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978-1-107-02500-4 - Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives

Edited by Francesca Lessa and Leigh A. Payne

Excerpt

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Introduction

Francesca Lessa and Leigh A. Payne

Is amnesty an appropriate response to past human rights atrocities? Scholars and practitioners promoting transitional justice around the world have argued, in general, that it is not. They contend that legal, moral, and political duties compel governments emerging from authoritarian rule to hold perpetrators of human rights violence accountable.¹ Beginning with the post-World War II Nuremberg and Tokyo Trials and continuing with the creation of the ICC, the international human rights system has attempted to replace the traditional practice of amnesty with a new norm of accountability for human rights violations. International conventions – adopted in the second half of the twentieth century – now obligate state parties to provide redress for victims of torture and genocide. The UN international criminal tribunals for the former Yugoslavia and Rwanda, set up in the early 1990s, underscore the international duty to hold perpetrators accountable. The notion of universal jurisdiction, and its use in the effort to extradite former Chilean dictator General Augusto Pinochet from the United Kingdom to stand trial in Spain in the late 1990s, claims that courts in one country can hold foreign perpetrators accountable for crimes against humanity committed in another country.

An accountability norm has spread throughout the world, producing dramatic and unprecedented results. Although General Pinochet did not stand trial in Spain, he did face charges in his own country before he died. Other heads of state responsible for human rights abuses have also faced trials, convictions, and prison sentences

¹ See for example: M. Cherif Bassiouni, “Searching for Peace and Achieving Justice: The Need for Accountability,” *Law and Contemporary Problems* 59, no. 4 (1996); Juan E. Méndez, “Accountability for Past Abuses,” *Human Rights Quarterly* 19, no. 2 (1997); Diane F. Orentlicher, “Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Regime,” *The Yale Law Journal* 100 (1991); Jon M. Van Dyke and Gerald W. Berkley, “Redressing Human Rights Abuses,” *Denver Journal of International Law and Policy* 20, no. 2 (1992).

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in Latin America, including former Peruvian and Uruguayan presidents Alberto Fujimori and Juan María Bordaberry.² In December 2011, former military dictator Manuel Noriega was extradited from France to his native Panama to serve his prison sentence for human rights violations for which he had already been convicted *in absentia*.³ No region of the world has been exempt from accountability efforts. In Europe, one landmark case is the UN International Criminal Tribunal for the Former Yugoslavia efforts to convict former President Slobodan Milošević for grave human rights violations, including genocide, torture, and extermination committed in Bosnia and Herzegovina, Croatia, and Kosovo; Milošević died in 2006 while the trial was still ongoing.⁴ In Africa, former Liberian President Charles Taylor faces prosecution before the Special Court for Sierra Leone for eleven counts of war crimes, crimes against humanity, and other serious violations of international humanitarian law perpetrated in Sierra Leone.⁵ In Asia, the Extraordinary Chambers in the Courts of Cambodia began in 2011 the ongoing trials of four high-ranking former Khmer Rouge officials – including Ieng Sary, the former deputy prime minister for foreign affairs, and Khieu Samphan, the former head of state – on charges of crimes against humanity, grave breaches of the Geneva Conventions of 1949, and genocide.⁶ In the Middle East, former Egyptian President Hosni Mubarak is currently standing trial for the premeditated murder of protesters during the 2011 revolution.

This age of accountability has meant that amnesty laws around the world have faced challenges from domestic, regional, and international courts, as well as from mobilized local and international victims, survivors, and human rights organizations. This tremendous and unprecedented global progress suggests that we now live in an age of accountability in which governments and international institutions are expected to hold perpetrators of atrocities legally responsible for their acts. The impressive list of court cases against human rights violators in Chile, for example, seemed to erode the power of the amnesty law there without annulling it outright. Lawyers representing victims have found ways to circumvent amnesty laws in many countries, but have not yet succeeded in removing those laws from the statute books.

