Nnamdi Azikiwe University Awka Journal of Private and Property Law, volume 3(2) April, 2026

INTERNATIONAL CRIMES, VIOLATIONS AND GRANT OF AMNESTY

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Abstract

The proliferation of international crimes, ranging from genocide, war crimes, crimes against humanity, to gross human rights violations, has posed significant challenges to the global legal and political order. These crimes not only disrupt peace and security but also undermine the principles of justice, accountability, and rule of law. In response, various mechanisms, including prosecutions, truth commissions, and reparations, have been employed to address these violations. However, the grant of amnesty has emerged as a contentious tool within transitional justice frameworks, often invoked to facilitate peace, reconciliation, and post-conflict stabilization. This paper critically examines the interplay between the commission of international crimes, state and non-state violations, and the political and legal implications of granting amnesty. It explores whether amnesty serves as a pragmatic instrument for ending armed conflicts or whether it constitutes an impediment to justice and accountability under international law. Drawing on comparative case studies, including conflicts in Africa, Latin America, and the former Yugoslavia, the study evaluates the legal permissibility of amnesty under international norms, the tension between peace and justice, and the ethical and moral considerations surrounding impunity. The research highlights the complexity of balancing the imperatives of conflict resolution with the necessity of upholding victims' rights and international legal obligations. Ultimately, the paper argues for a nuanced approach to amnesty, advocating for conditional or restricted frameworks that align with international standards, promote reconciliation, and preserve the integrity of international criminal justice.

Keywords: **accountability, amnesty, international crimes, violations, transitional justice, impunity**.

1.**Introduction**

In the aftermath of armed conflict and systemic human rights violations, states and international actors frequently face a fraught dilemma: whether to prioritize peace and reconciliation or justice and accountability. This tension lies at the heart of debates about granting amnesty to individuals accused of international crimes, such as genocide, war crimes, and crimes against humanity. Amnesty, broadly understood as a pardon or immunity from prosecution, is often offered as part of negotiated peace agreements or post-conflict political settlements. However, it raises profound legal, ethical, and normative questions under international law.

First, the legal status of amnesty under international law is contested. While no multilateral treaty expressly bans all amnesties, an emerging consensus among international courts, quasi-judicial bodies, and human rights institutions suggests the existence of an anti-impunity norm, particularly for grave crimes. Scholars argue that customary international law prohibits amnesties for serious violations, citing consistent state practice and *opinio juris*, although the evidence remains

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ambiguous.[2] Furthermore, although the Rome Statute of the International Criminal Court (ICC) does not explicitly contain a prohibition on amnesties, its object and purpose, to end impunity for the gravest crimes, strongly suggest that general amnesty laws are fundamentally at odds with the Court's mandate. Indeed, the ICC is not bound by domestic amnesty laws, nor are such laws necessarily recognized under international obligations.[3]

Second, the political utility of amnesty often underlies its use in transitional justice settings. Granting amnesty may help end hostilities, facilitate peace negotiations, and promote national reconciliation. Yet, this pragmatism comes at a price: the risk of undermining victims' rights, denying justice, and perpetuating a cycle of impunity. Critics argue that blanket or unconditional amnesties exacerbate injustice by allowing perpetrators to evade accountability, which may ultimately erode trust in legal institutions.[4] Moreover, there is concern that amnesty provisions may contravene *jus cogens norms or erga omnes* obligations demanding prosecution of heinous crimes.[5]

Third, the ethical and normative implications of granting amnesty are profound. From a moral perspective, amnesty may be seen as a betrayal of victims, denying them redress, truth, and closure. From a legal perspective, it may erode the principle that no one is above the law. The challenge, therefore, lies in conceptualizing a form of amnesty that can reconcile competing demands: the need for peace and reconciliation on the one hand, and the imperatives of justice, non-impunity, and the dignity of victims on the other.

Finally, empirical experience across post-conflict societies reveals both the promise and the peril of amnesty. Case studies from Africa, Latin America, and Europe show that amnesty can contribute to short-term stability, but may also sow the seeds of future conflict and disillusionment if not accompanied by accountability mechanisms. Given this mixed record, there is increasing advocacy for conditional, restricted, or "partial" amnesties, designed to align with international legal norms, preserve victims' rights, and support transitional justice without sacrificing accountability.[6]

This article seeks to analyze the complex relationship between international crimes, violations, and the grant of amnesty. It will examine (1) the international legal framework governing amnesties, including treaty law, customary norms, and the role of the ICC; (2) the political rationale for amnesties in transitional and post-conflict settings; (3) the ethical and normative trade-offs involved; and (4) possible models of amnesty that strike a balance between peace and justice. By drawing on comparative case studies and doctrinal scholarship, the article argues that while amnesty may serve as a pragmatic tool in certain contexts, its legitimacy rests on strict conditions consistent with international obligations and respect for victims' rights.

