

NEGOTIATING PEACE

In the past two decades, peace negotiators around the world have increasingly accepted that granting amnesties for human rights violations is no longer an acceptable bargaining tool or incentive, even when the signing of a peace agreement is at stake. While many states that previously saw sweeping amnesties as integral to their peace processes now avoid amnesties for human rights violations, this anti-amnesty turn has been conspicuously absent in Asia. In *Negotiating Peace: Amnesties, Human Rights and Justice*, Renée Jeffery examines why peace negotiators in Asia have resisted global anti-impunity measures more fervently and successfully than their counterparts around the world. Drawing on a new global dataset of 146 peace agreements (1980–2015) and with in-depth analysis of four key cases (Timor-Leste; Aceh, Indonesia; Nepal; and the Philippines), Jeffery uncovers the legal, political, economic and cultural reasons for the persistent popularity of amnesties in Asian peace processes.

RENÉE JEFFERY is Professor of International Relations at Griffith University and an Australian Research Council future fellow. She is the author of nine books, including *Amnesties, Accountability and Human Rights*, *Reason and Emotion in International Ethics*, *Transitional Justice in Practice* and *Transitional Justice in the Asia-Pacific* (with Hun Joon Kim).

Cambridge University Press
978-1-108-83810-8 — Negotiating Peace
Renée Jeffery
Frontmatter
[More Information](#)

NEGOTIATING PEACE

Amnesties, Justice and Human Rights

RENÉE JEFFERY

Griffith University



CAMBRIDGE
UNIVERSITY PRESS

CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India
79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.
It furthers the University's mission by disseminating knowledge in the pursuit of
education, learning, and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781108838108
DOI: 10.1017/9781108937184

© Renée Jeffery 2021

This publication is in copyright. Subject to statutory exception
and to the provisions of relevant collective licensing agreements,
no reproduction of any part may take place without the written
permission of Cambridge University Press.

First published 2021

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Names: Jeffery, Renée, author.

Title: Negotiating peace : amnesties, justice, and human rights / Renée Jeffery, Griffith University, Queensland.

Description: Cambridge, United Kingdom ; New York, NY : Cambridge University Press, 2021. | Includes
bibliographical references and index.

Identifiers: LCCN 2020043477 (print) | LCCN 2020043478 (ebook) | ISBN 9781108838108 (hardback) |
ISBN 9781108947718 (paperback) | ISBN 9781108937184 (epub)

Subjects: LCSH: Pacific settlement of international disputes. | Dispute resolution (Law) | Arbitration
(International law) | Amnesty--Asia. | Human rights--Asia.

Classification: LCC KZ6010 .J44 2021 (print) | LCC KZ6010 (ebook) | DDC 341.6/6--dc23

LC record available at <https://lcn.loc.gov/2020043477>

LC ebook record available at <https://lcn.loc.gov/2020043478>

ISBN 978-1-108-83810-8 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy
of URLs for external or third-party internet websites referred to in this publication
and does not guarantee that any content on such websites is, or will remain,
accurate or appropriate.

CONTENTS

<i>List of Figures</i>	vi
<i>List of Tables</i>	vii
<i>Acknowledgements</i>	viii
Introduction	1
1 Amnesties and Peace Agreements: The Asia-Pacific in Global Comparative Perspective, 1980–2015	35
2 Amnesties and Human Rights in Asia	72
3 Timor-Leste and Indonesia: Judicial Incapacity and the Politics of Reconciliation	100
4 Aceh, Indonesia: Separatism, Peace and the Role of the International Community	125
5 Nepal: From Tacit Acceptance to Noncompliance	149
6 The Philippines: Managing a Culture of Impunity in the Bangsamoro Peace Process	174
Conclusion	197
<i>Appendix 1 Peace Agreements, 1980–2015</i>	<i>213</i>
<i>Appendix 2 Conflict Type</i>	<i>223</i>
<i>Appendix 3 Conflict Intractability</i>	<i>228</i>
<i>Appendix 4 Regional and Economic Context</i>	<i>233</i>
<i>Appendix 5 Regime Type and Dynamics</i>	<i>238</i>
<i>Appendix 6 Peace Agreements with Amnesties</i>	<i>245</i>
<i>Appendix 7 Amnesty Provisions Excluding Human Rights Violations</i>	<i>248</i>
<i>Bibliography</i>	<i>250</i>
<i>Index</i>	<i>292</i>

FIGURES

- 1 Peace agreements, amnesties and exclusions for human rights crimes, 1980–2015 43
- 2 Peace settlement amnesties and exclusions for human rights violations: regional variations, 1980–2015 47
- 3 Intrastate conflicts, peace settlement amnesties and exclusions for human rights violations, 1990–2015 51
- 4 Amnesties and intractability, 1980–1999 57
- 5 Amnesties and intractability, 2000–2009 58
- 6 Amnesties and intractability, 2010–2015 58
- 7 Amnesties, exclusions for human rights violations and income level 61
- 8 Amnesties and regime dynamics 63