² See on the Fujimori case: Ellen L. Lutz and Caitlin Reiger, *Prosecuting Heads of State* (Cambridge: Cambridge University Press, 2009); Jo-Marie Burt, “Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations,” *International Journal of Transitional Justice* 3, no. 3 (2009). On the Bordaberry case: Gabriela Fried and Francesca Lessa, eds., *Luchas contra la impunidad: Uruguay 1985–2011* (Montevideo: Trilce, 2011).

³ “Manuel Noriega Extradited to Panama to Serve Jail Terms,” *BBC News*, December 11, 2011, accessed January 2, 2012, <http://www.bbc.co.uk/news/world-latin-america-16129630>.

⁴ “Kosovo, Croatia & Bosnia” (It-02–54) Slobodan Milošević, accessed January 18, 2012, http://www.icty.org/x/cases/slobodan_milosevic/cis/en/cis_milosevic_slobodan_en.pdf.

⁵ The Prosecutor vs. Charles Ghankay Taylor, “The Indictment,” accessed January 18, 2012, <http://www.sc-sl.org/LinkClick.aspx?fileticket=lmobAAMvYM%3d&tabid=107>.

⁶ The Extraordinary Chambers in the Courts of Cambodia, “Case 002,” accessed January 18, 2012, <http://www.eccc.gov.kh/en/case/topic/2>.

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In Guatemala, for instance, the 1996 National Reconciliation Law is not applicable to the crimes of genocide, torture, and forced disappearance as stipulated in international conventions, but nonetheless advancement in prosecuting those responsible for atrocious human rights violations has been slow. Progress in law, in other words, has not always translated into progress in legal practice. Indeed, despite this remarkable shift toward accountability, little evidence supports the view that amnesty processes have declined in number and impact as a result; on the contrary, as Louise Mallinder shows in Chapter 3 in this volume, and Tricia Olsen, Leigh Payne, and Andrew Reiter demonstrate in their book, the rate of amnesty laws introduced has remained constant despite the age of accountability.⁷ The continued adoption of amnesty laws seems to suggest that some governments and judiciaries still disregard the accountability norm and that cultures of impunity persist even during the age of accountability.

AMNESTY IN THE AGE OF ACCOUNTABILITY

States have adopted amnesties to promote political settlements, reconciliation, and stability since times immemorial. The word *amnesty* comes from ancient Greek, the word *ἀμνηστία* (*amnestia*) meaning forgetfulness or oblivion.⁸ These acts of political forgiveness have been used since ancient times, such as in the Code of Hammurabi (1700 B.C.), the aftermath of the Athenian Civil War in 404–3 B.C., and the Byzantine Empire.⁹ In one of the earliest studies on amnesties, UN special rapporteur Louis Joinet traces the historical origins of amnesties as “an outgrowth of the right of pardon, an act of individual clemency of theocratic origin.”¹⁰ Amnesties and pardons are closely related to powers of clemency initially associated with the king and, subsequently, the state. The “true ancestor of the modern amnesty,” Joinet claims, is “collective pardon,” which developed concurrently with individual ones.

In the aftermath of the birth of modern nation states, with the 1648 peace treaties of Westphalia, amnesties were often adopted in international peace agreements and their use has persisted up to the present in different forms and contexts.¹¹ When

⁷ Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter, *Transitional Justice in Balance: Comparing Processes, Weighing Efficacy* (Washington, DC: United States Institute of Peace, 2010).

⁸ The Greek root connotes oblivion and forgetfulness rather than forgiveness of a crime. See OHCHR, *Rule-of-Law Tools*.

⁹ See Ruti G. Teitel, *Transitional Justice* (Oxford: Oxford University Press, 2000); Jon Elster, *Closing the Books: Transitional Justice in Historical Perspective* (Cambridge: Cambridge University Press, 2004); Louise Mallinder, *Amnesty, Human Rights and Political Transitions: Bridging the Peace and Justice Divide* (Oxford: Hart, 2008).