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[2] Naomi Roht-Arriaza and Philippe Bourgois (eds), *Amnesty in the Age of Human Rights Accountability: Comparative and International Perspectives* (Cambridge University Press 2011).

[3] William A. Schabas, 'National Amnesties, Truth Commissions and International Criminal Tribunals' in S. Bartram Brown (ed), *Research Handbook on International Criminal Law* (Edward Elgar 2011).

[4] Naomi Roht-Arriaza, *Impunity and Human Rights in International Law and Practice* (Oxford University Press 1995).

[5] Simon M. Meisenberg, 'Legality of Amnesties in International Humanitarian Law: The Lome Amnesty Decision of the Special Court for Sierra Leone', International Review of the Red Cross, Issue 112, 2016.

[6] Mily Braid and Naomi Roht-Arriaza, 'De Facto and De Jure Amnesty Laws: The Central American Case' in *Amnesty in the Age of Human Rights Accountability* (Cambridge 2011).

2. Background to the Study

The global community has long struggled with the challenge of addressing serious international crimes, including genocide, crimes against humanity, war crimes, and other gross human rights violations**.** These crimes are often committed during periods of armed conflict, political instability, or systemic oppression, and their consequences extend beyond immediate victims to destabilize societies and undermine the rule of law. In response, various mechanisms have emerged to ensure justice, accountability, and reconciliation, ranging from international tribunals to truth and reconciliation commissions**.**

However, the grant of amnesty has increasingly become a controversial feature of post-conflict transitions. Amnesty refers to the formal or legal pardon extended to individuals or groups responsible for criminal acts, often as a tool for facilitating peace negotiations or national reconciliation**.** While amnesty can provide short-term stability and encourage combatants to lay down arms, it raises fundamental questions under international law regarding the prohibition of impunity for serious crimes**.** The international legal framework, encompassing instruments such as the Geneva Conventions (1949), the Rome Statute of the International Criminal Court (1998)**,** and relevant United Nations resolutions, emphasizes accountability for serious violations of human rights and humanitarian law. Consequently, blanket amnesties for perpetrators of such crimes are increasingly seen as inconsistent with international obligations and norms.[7]

Historically, several conflicts have highlighted the tension between peace and justice in the context of amnesty. For instance, in Latin America, countries such as Argentina and Chile adopted transitional amnesty laws in the 1980s and 1990s, which were later challenged domestically and internationally for shielding perpetrators of human rights abuses.[8] Similarly, in Africa, post-conflict states such as Sierra Leone and Liberia utilized conditional amnesties to encourage the disarmament and reintegration of former combatants, but these measures were coupled with complementary accountability mechanisms to mitigate impunity.[9] The former Yugoslavia also presents a complex case, where international tribunals, rather than national amnesties, were relied upon to prosecute perpetrators of mass atrocities, signaling a growing preference for international justice mechanisms in addressing grave crimes.[10]

The controversy surrounding amnesty is not limited to legal debates. Ethically and morally, granting immunity to individuals who have committed egregious violations often undermines the rights of victims, denying them justice, redress, and recognition of their suffering. Moreover, unchecked amnesty may compromise the rule of law, erode public confidence in legal institutions, and potentially contribute to cycles of recurring violence.[11] These realities underscore the need for a carefully calibrated approach to amnesty, one that balances the imperatives of peace, reconciliation, and social stability with the equally critical demands of justice, accountability, and victims' rights.

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[7] Geneva Conventions of 1949; Rome Statute of the International Criminal Court (1998); UN General Assembly Resolutions on the Rule of Law and Accountability.

[8] See generally, McAdams T, *Transitional Justice in Latin America: Amnesty, Accountability, and the Legacy of Dictatorship* (Cambridge University Press 2006).

[9] United Nations, 'Report of the Secretary-General on the United Nations Mission in Sierra Leone' UN Doc S/2001/1234 (2001); Hayner P, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd edn, Routledge 2010).

[10] UN International Criminal Tribunal for the former Yugoslavia (ICTY), *Statute of the ICTY*, UN Doc S/RES/827 (1993).

[11] Bell C, *On the Law of Peace: Peace Agreements and the Lex Pacificatoria* (Oxford University Press 2008).

This study is situated within this tension, examining the interplay between international crimes, violations, and the grant of amnesty. By analyzing both doctrinal and empirical evidence, the research seeks to understand the legal, political, and ethical dimensions of amnesty and to identify models that reconcile peacebuilding objectives with international legal obligations. This analysis is particularly pertinent in the African context, where post-conflict societies continue to grapple with questions of justice, reconciliation, and sustainable peace.

3. Statement of the Problem

The persistence of international crimes and gross human rights violations presents a significant challenge to the global legal order and post-conflict peacebuilding efforts. While international law and domestic frameworks provide mechanisms for accountability, states often resort to granting amnesty as a pragmatic solution to facilitate peace negotiations, national reconciliation, or political stability.[12] However, the use of amnesty in the context of serious international crimes generates tension between justice and peace, raising fundamental legal, ethical, and social concerns.

