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# Amnesty for Amnesty: Towards an International Criminal Court

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Abstract. This paper articulates some of the psychological and philosophical issues underlying political conflict on the question of amnesty.

One issue in the deliberations on creating an international criminal court is that of amnesty. Should a court instituted to adjudicate international crimes in the face of national legal systems' unwillingness or inability respect national amnesties awarded to perpetrators of such crimes?

Some political officials are against respecting any amnesty. They claim that all such amnesties are wrested from unwilling grantors under the threat of more violence and continued illegal usurpation of power. To respect amnesties is to unjustifiably facilitate impunity for perpetrators of the most dastardly deeds.

However, the case for respecting at least some amnesties rests on the same legitimate rationales as truth commissions: making possible an accurate accounting of evil, permitting post-evil stabilization of the quest for the Good, nurturing the psychological characteristics more amenable to democracy, and fostering healing from the most individual to the most supranational levels.

The conflict concerning amnesty is largely founded on the philosophical foundations of belief systems towards cause and effect and good and evil. What effects will granting amnesty or not granting it in specific situations for specific victims and perpetrators have on future probabilities of crimes against humanity, genocide, and violations of international law? Should punishment or omission training--or even positive or negative reinforcement--as justice implemented against convicted perpetrators take precedence over publicly delineating the nature of crimes--i.e., over sowing the seeds of justice for future reaping? Should moral judgments be made based on signs, symbols, patterns, accumulations of pleasure and pain? Or instead based on some notion of universal human right or on a pure notion of moral perceptual sense? When are people who deign to make such judgments guilty of moral hubris? Some of these questions may be answered through systematic empirical observation, others through reason, still others through blind faith.

To reject all notion of amnesty too easily invites a mindless fundamentalism--be it fueled by psychological tough-mindedness, dogmatism, or the return of the repressed--as righteous in intent as it may be hellish in execution. (See Bourne, L.E., Jr., et al. (1996). Peace and gender: Differential reactions to international treaty violations. *Peace and Conflict: Journal of Peace Psychology*, 2, 143-149; Cohen, D.I.A. (1996). The jurisprudence of unconscious intent. *Journal of Psychiatry and Law*, 24, 511-580; Schmitt, M. (1996). Individual differences in sensitivity to befallen injustice. *Personality and Individual Differences*, 21, 3-20; Some truth about truth commissions. (February 14, 1999). *IBPP*, 1(12); Some truth about truth commissions II. (September 12, 1997). *IBPP*, 3(7); Steiner, H.J. (Ed.), Truth commissions: A comparative assessment. World Peace Foundation Report No. 16; Wavering on war crimes. (October 4, 1997.) *The New York Times*, p. A20.) (Keywords: Amnesty, Conflict, Justice, Moral, Organization, Resolution, Truth.)

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