¹⁰ Louis Joinet, *Study on Amnesty Laws and Their Role in the Safeguard and Promotion of Human Rights*, June 21, 1985, ECOSOC, E/CN.4/Sub.2/1985/16, para 9, page 5.

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looking at state practice, we indeed see different types of amnesty contexts, structures, effects, and functions; these range from amnesties adopted after/during conflict, in nonconflict situations, or as part of negotiated transitions; amnesties can serve to encourage demobilization of combatants, to extinguish liability for serious human rights offenses, or to release political prisoners. Further, amnesties can be enacted by parliaments or presidents, or form component parts of peace accords; benefit state or nonstate agents, or both; and finally, they can be accompanied by other measures of transitional justice or stand alone, be unconditional, or impose preconditions for their potential beneficiaries.¹² Despite this wide variety, all amnesties share the following characteristics: they are ad hoc, sanctioned to extinguish liability for specific crimes committed by particular individuals and/or groups; they are retroactive, applying to acts perpetrated before their enactment; finally, they are extraordinary measures, enacted beyond existing legislation.¹³

While amnesties have been granted in many diverse circumstances (i.e., to raise revenues, deal with issues of immigration, or release nonviolent political prisoners), in this volume we use the term *amnesty* to refer specifically to legal measures adopted by states that have the effect of prospectively barring criminal prosecution against certain individuals accused of committing human rights violations. These individuals may be agents of the state (members of the armed forces, security forces, or paramilitary groups) or nonstate actors (rebel groups, guerrillas, or members of the opposition). Different types of amnesties are discussed in this book, such as: self-amnesties, “amnesties adopted by those responsible for human rights violations to shield themselves from accountability,”¹⁴ such as Argentina’s 22,924 Law of National Pacification enacted by the outgoing military junta in September 1983 discussed in Chapter 4; pseudo-amnesties, “designed to have the same effect as amnesty laws [...] while avoiding the damning name of amnesty,”¹⁵ such as Uruguay’s 15,848 Law on the Expiry of the Punitive Claims of the State of December 1986 analyzed in Chapter 5; blanket amnesties, which apply “across the board without requiring any application on the part of the beneficiary or even an initial inquiry into the facts to determine if they fit the law’s scope of application,”¹⁶ such as El Salvador’s 486 Decree examined in Chapter 7; and conditional amnesties that exempt “an individual from prosecution if he or she applies for amnesty and satisfies several conditions,”¹⁷ such as the

¹² Mark Freeman, *Necessary Evils: Amnesties and the Search for Justice* (Cambridge: Cambridge University Press, 2009).

¹³ Freeman, *Necessary Evils*; Joinet, *Study on Amnesty Laws*; Mallinder, *Amnesty, Human Rights and Political Transitions*.

¹⁴ OHCHR, *Rule-of-Law Tools*, 43.

¹⁵ Garth Meintjes and Juan E. Méndez, “Reconciling Amnesties with Universal Jurisdiction,” *International Law FORUM Du Droit International* 2, no.2 (2000): 85 n. 26.

¹⁶ *Ibid.*, 84.

¹⁷ OHCHR, *Rule-of-Law Tools*, 43.

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truth finding process in South Africa that linked the amnesty provision to the Truth and Reconciliation Commission discussed in Chapter 9. The volume also discusses cases of pardons, which “are similar to, yet quite distinct from, amnesties.”¹⁸ Pardons exempt convicted individuals from serving their sentences without expunging the underlying convictions. They differ from amnesties in that pardons tend to be issued after an individual has been found liable for a wrongful act and perhaps even begun serving a criminal sentence.¹⁹ Chapter 11 discusses, for instance, the 1996 pardon granted in Cambodia to the former deputy prime minister of the Khmer Rouge government, Ieng Sary, for his conviction *in absentia* for gross violations of human rights committed while he was deputy prime minister for foreign affairs from 1975 to 1979. Finally, this volume also considers cases of de facto amnesty, a term referring to “legal measures such as State laws, decrees or regulations that effectively foreclose prosecutions;”²⁰ while these may not explicitly rule out criminal prosecution or civil remedies, they have the same effect as an explicit amnesty law – as examined in Chapter 10 on Indonesia.

