties and therewith sources of international law. Instead, Chapter E summarises how state and non-state parties rather create documents comprising elements of extra-constitutional, constitutional, international and temporary transitional post-conflict law. The negotiation and implementation processes of these legalised and internationalised documents are nevertheless guided and governed by the assumed authority of international law. Thus, peace agreements are documents of international interest and are subject to international supervision, specifically by the SC. This finding leads to the conclusion that the SC's involvement enables forms of internationalised governance of peace agreements between state and non-state parties that result in a temporary internationalised and legalised character of intrastate peace agreements or certain obligations for the parties created by their agreements. Chapter E also points to the future development of an internationalised and legalised practice of peace agreements between state and non-state parties and proposes questions that could shape future research and new politico-legal approaches to understanding the negotiation and implementation of contemporary peace agreements.