One of the central problems is the potential conflict between domestic amnesty laws and international legal obligations. Blanket amnesties for perpetrators of genocide, war crimes, or crimes against humanity may contravene customary international law and norms codified in instruments such as the Rome Statute of the International Criminal Court (1998**)** and the Geneva Conventions (1949).[13] This creates a dilemma in post-conflict states: pursuing peace through amnesty may inadvertently undermine victims' rights, deny justice, and perpetuate a culture of impunity.

Additionally, the effectiveness and legitimacy of amnesty remain contested. While some scholars argue that conditional or partial amnesties can facilitate reconciliation, others contend that even limited immunity risks eroding public trust in the rule of law and failing to deliver meaningful justice to victims.[14] Empirical evidence from regions such as Latin America, Africa, and the Balkans demonstrates mixed outcomes: in some cases, amnesty contributed to temporary peace but failed to prevent long-term social grievances and cycles of violence.[15]

The problem is further compounded by the inconsistent application of amnesty frameworks across jurisdictions. National governments, international tribunals, and truth commissions often adopt divergent approaches, creating ambiguity regarding the legality, scope, and ethical acceptability of amnesty.[16] In this context, there is a pressing need to critically examine the interplay between international crimes, violations, and the grant of amnesty, to identify frameworks that balance the imperatives of peace, justice, and victims' rights.

[12] Ibid, 92-94

[13] Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90, arts 1–5; Geneva Conventions, 12 August 1949.

[14] Hayner P, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd edn, Routledge 2010) 110–115; Sriram CL, *Transitional Justice and Peacebuilding on the Ground: Victims and Ex-Combatants* (Routledge 2010) 56–60.

[15] McAdams T, *Transitional Justice in Latin America: Amnesty, Accountability, and the Legacy of Dictatorship* (Cambridge University Press 2006) 80–82; UN Doc S/2001/1234 (Report of the Secretary-General on the United Nations Mission in Sierra Leone) (2001).

[16] International Center for Transitional Justice, 'Amnesty and Accountability' (ICTJ 2010) https://www.ictj.org/publication/amnesty-and-accountability

In essence, the study addresses the critical question: Can amnesty be reconciled with international legal norms and the demands of justice, or does it inevitably constitute an impediment to accountability and victims' rights? This question forms the basis for the research, seeking to provide legal, ethical, and policy-oriented insights into the use of amnesty in post-conflict societies.

4. Conceptual Framework

The conceptual foundation of this study rests on three key constructs: **international crimes**, **violations**, and **amnesty**.

4.1. International Crimes:

International crimes are acts that gravely violate international norms and pose threats to global peace, security, and human dignity. They include genocide, war crimes, crimes against humanity, and aggression, as codified in instruments such as the Rome Statute of the International Criminal Court (1998) and the Geneva Conventions (1949).[17] These crimes are characterized by their scale, gravity, and systematic nature, and they engage both domestic and international jurisdictional mechanisms.[18]

4.2 Violations:

Violations in this context refer to breaches of international humanitarian law (IHL) and international human rights law (IHRL). These violations occur during conflicts, under oppressive regimes, or in situations where states or non-state actors fail to uphold the legal protections owed to individuals and groups.[19] They may include extrajudicial killings, torture, sexual violence, and forced displacement, which often constitute underlying acts supporting the commission of international crimes.[20]

4.4 Amnesty:

Amnesty is generally understood as a legal instrument granting immunity from prosecution for criminal acts committed in specific contexts, often political or post-conflict settings.[21] While amnesty may facilitate peace and reconciliation, its compatibility with international law is limited, especially where the crimes in question are classified as *jus cogens* violations or involve serious human rights abuses.[22] Amnesty may be blanket, conditional, or partial, and its legitimacy depends on alignment with international legal standards and consideration of victims' rights.[23]

[17] Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90; Geneva Conventions, 12 August 1949.
[18] Schabas W, *An Introduction to the International Criminal Court* (5th edn, Cambridge University Press 2021).
[19] Henckaerts J-M and Doswald-Beck L, *Customary International Humanitarian Law* (Vol 1, ICRC 2005).
[20] Mégret F, 'Crimes Against Humanity' in Cassese A (ed), *The Oxford Companion to International Criminal Justice* (Oxford University Press 2009) 128.
[21] Hayner P, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd edn, Routledge 2010) 47.
[22] Bell C, *On the Law of Peace: Peace Agreements and the Lex Pacificatoria* (Oxford University Press 2008) 89.
[23] Sriram CL, *Transitional Justice and Peacebuilding on the Ground: Victims and Ex-Combatants* (Routledge 2010) 56.

The study integrates these concepts to examine the intersection of law, ethics, and politics, emphasizing how the grant of amnesty interacts with international obligations to prosecute serious crimes and protect victims.