THE AMNESTY DEBATE

While for centuries the international community had little hope of bringing to justice perpetrators of human rights violations, since state leaders “acted with impunity, wielding the shield of state sovereignty,”²¹ developments in human rights accountability have accelerated in the twentieth century. In a century that witnessed unprecedented horrors and conflicts, such as the Holocaust, the killing fields of Cambodia, and the Rwandan genocide, resulting in an “estimated 75 to 170 million persons killed,”²² amnesty is no longer accepted as the only way to transition from civil conflict or authoritarian repression. Instead, many scholars today consider prosecutions “the preferred choice.”²³ We might even go so far as to claim that the “prosecution preference,”²⁴ or at least a focus on accountability for human rights violations, dominates transitional justice scholarship. The diffusion of the accountability norm and

¹⁸ Ronald C. Slye, “The Legitimacy of Amnesties Under International Law and General Principles of Anglo-American Law: Is a Legitimate Amnesty Possible?” *Virginia Journal of International Law Association* 43 (2002): 235

¹⁹ *Ibid.*, and also OHCHR, *Rule-of-Law Tools*, 43.

²⁰ OHCHR, *Rule-of-Law Tools*, 43.

²¹ Charles P. IV Trumbull, “Giving Amnesties a Second Chance,” *Berkeley Journal of International Law* 25, no. 2 (2007): 284.

²² M. Cherif Bassiouni, “Combating Impunity for International Crimes,” *University of Colorado Law Review* 71, no. 2 (2000): 409.

²³ John Dugard, “Dealing With Crimes of a Past Regime. Is Amnesty Still an Option?” *Leiden Journal of International Law* 12, no. 4 (1999): 1001.

²⁴ Miriam J. Aukerman, “Extraordinary Evil, Ordinary Crime: A Framework for Understanding Transitional Justice,” *Harvard Human Rights Journal* 15 (2002): 39–40.

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its impact on international and local courts has in fact attracted substantial attention, leading scholars to label this process a “justice cascade” or “a revolution in accountability.”²⁵ These academics contend that governments have little alternative to promoting accountability owing to international pressure and domestic mobilization. As a result of this trend in the literature, amnesties are often overlooked by transitional justice scholars.

International pressure for accountability has emerged in parallel to shifts in international law and in the enforcement of human rights protections since World War II and the Holocaust. International human rights law obligations, moreover, emerge from states’ moral duty to victims of atrocity. States emerging from conflict or authoritarian spells also have a political duty to attempt to deter future violations by holding perpetrators accountable and restoring trust in legal institutions and rule of law.²⁶ These moral, legal, and political duties appear in the literature as the impetus behind the shift away from amnesties in the aftermath of atrocities and toward punishing perpetrators. International pressure and demand from victims and survivors converge, reducing the likelihood that transitional governments will select the amnesty option.

Not all scholarship, however, concurs with these assumptions regarding the duty to prosecute. Recent literature contends that international law does not compel states to prosecute, providing legitimacy for some types of amnesties. International law on amnesties, as legal scholars and others contend, remains “unsettled,”²⁷ and the status of “an outright prohibition on amnesty remains unclear,”²⁸ an argument developed by Mark Freeman and Max Pensky in Chapter 2 in this volume.²⁹ Other scholars, such as Jack Snyder and Leslie Vinjamuri, have found that amnesties may better serve the processes of peace building, deterring human rights violations, and establishing rule of law by appeasing potential “spoilers” of these processes.³⁰ Corresponding to the legal and philosophical discussion of the compatibility of amnesty laws in the age of accountability is the continued practice of the adoption of

²⁵ See Ellen L. Lutz and Kathryn Sikkink, “The Justice Cascade: The Evolution and Impact of Foreign Human Rights Trials in Latin America,” *Chicago Journal of International Law* 2, no. 1 (2001); Chandra Lekha Sriram, *Globalizing Justice for Mass Atrocities: A Revolution in Accountability* (London: Routledge, 2005).