TABLES

- 1 Case selection 27
- 2 Regional variations in peace agreements, amnesties and intractability,
1980–2015 59
- 3 Amnesties, exclusions for human rights violations and regime type, 1980–2015 64
- 4 Intractability and United Nations involvement in peace negotiations,
1980–2015 68
- 5 Amnesty provisions in Asian peace agreements (examples) 73
- 6 Asian peace processes, institutional membership and treaty ratification 93
- 7 Amnesties and states parties to the Rome Statute and Torture Convention:
regional variations 96

ACKNOWLEDGEMENTS

During the course of researching and writing this book, I have incurred many debts of thanks. I would particularly like to acknowledge and offer heartfelt thanks to all of the people who agreed to talk to me, on or off the record, provided me with background information, shared contacts and helped to organise appointments during my many periods of fieldwork. Without your time, patience and input, it would have taken me an awful lot longer to become sufficiently familiar with the intricacies of each of the cases or to appreciate their nuances. Thanks in particular to Govinda Sharma, Lia Kent and Paul Hutchcroft, who provided me with invaluable advice and assistance on my first research trips to Nepal, Timor-Leste and the Philippines. Thanks also to Dinesh Tripathi, Subodh Raj Pyakurel, Shree Krishna Subedi, Birendra Thapaliya, Kashiram Dhungana, Lokendra Mallik, Narendra Man Shrestha, Matthew Stephens, Sam Chittick, Miriam Coronel Ferrer and the staff at the Judicial Systems Monitoring Programme in Dili for your insight and time. There are many others who have helped me along the way but have asked not to be named: my sincere gratitude extends to you all without exception.

To my fieldwork thanks, I must add an apology to all the people who have generously offered to take me to appointments in difficult-to-find locations only to find I would steadfastly refuse to ride pillion on the back of their motorbike. I know this is how it is done throughout Asia and I realise that weaving our way through the crazy traffic of Kathmandu or any other major city in the region is a lot faster than sitting in seemingly intractable traffic jams, but even with the kind offers of helmets, I fear I am way too uncoordinated to avoid a serious accident!

I would also like to acknowledge the engagement and feedback I have received on aspects of this research from friends and colleagues around the world. I am grateful for the opportunities to present papers from this project at research seminars and workshops at Oxford University, the University of St Andrews, Warwick University, the University of

Uppsala, the Australian National University and Griffith University. I have also presented papers on this research at numerous conferences including those of the International Studies Association, Australian Political Studies Association and the Oceanic Conference on International Studies, as well as at East Asia Peace Conference hosted in Singapore by the East Asian Peace Program, Uppsala University and the Asia Research Institute at the National University of Singapore. Over the years I have also enjoyed talking about all things transitional justice with colleagues and friends including Karen Brounéus, Joanna Quinn, Emma Palmer, Hun Joon Kim, Susan Harris-Rimmer and Kirsten Ainley. The loss of Chandra Lekha Sriram during the course of this project remains a source of ongoing sadness. Every time I see her name referenced or cite her work myself, I am reminded that we have all lost a great scholar and friend, someone who was, in my experience, always ready with the encouragement, guidance and help I needed. Along with fostering my early interest in transitional justice (while I was still lost in the depths of early modern political thought) and providing me with so much *actually useful* advice about conducting fieldwork in risky places, she provided many of us with a safe haven, a listening ear and a decent meal while we were PhD students. It is, I think, fitting that my last two memories of her are both of spectacularly fun nights out with great food, wine, laughter and debate in Singapore and London.

This research was funded by an Australian Research Council (ARC) Discovery Grant project on ‘Amnesties and peace accords in the Asia-Pacific’ (DP 140102360) which ran from 2014 to 2016 but took considerably longer to finish than I originally anticipated. It overlapped with another ARC project on ‘The impact of political reconciliation in the Asia-Pacific’ with Joanne Wallis and Lia Kent. Working with Joanne and Lia was a great experience and one that I hope to repeat in the future. Hopefully, next time life won’t throw us quite so many curveballs! In any case, I wanted to thank you both for your patience and perseverance as I juggled the two projects.

Thank you to the research assistants who have worked on this project at various stages. Sophie Saydan was of immense help in gathering and categorising all the initial data on peace agreements. Caitlin Mollica also provided assistance in the early and middle stages of the project and has since become a colleague and collaborator. More recently, Bikram Timilsina has provided research assistance for the chapter on Nepal. I thank them all for their efforts.

As always, Sadie, Scarlett, Eddy, Millie and, more recently, Harry, have helped to keep life in some sort of chaotic balance. My greatest thanks as ever are to Ian, for his support, friendship and love in every aspect of our lives.

Along the way, aspects of each of the case studies examined in this book have been published in the following articles: ‘Amnesties and Intractable Conflicts: Managed Impunity in the Philippines’ Bangsamoro Peace Process’, *Journal of Human Rights* 17, no. 4 (2018), pp. 436–452; ‘Nepal’s Comprehensive Peace Agreement: Human Rights, Compliance and Impunity a Decade On’, *International Affairs* 93, no. 2 (2017): pp. 343–364; and ‘Trading Amnesty for Impunity in Timor-Leste’, *Conflict, Security and Development* 16, no.1 (2016): pp. 33–35. Each of these pieces has been significantly reworked, adapted and extended and now form part of a much larger story about the place of amnesties in peace negotiations than they were previously able to as standalone case studies.