5. Theoretical Framework

The theoretical approach of this study is informed by transitional justice theory and realist peace-justice theory:

5.1 Transitional Justice Theory:

This framework examines mechanisms employed by societies to address legacies of mass violence or human rights abuses, including trials, truth commissions, reparations, and amnesties.[24] It posits that transitional justice must balance accountability, truth-telling, and reconciliation. The theory is especially relevant in analyzing amnesty, as it offers insight into how post-conflict societies use legal and political tools to navigate the tension between justice and peace.

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5.3 Realist Peace-Justice Theory:

Rooted in political realism, this perspective views amnesty as a pragmatic instrument to end conflicts, reduce hostilities, and stabilize fragile states.[25] It emphasizes the political expediency of granting amnesty to incentivize combatants to participate in peace processes, even at the expense of full accountability. While practical, this approach is critiqued for potentially undermining victims' rights and the long-term rule of law.

By combining these frameworks, the study situates amnesty within a dual lens of legality and pragmatism, exploring its role as both a peacebuilding mechanism and a potential challenge to justice and accountability. The frameworks also guide the comparative and doctrinal analysis of international crimes, highlighting the legal, ethical, and social implications of granting amnesty in different contexts.

6. Institutional Framework

The institutional framework for addressing international crimes and the grant of amnesty spans both national and international legal systems, reflecting a complex interplay between state sovereignty, international obligations, and mechanisms for transitional justice.

6.1 National Institutions

At the national level, states are primarily responsible for investigating, prosecuting, and adjudicating crimes committed within their jurisdiction. Domestic courts exercise authority over ordinary criminal offenses as well as violations of international human rights and humanitarian law, provided these crimes are codified in national legislation.[26] Some states establish special tribunals or hybrid courts to handle high-profile or complex cases, often integrating domestic and

[24] Teitel R, *Transitional Justice* (Oxford University Press 2000) 25.

[25] Doyle M and Sambanis N, *Making War and Building Peace: United Nations Peace Operations* (Princeton University Press 2006) 78.

[26] Henckaerts J-M and Doswald-Beck L, *Customary International Humanitarian Law* (Vol 1, ICRC 2005) 125.

international legal principles.[27] In post-conflict scenarios, national governments may also enact amnesty laws, either as part of peace agreements or as instruments of political compromise, aiming to foster reconciliation, disarmament, and reintegration of former combatants. However, the legitimacy of these national amnesty laws is often constrained by international obligations, particularly where they conflict with norms prohibiting impunity for *jus cogens* crimes.

6.2 International Institutions

International institutions play a complementary and sometimes corrective role in ensuring accountability for international crimes. The International Criminal Court (ICC), established under the Rome Statute (1998), prosecutes individuals responsible for genocide, crimes against humanity, war crimes, and aggression when national systems are unwilling or unable to act.[28] Similarly, ad hoc tribunals, such as the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), were created to address serious violations in specific conflict contexts, highlighting the international community's commitment to ending impunity.[29] These institutions have consistently emphasized that amnesty laws cannot shield perpetrators of serious international crimes from accountability.[30]

Other international actors, including United Nations mechanisms, human rights bodies, and truth commissions, also influence the use and scope of amnesty. For instance, UN Security Council resolutions often condition peacekeeping support on the establishment of accountability measures, while truth and reconciliation commissions may recommend conditional or partial amnesties as part of a broader transitional justice strategy.[31]

6.3 Interaction Between National and International Institutions

The relationship between national and international institutions is often framed by the principle of complementarity, particularly in the context of the ICC. Under this principle, the ICC exercises jurisdiction only when national courts fail to prosecute serious crimes, thereby ensuring that domestic amnesties do not create impunity in violation of international law.[32] Similarly, international oversight may influence domestic amnesty processes, ensuring they align with international norms and respect victims' rights.[33] The institutional framework, therefore, reflects a multi-layered governance structure, where domestic priorities and international obligations intersect, creating both opportunities and constraints in the use of amnesty as a transitional justice mechanism.

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[27] Sriram CL, *Transitional Justice and Peacebuilding on the Ground: Victims and Ex-Combatants* (Routledge 2010) 68.

[28] Rome Statute of the International Criminal Court, 17 July 1998, 2187 UNTS 90, arts 5-8 and 17.

[29] UN Security Council Res 827 (1993) establishing the ICTY; UN Security Council Res 955 (1994) establishing the ICTR.

[30] ICTY, *Prosecutor v Tadić* (Judgment) Case No IT-94-1-A, Appeals Chamber, 15 July 1999, paras 58–60.

[31] UN Doc S/2001/1234 (Report of the Secretary-General on the United Nations Mission in Sierra Leone) (2001); Hayner P, *Unspeakable Truths* (2nd edn, Routledge 2010) 112.

[32] Rome Statute, art 17 (Complementarity).