²⁶ Juan E. Méndez, “Accountability for Past Abuses,” *Human Rights Quarterly* 19, no. 2 (1997); Naomi Roht-Arriaza, “State Responsibility to Investigate and Prosecute Grave Human Rights Violations in International Law,” *California Law Review* 78, no. 2 (1990).

²⁷ Dugard, “Dealing with Crimes,” 1015.

²⁸ Lisa J. Laplante, “Outlawing Amnesty: The Return of Criminal Justice in Transitional Justice Schemes,” *Virginia Journal of International Law* 49, no. 4 (2009): 943.

²⁹ See for instance: Max Pensky, “Amnesty on Trial: Impunity, Accountability, and the Norms of International Law,” *Ethics and Global Politics* 1 (2008); Trumbull, “Giving Amnesties a Second Chance.”

³⁰ Jack Snyder and Leslie Vinjamuri, “Trials and Errors,” *International Security* 28, no. 3 (2003/2004).

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amnesty laws. At least two recent studies have shown that amnesties have increased in number or persisted at the same rate during this same era marked by an increase in prosecutions and domestic and international pressure for prosecutions.³¹ The study by Louise Mallinder suggests that amnesty laws may have increased as security forces around the world seek to protect themselves from the ever more likely threat of prosecution.³² The other, by Tricia Olsen et al., suggests that amnesties have continued at the same rate as before, but appear to have increased given the higher number of transitions.³³ Neither argument supports the view that prosecutions have replaced amnesties. Instead, it appears that the accountability mechanisms of trials and truth commissions have accompanied amnesties.³⁴

The literature has also generated different claims about the success of amnesties in promoting human rights and democracy. Cross-national statistical analysis that shows a positive impact on human rights in countries that adopt trials would logically lead to the conclusion that the use of amnesties without trials would have a detrimental impact on human rights.³⁵ Findings by other researchers challenge that view, suggesting that trials alone do not have a statistically significant relationship on human rights or democracy measures, and neither do amnesties used alone.³⁶ Tricia Olsen et al. find, however, that trials and amnesties, with or without truth commissions, increase the likelihood of improvement on human rights and democracy scores.³⁷ Still other scholars consider amnesties to be “necessary evils,” essential and unavoidable in countries emerging from mass atrocity.³⁸ A group of scholars working on postconflict justice acknowledges the value of amnesties in negotiating peace after civil conflict, but they raise doubts about amnesties or trials sustaining peace.³⁹

BOOK OUTLINE

The debate over amnesty processes, legality, and outcomes would seem to suggest that scholars have engaged with one another over these issues. Yet this is not the case.

³¹ See Mallinder, *Amnesty, Human Rights and Political Transitions* and Olsen, Payne, and Reiter, *Transitional Justice in Balance*.

³² Mallinder, *Amnesty, Human Rights and Political Transitions*.

³³ Olsen, Payne, and Reiter, *Transitional Justice in Balance*.

³⁴ *Ibid.*

³⁵ Hunjoon Kim and Kathryn Sikkink, “Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries,” *International Studies Quarterly* 54, no. 4 (2010).

³⁶ Olsen, Payne, and Reiter, *Transitional Justice in Balance*.

³⁷ Tricia D. Olsen, Leigh A. Payne, and Andrew G. Reiter, “The Justice Balance: When Transitional Justice Improves Human Rights and Democracy,” *Human Rights Quarterly* 32, no. 4 (2010).