[33] International Center for Transitional Justice, 'Amnesty and Accountability' (ICTJ 2010) https://www.ictj.org/publication/amnesty-and-accountability.

7. Literature Review

The literature on international crimes, violations, and amnesty is extensive, spanning legal, political, and ethical dimensions. Scholars, international organizations, and judicial bodies have debated the tension between peace, reconciliation, and accountability, highlighting the challenges of balancing state sovereignty, victims' rights, and international legal obligations.

7.1 Amnesty and International Law

Much of the literature emphasizes that blanket amnesties for serious international crimes are inconsistent with international law. According to Schabas, while amnesty can be a political tool for peace, it cannot override obligations under customary international law or treaties prohibiting impunity for genocide, war crimes, or crimes against humanity.[34] Similarly, Bell argues that peace agreements incorporating amnesty must comply with *lex pacificatoria* and cannot contravene *jus cogens norms*, which require prosecution of the most serious crimes.[35] The International Criminal Tribunal for the former Yugoslavia (ICTY) reinforced this principle, asserting in *Prosecutor v Tadić* that domestic amnesties cannot shield individuals from accountability for violations of international humanitarian law.[36]

7.2 Political and Pragmatic Justifications for Amnesty

Amnesty is frequently justified on pragmatic grounds, particularly in post-conflict contexts. Transitional justice scholars such as Teitel and Hayner suggest that amnesty may encourage armed groups to disarm and reintegrate, facilitating peace and national reconciliation.[37] However, this approach is not uncontroversial. Critics argue that excessive reliance on amnesty risks undermining public trust in institutions, eroding the rule of law, and perpetuating cycles of violence.[38] Doyle and Sambanis contend that peace without accountability may stabilize societies temporarily but often leaves underlying grievances unaddressed, increasing the likelihood of renewed conflict.[39]

7.3 Conditional and Partial Amnesty

Recent scholarship emphasizes the potential of conditional or partial amnesties as a compromise between justice and peace. Under this model, amnesty is granted only in exchange for truth-telling, reparations, or cooperation with judicial processes, thus aligning with international norms while promoting reconciliation.[40] Sriram notes that truth commissions in South Africa, Sierra Leone, and Liberia successfully employed such frameworks, highlighting that accountability

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[34] Schabas W, *An Introduction to the International Criminal Court* (5th edn, Cambridge University Press 2021) 132.

[35] Bell C, *On the Law of Peace: Peace Agreements and the Lex Pacificatoria* (Oxford University Press 2008) 95–97.

[36] ICTY, *Prosecutor v Tadić* (Judgment) Case No IT-94-1-A, Appeals Chamber, 15 July 1999, paras 58–60; see also, SCSL, *Prosecutor v Charles Ghankay Taylor* (Interlocutory/Judgment) Case No SCSL-03-01-A

[37] Teitel R, *Transitional Justice* (Oxford University Press 2000) 25; Hayner P, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (2nd edn, Routledge 2010) 110–115.

[38] Bell C, *On the Law of Peace* (*supra*) 102.

[39] Doyle M and Sambanis N, *Making War and Building Peace: United Nations Peace Operations* (Princeton University Press 2006) 78–80.

[40] Sriram CL, *Transitional Justice and Peacebuilding on the Ground: Victims and Ex-Combatants* (Routledge 2010) 56–60.

mechanisms can coexist with selective amnesty provisions.[41] Bell and Teitel caution, however, that even conditional amnesties must avoid absolving individuals of responsibility for gross human rights violations, and that rigorous oversight is necessary to prevent abuse.[42]

7.4 Victims' Rights and Ethical Considerations

A significant body of literature focuses on the ethical and normative dimensions of amnesty. Bell, Hayner, and McAdams argue that granting immunity to perpetrators risks denying victims justice, reparations, and recognition of suffering.[43] Victims' rights are increasingly recognized as central to transitional justice frameworks, influencing international jurisprudence and the design of post-conflict accountability mechanisms. Amnesties that ignore victims' interests are likely to generate social resentment and may undermine long-term peacebuilding efforts.[44]

7.5 Comparative and Regional Perspectives

Comparative studies reveal divergent approaches to amnesty across regions. In Latin America, countries such as Argentina and Chile initially adopted blanket amnesties following dictatorships, which were later challenged and overturned through judicial review.[45] In Africa, conditional amnesties combined with disarmament and reintegration programs in Sierra Leone and Liberia have been cited as models for balancing peace and justice.[46] Meanwhile, the experience of the former Yugoslavia and Rwanda demonstrates the primacy of international tribunals over domestic amnesty laws in addressing mass atrocities.[47] These comparative insights underscore that amnesty is most legitimate and effective when integrated within broader transitional justice frameworks that incorporate both accountability and reconciliation.

8.Analysis of Amnesty Outcomes: Successes, Failures, and Controversies

The use of amnesty as a post-conflict mechanism has produced mixed outcomes, with varying degrees of success, failure, and controversy depending on the political, legal, and social context. Examining these outcomes provides insight into the effectiveness of amnesty in balancing peace, justice, and reconciliation.

8.1. Successes of Amnesty

Amnesty has occasionally served as a pragmatic instrument for peacebuilding. One of its most notable successes is in Sierra Leone, where the Lomé Peace Agreement (1999) granted conditional amnesty to former combatants of the Revolutionary United Front (RUF) as part of the disarmament, demobilization, and reintegration (DDR) process.[48] This conditional amnesty incentivized combatants to surrender, reducing active hostilities and contributing to national stability.

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[41] Hayner P (*supra*) 117–120.
[42] Teitel R (*supra*) 48–50; Bell C (*supra*) 98–100.
[43] Bell C (*supra*) 103; Hayner P (*supra*) 122; McAdams T, *Transitional Justice in Latin America: Amnesty, Accountability, and the Legacy of Dictatorship* (Cambridge University Press 2006) 74–76.

[44] UN Human Rights Council, 'Report on the Right to Remedy and Reparation for Victims' UN Doc A/HRC/21/22 (2012); Bell C (*supra*) 105; Hayner P (*supra*) 125.
[45] McAdams T (*supra*) 80–82.
[46] UN Doc S/2001/1234 (Report of the Secretary-General on the United Nations Mission in Sierra Leone) (2001); Sriram CL (*supra*) 59.
[47] UN Security Council Res 827 (1993); UN Security Council Res 955 (1994); Schabas W (*supra*) 138.
[48] UN Doc S/1999/777 (Lomé Peace Agreement, Sierra Leone, 1999).

Similarly, in Liberia, post-conflict amnesty provisions facilitated the cessation of hostilities during the transitional government period following the civil wars (1989–2003).[49] In South Africa, the Truth and Reconciliation Commission (TRC) provided conditional amnesty to individuals who fully disclosed politically motivated crimes. While controversial, this approach fostered reconciliation and national dialogue, creating a political compromise between accountability and societal healing.

These examples illustrate that, when properly conditioned and monitored, amnesty can serve as a peace-promoting mechanism, helping societies transition from conflict to stability.

8.2 Failures of Amnesty

Despite its potential, amnesty has frequently failed to deliver justice, particularly where it is unconditional or poorly implemented. In Argentina and Chile, blanket amnesties following military dictatorships initially shielded perpetrators of human rights violations from prosecution. These measures delayed accountability, leaving victims without redress and undermining trust in domestic institutions. It was only after judicial and international pressure that some of these amnesty laws were repealed or challenged.[50]

In Liberia and Sierra Leone, while conditional amnesties reduced active combat, critics argue they allowed major human rights violators to escape full accountability, generating grievances among victims.[51] Similarly, in post-conflict Colombia, the peace agreement with the FARC incorporated a nuanced amnesty framework, but its implementation has faced challenges, with debates over whether serious crimes are being effectively prosecuted.[52]

8.3 Controversies Surrounding Amnesty

The controversies surrounding amnesty are primarily legal, ethical, and political:

8.3.1.Legal Controversy:

Blanket amnesties for serious international crimes often conflict with *jus cogens norms* prohibiting genocide, crimes against humanity, and war crimes. International tribunals, including the ICC and ICTY, have consistently rejected domestic amnesty laws that shield perpetrators from prosecution.

8.3.2 Ethical and Moral Controversy:

Amnesty can be perceived as a betrayal of victims, denying them justice, reparations, and recognition of suffering. Critics argue that granting immunity for heinous crimes erodes public confidence in the rule of law and undermines social cohesion.

[49] International Crisis Group, *Liberia: The Key to Ending Regional Instability* (ICG Africa Report No 82, 2004) 15–18.

[50] McAdams T, *Transitional Justice in Latin America: Amnesty, Accountability, and the Legacy of Dictatorship* (Cambridge University Press 2006) 80–86.

[51] See, Sriram CL (*supra*) 60–62.

[52] International Center for Transitional Justice, 'Colombia: Peace Agreement and Amnesty Implementation' (ICTJ 2018) https://www.ictj.org/news/colombia-peace-agreement-and-amnesty (accessed 17/11/2025).

8.3.3 Political Controversy:

Amnesty is often used as a political compromise, raising concerns about selective justice and potential manipulation by ruling elites. In some contexts, it may serve to protect politically powerful individuals rather than advance societal reconciliation.

Overall, while amnesty can contribute to peace in the short term, its long-term success depends on careful design, conditionality, integration with accountability mechanisms, and respect for victims' rights. The tension between peace and justice remains central to the debate, highlighting the need for nuanced, context-specific approaches.

9. Comparative Jurisdictional Analysis

The approach to international crimes, violations, and the grant of amnesty varies significantly across jurisdictions, reflecting differences in legal frameworks, political contexts, and transitional justice strategies. This comparative analysis examines Africa, Latin America, and Europe to highlight the successes, limitations, and lessons from diverse experiences.