³⁸ Freeman, *Necessary Evils*.

³⁹ Tove Grete Lie, Helga Malmin Binningsbø, and Scott Gates, *Post-Conflict Justice and Sustainable Peace* (Oslo: PRIO, 2007).

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Debates exist over tradeoffs, such as amnesty and truth versus justice or amnesty and peace versus justice. Nonetheless, few scholars focus specifically on amnesty.⁴⁰ This edited volume, in contrast, brings established, as well as emerging scholars, together to discuss a number of important aspects of amnesty: comparative and empirical cases; political, legal, moral, and philosophical debates in international and domestic human rights law; and effectiveness in terms of the goals of democracy, human rights protections, and peace.

This volume ponders the role of amnesties in the age of accountability. Through theoretical and empirical chapters, the volume attempts to provide answers to two main questions: what explains the persistence of amnesties in the age of accountability; and what impact do persistent amnesties have on the prospects for accountability? Authors use a range of approaches – social movement, ideational, legal, philosophical, path dependent, qualitative case study, statistical, and cross-national – in addressing these questions in their chapters.

In the “Theoretical Framework,” Part I of this volume, chapters by Kathryn Sikkink and by Mark Freeman and Max Pensky set out perspectives on amnesty in the age of accountability. The authors examine historical, international, and domestic legal processes and philosophies to explain the relationship of amnesties to the age of accountability. The chapters consider amnesties from an ideational and human rights activist perspective, as well as seeing them as practical responses by governments to a range of different political contexts and challenges.

Kathryn Sikkink, in Chapter 1, explains the emergence of the age of accountability in the twentieth century. She examines the forces and streams – norms and norm diffusion, international actors and institutions, and domestic and foreign actors and institutions – that have converged to establish the age of accountability. She shows that the age of accountability has had global reach, compelling governments around the world to succumb to international and domestic pressure to hold perpetrators accountable. Kathryn Sikkink argues that this process constitutes “a dramatic shift in the legitimacy of the norms of individual criminal accountability for human rights violations and an increase in actions (prosecutions) on behalf of those norms,” a process Kathryn Sikkink and Ellen Lutz have defined elsewhere as the “justice cascade.”⁴¹ Kathryn Sikkink argues that the continued use of amnesty is not evidence of the failure of the age of accountability or the justice cascade. Rather, she claims, it might be seen as a response to the increasing threat of prosecution. Previously, during the era of impunity, governments did not have to protect perpetrators from prosecution; prosecution was not even imaginable.

⁴⁰ Notable exceptions include Mallinder, *Amnesty, Human Rights and Political Transitions*; Freeman, *Necessary Evils*; Pensky, “Amnesty on Trial”; Slye, “The Legitimacy of Amnesties Under International Law”; and, Trumbull, “Giving Amnesties a Second Chance.”

⁴¹ Lutz and Sikkink, “The Justice Cascade.”

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The era initiated by the Nuremberg Trials and involving the third wave of democratization, of UN ad hoc tribunals, the ICC, and universal jurisdiction does not allow governments to completely ignore accountability pressures. On the other hand, they may not necessarily annul existing amnesty laws or fail to adopt new ones. The desire by states to protect certain perpetrators from prosecution, even while hoping to retain international legitimacy, would likely lead to an increase in amnesties. These amnesties, however, might look different from earlier ones, with greater compliance to international human rights standards. The theoretical contribution of the chapter, however, is not about explaining the persistence or impact of amnesties; rather it describes the age of accountability and the factors that have contributed to an increase in individual criminal accountability around the world in local, foreign, and international courts.