9.1 Africa

In Africa, post-conflict states have frequently employed conditional amnesties as tools for peace and reintegration. For example, Sierra Leone (1999) and Liberia (2003) incorporated amnesty provisions into peace agreements to incentivize disarmament and encourage former combatants to participate in post-conflict reconstruction.[53] These amnesties were often conditional on truth-telling and cooperation with accountability mechanisms, reflecting an attempt to balance peace and justice.

However, African amnesty frameworks have also faced criticism for insufficient accountability, particularly where serious violations were involved. The African Union and regional human rights bodies have emphasized that amnesty cannot extend to genocide, war crimes, or crimes against humanity, reinforcing the principle that continental frameworks align with international law.[54]

9.2 Latin America

Latin America provides contrasting experiences, particularly in countries emerging from military dictatorships. Argentina and Chile initially enacted blanket amnesties (e.g., the Full Stop Law and the Law of Due Obedience in Argentina) that shielded perpetrators of human rights violations.[55] These laws were later overturned by domestic courts and condemned by international bodies, including the Inter-American Court of Human Rights, as incompatible with obligations to prosecute serious crimes.[56]

In Colombia, the 2016 Peace Agreement with FARC adopted a more nuanced approach, combining partial amnesty with transitional justice mechanisms, including restorative justice, reparations, and special criminal tribunals.[57] This model attempts to reconcile peace with accountability, offering lessons for other jurisdictions seeking to balance these objectives.

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[53] UN Doc S/1999/777 (Lomé Peace Agreement, Sierra Leone, 1999); International Crisis Group, *Liberia: The Key to Ending Regional Instability* (ICG Africa Report No 82, 2004) 15–18.

[54] African Union, 'African Charter on Human and Peoples' Rights' (1981) arts 1–4; African Commission on Human and Peoples' Rights, *Principles on Impunity* (2005).

[55] McAdams T, *Transitional Justice in Latin America: Amnesty, Accountability, and the Legacy of Dictatorship* (Cambridge University Press 2006) 80–82.

[56] Inter-American Court of Human Rights, *Barrios Altos v Peru* (2001) Series C No 75, paras 41–44.

[57] International Center for Transitional Justice, 'Colombia: Peace Agreement and Amnesty Implementation' (ICTJ 2018) https://www.ictj.org/news/colombia-peace-agreement-and-amnesty (accessed on 17/11/2025).

9.3 Europe

European experiences, particularly in the Balkans, illustrate the primacy of international judicial mechanisms over domestic amnesties. The ICTY (1993–2017) and the International Criminal Tribunal for Rwanda (1994–2015) demonstrated that amnesty cannot shield perpetrators of war crimes, genocide, or crimes against humanity from international prosecution. These tribunals reinforced the principle of non-impunity, creating precedents that influence both regional and global jurisprudence.

In addition, European states emerging from conflict, such as Bosnia and Herzegovina, have integrated international law principles into domestic frameworks, often rejecting broad amnesty provisions in favor of hybrid courts and international cooperation.

10 Comparative Insights

The comparative analysis reveals several key trends:

10.1Conditional vs. Blanket Amnesty:

African and Latin American experiences highlight the importance of conditional amnesties linked to cooperation with truth-telling and reparations, whereas blanket amnesties tend to face domestic and international rejection.

10.2 International Oversight:

European cases demonstrate that international tribunals serve as corrective mechanisms when domestic amnesty laws are inconsistent with international obligations.

10. 3 Victims' Rights:

Across jurisdictions, there is growing recognition that amnesty must protect victims' rights to justice, reparations, and truth, influencing both the design and legitimacy of amnesty frameworks.

10.4 Balancing Peace and Justice:

Effective amnesty frameworks combine pragmatic peacebuilding objectives with mechanisms for accountability, reflecting lessons learned across diverse post-conflict contexts.

This comparative overview underscores that jurisdictional differences are shaped by legal culture, post-conflict needs, and international oversight. Lessons from multiple regions suggest that conditional, well-regulated amnesties, integrated with accountability mechanisms, are more likely to achieve sustainable peace while respecting legal and ethical imperatives.

11. Findings

The analysis of international crimes, violations, and the grant of amnesty reveals several significant findings regarding its effectiveness, limitations, and implications for justice, peace, and reconciliation:

11.1 Amnesty Can Facilitate Peace but May Compromise Justice

Empirical evidence from Sierra Leone, Liberia, and South Africa indicates that amnesty—particularly conditional amnesty linked to disarmament or truth-telling, can successfully incentivize combatants to surrender and contribute to national stabilization. However, when amnesty is unconditional or blanket, as observed in Argentina and Chile, it tends to undermine

accountability, delaying justice for victims and fostering public distrust in legal institutions. This highlights a persistent tension between peacebuilding objectives and the pursuit of justice.