Chapter 2 by Mark Freeman and Max Pensky employs legal philosophy and positivist legal approaches to assess the degree to which the age of accountability has produced exaggerated claims about the invalidity of amnesties. While recognizing that amnesties constitute potentially serious failures of justice, the authors nonetheless suggest that the anti-impunity assertion that amnesties are in every instance contrary to international law rests on weak legal arguments. They contend that the status of amnesty under international law remains unsettled, given the silence of international treaties on the question and the existence of an only slightly stronger argument against the use of amnesty in customary international law regarding states' obligations to outlaw *jus cogens* crimes. A central goal of this chapter is to offer a critical reconstruction of the relevant international legal sources in order to chart more clearly what states' obligations are in respect to amnesties. It suggests that there may be more room for transitional and posttransitional governments to adopt internationally legitimate amnesties than the age of accountability might expect.

The "Comparative Case Studies" in Part II include ten chapters written by country experts and transitional justice specialists. These constitute the empirical portion of the volume, offering a comprehensive assessment and discussion of amnesties across the globe. The authors examine emblematic case studies from eleven countries in the Americas, Africa, Asia, and Europe. With the exception of Argentina and Uruguay's success stories, the chapters explore the continued persistence, as well as appeal, of amnesties in the age of accountability in countries as varied as Brazil, Cambodia, El Salvador, Guatemala, Indonesia, Rwanda, South Africa, Spain, and Uganda. They include single case studies, paired comparisons, clustered comparisons of several countries, as well as cross-national comparisons of amnesties in the age of accountability.

Louise Mallinder's cross-national study of amnesty laws in Chapter 3 begins the empirical exploration of amnesties in the age of accountability. Drawing on the data compiled in her "Amnesty Law Database," she documents and explains the

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unrelenting practice of amnesty laws around the world in the period from 1979 to 2011. Louise Mallinder describes regional and global trends in amnesty law enactment and interprets the existence of a global accountability norm in light of these trends. She argues that, although there has been a surge in the number of prosecutions for perpetrators of mass atrocities over the past thirty years, amnesty laws have also continued to be enacted at a steady pace. Thus, she concludes that, despite significant developments in international criminal law and transitional justice, the use of amnesty laws to address past atrocity has not lessened in the age of accountability. Rather, she suggests, the threat of prosecution may have prompted more, not fewer, amnesty laws.

Chapter 4 by Par Engstrom and Gabriel Pereira offers a detailed discussion of Argentina's success in overcoming a series of amnesty processes. Argentina represents the first case in Latin America where past amnesty laws and pardons were effectively overturned, resulting in a dramatic justice cascade in which hundreds of perpetrators are currently held individually and criminally accountable for human rights crimes. The chapter focuses particularly on the ways in which amnesty laws and pardons, relating to human rights crimes committed by state agents and their associates during the military regime of the 1970s and 1980s, have been challenged and successfully bypassed. The authors argue that the process of accountability in Argentina has not been linear; rather, three different transitional justice phases can be observed: the first is characterized by a move from full to restricted accountability; the second moves from a situation of complete impunity to restricted accountability; and the third constitutes a stage of outright accountability. In 1985, Argentina's first democratic government surprisingly held legally accountable the members of the military junta (1976–83) responsible for an estimated nine thousand to thirty thousand disappearances, imposing life sentences on some of the military commanders. The subsequent enactment of amnesty laws and pardons in the late 1980s and early 1990s did not deter innovative mechanisms to continue to promote accountability. In the mid- and late 1990s, human rights lawyers, defending victims and their relatives, circumvented amnesty laws and used international human rights provisions to investigate and subsequently prosecute perpetrators. This sustained domestic pressure, accompanied by international reverberations, challenged the ironclad amnesty laws. Political will, not only on the part of the early Alfonsín government (1983–9) but picked up again under the Kirchner governments (2003–11), has made Argentina a model for annulling amnesty laws. The chapter argues that variations among and within these phases can be explained with reference to the interaction of three factors: the role and relations of key actors (government, civil society, and the armed forces); the type of amnesties and pardons enacted; and the challenges against them (exceptions to the amnesty laws, recourse to the Inter-American system, or foreign courts). Is the Argentine success