11.2 Legal and Normative Constraints Limit Blanket Amnesty

International legal frameworks, including the Rome Statute (1998) and Geneva Conventions (1949**)**, establish clear limits on the legality of amnesty for serious international crimes. Both ad hoc tribunals and the ICC have consistently rejected domestic amnesty laws that shield perpetrators of genocide, crimes against humanity, or war crimes. This demonstrates that while amnesty may have political utility, it is not unconstrained by international law and may be legally invalid if it conflicts with non-derogable obligations.

11.3 Conditional or Partial Amnesty is More Effective

Findings suggest that conditional or partial amnesty frameworks, such as those used in the Truth and Reconciliation Commission (TRC) of South Africa or the Colombian peace process with FARC, offer a more balanced approach. When amnesty is tied to cooperation with judicial investigations, disclosure of crimes, or reparations, it can promote reconciliation while maintaining accountability. Such frameworks also enhance victims' participation and strengthen legitimacy, reducing the risk of impunity.

11.4 Amnesty Outcomes Are Context-Specific

The success or failure of amnesty depends heavily on political, social, and institutional contexts. In post-conflict Africa, conditional amnesty contributed to short-term peace, but the absence of robust enforcement mechanisms sometimes left serious violators unpunished. In Latin America, the eventual repeal of blanket amnesties underscored the role of judicial oversight and international pressure in ensuring compliance with human rights norms. European cases demonstrate that international tribunals act as corrective mechanisms when domestic amnesties fail to meet legal standards.

11.5 Victims' Rights Remain Central

A recurring finding is that victims' rights are often compromised when amnesty is applied without adequate safeguards. Amnesty that ignores victims' need for justice, reparations, or truth-telling risks undermining reconciliation and social cohesion. Integrating victims' interests into amnesty frameworks is essential for both ethical legitimacy and long-term peace.

11.6 Controversies Persist

Despite its potential benefits, amnesty remains highly controversial. Legal scholars, practitioners, and victims' groups debate whether any form of amnesty for serious international crimes is acceptable. Controversies include the risk of selective application, political manipulation, and tension with international anti-impunity norms. These debates suggest that amnesty is not a one-size-fits-all solution and must be carefully designed to balance competing imperatives.

12 Conclusion

As noted earlier in this work, the study of international crimes, violations, and the grant of amnesty underscores the complex interplay between peace, justice, and reconciliation in post-conflict societies. Analysis of case studies from Africa, Latin America, and Europe, supported by scholarly literature, demonstrates that amnesty can serve as a pragmatic tool for ending hostilities and encouraging the reintegration of former combatants. Conditional and partial amnesties, when

combined with truth-telling, reparations, and accountability mechanisms, have shown potential to foster both peace and justice.

However, the research highlights significant limitations and controversies. Blanket amnesties for serious international crimes risk violating *jus cogens norms*, undermine victims' rights, and erode public trust in the rule of law. International tribunals, such as the ICTY and ICC, emphasize that no domestic or political consideration can shield perpetrators of genocide, war crimes, or crimes against humanity from accountability. The comparative analysis indicates that context-specific approaches, balancing legal, ethical, and political considerations, are critical for the legitimacy and effectiveness of amnesty frameworks.

Ultimately, amnesty is neither inherently legitimate nor inherently illegitimate. Its success depends on design, conditionality, compliance with international norms, and inclusion of victims' rights. This study reinforces the need for nuanced, carefully monitored frameworks that reconcile post-conflict peacebuilding objectives with international obligations for justice.

13. Recommendations

Based on the analysis and findings shown above, the following recommendations are proposed:

Conditional Amnesty Frameworks: States should adopt amnesty provisions that are conditional on full disclosure, truth-telling, reparations, and cooperation with judicial processes to ensure accountability while promoting reconciliation.

Compliance with International Law: Any amnesty provision must adhere to international legal obligations, particularly prohibitions on impunity for genocide, crimes against humanity, and war crimes, to prevent legal challenges and strengthen legitimacy.

Victims' Rights Integration: Victims must be actively involved in designing and implementing amnesty programs, ensuring access to justice, reparations, and participation in truth-seeking mechanisms.

International Oversight and Support: International bodies, including the ICC, UN agencies, and regional human rights organizations, should monitor and provide guidance on the legality and fairness of amnesty provisions.

Context-Specific Design: Amnesty frameworks must be tailored to the political, social, and institutional realities of post-conflict societies, balancing short-term peace imperatives with long-term justice and reconciliation goals.

Education and Public Engagement: Governments should engage in public awareness and civic education to foster understanding of amnesty's objectives, limitations, and legal boundaries, thereby enhancing public trust in post-conflict justice processes.

These recommendations aim to guide policymakers, legal practitioners, and transitional justice actors in designing amnesty frameworks that are legally compliant, ethically sound, and practically effective, ultimately contributing to sustainable peace and justice.