

The Impact of Amnesty as a Tool for Peace and Reconciliation in the Protection of Human Rights

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Abstract. Contemporaneous with the conflicts in societies especially after the end of cold war, peace agreements were negotiated to end violence, civil wars and facilitate the process towards peace. Although amnesty laws have ancient origins, their use as a political tool is increasingly evolving. In this paper, the role of amnesty as a leverage to peace and protection of human rights is remarked.

Key Words: Amnesty, peace, reconciliation, human rights.

1. Introduction

Amnesty is employed as political leverage which attracts parties to negotiate on peace and fail further conflict; hence, Amnesty laws have fundamental importance particularly in transitional justice as Mallinder explains: Amnesty laws are long- standing political tools that are used by states wishing to quell dissent, introduce reforms or achieve peaceful relationship with their enemies. Indeed, political negotiations often argue that amnesty is a necessary price to pay in order to achieve a stable, peaceful, and equitable system of government.¹ Following to this belief, amnesties are used as tool for national reconciliation which leads to peaceful goals of humanities.

2. The Impact of Amnesty as a Tool for Peace and Reconciliation

A significant observation related to experiences of peace process indicates that all established peace agreements were not durable as a recess before another round of civil war. Nevertheless, peace agreements were used to get a sustainable peace and allow for development in the post- conflict phase, even though as short- term aims.

Peace agreements or amnesty laws are most likely to deliver security and political order. They offer a unique opportunity to resolve past issues and compromise on peace. As a pragmatic solution amnesty halt litigation, preventing vulnerable judicial system and perpetual claims. Government's motivation behind amnesty laws is summarized in peaceful goals such as alleviating internal and international pressure; adhering to cultural and religious traditions with humanitarian goals; internal reform programs and providing reparations. Regarding these goals, amnesty is applied as a response to all range of tensions which are broadly explained as follows:

2.1. Amnesty as a tool for alleviating internal pressure

It is for example used when the stability of a state changes to conflict or it is employed to bolster support for political prisoners by the government. After the storm of revolution especially in societies after transition from one political regime to another, amnesty is given to undermine opposition movements and prevent from

future atrocities. In this category, governments demonstrate that they have a monopoly over political, economic and military power; accordingly, they apply the leverage of amnesty as a strength which cannot be threaded by the opposition groups. Hence, resorting to amnesty can prevent such atrocities from reoccurring and to unify a divided nation scarred by past conflicts. For instance, South Africa's TRC was the first truth commission to grant amnesty to individuals who fully disclosed in public their involvement in politically motivated crimes. South Africa's amnesty program is the broadest amnesty in history believing that amnesty has helped with the reconciliation process.²

2.2. Amnesty as a tool for internal reform programs

Alternatively, governments grant amnesty due to internal reform programs. They implement reform programs to ensure that the dictatorial power is peacefully transferred to democratic regime. For example, in Burma in September 2008, the regime released 9,002 prisoners, saying it wanted to "turn them into citizens to be able to participate in building a new nation". However just nine political prisoners were included in the amnesty. After the downfall of former Prime Minister Gen Khin Nyunt and the dismantling of his Military Intelligence in 2004, an amnesty granted to more than 14,000 prisoners.³

2.3. Amnesty as a tool to moderate international pressure

Amnesty is additionally applied to alleviate international pressure. Following international or even internal conflicts, there are some advocates like international organizations or other mediators who support amnesty in account of political motivation like to increase the strength of their allies.⁴ International actors can influence decisions on amnesties indirectly by contributing to the conditions that make amnesty necessary, for example, by imposing sanctions or conditioning military or economic aid on the release of political prisoners or by providing military support to a party to the conflict to bring about a particular political settlement.¹ For example, during the 1980, several countries in Latin America introduce amnesties for their political opponents to secure funding and military support from a United States Congress that was critical of human rights violations.⁶

International actors can also convince states to introduce amnesty laws by encouraging states to enact peaceful laws or even they may exert pressure using economic, legal, diplomatic or military tools to support governments to apply amnesty laws. One of the most obvious examples is observed in the function of Amnesty International organization. Amnesty International mission is to undertake human rights by preventing and ending grave abuses. It forms a global community of human rights defenders with the principles of international solidarity, effective action for the individual victim, global coverage, the universality and indivisibility of human rights, impartiality and independence, democracy and mutual respect. Amnesty International addresses governments, intergovernmental organizations, armed political groups and other non-state actors. It seeks to disclose human right abuses and researches the facts of individual cases. These findings are publicized and members, supporters mobilize public pressure on governments to avoid violence. Amnesty International, in addition, urges governments to respect the rule of law and human rights standards and also encourages intergovernmental organizations, individuals, and all organs of society not to support abuses against human rights as Clark explains: "As Amnesty International started its work for better human rights law, it acted as an outsider lacking the status and resources of the states it was trying to influence. It was unimaginably ambitious for a third party like AI to undertake advocacy that entailed basic changes in international norms, the standards of behavior expected of states and articulated in international institutions."⁷

Amnesty International is already dealing with activities against human right, simply by reporting on them. For example, in 2003, 57 people were imprisoned in Cuba for expressing their right to freedom by taking part in peaceful demonstration. Consequently, Amnesty International called on Cuban government to immediately release people who had been arrested in a March 2003 crackdown against political and human rights activists in the country.⁸

2.4. Amnesty as a tool to heal harms

With relation to other peaceful goals, amnesty repairs the harm of those who are opponent of the state due to a variety of reasons such as their ethnicity, supposed cultural, racial, religious or political views. They

are as opponents who occasionally associated with non- violent opposition to repression. ⁹These prisoners are deemed as political prisoners who are imprisoned for non- violent crimes or who are falsely imprisoned, as a result, due to reduction of tension, the cruel regime grants them amnesty to mitigate disputes. Regardless of law consent or the absence of legal evidence, every country has taken political prisoners but it more often happens in countries with a dictatorship ruling like Korea, China, and Myanmar. For example, in Myanmar 1988, a student protest for democracy led to the massacre of 3000 protestors and the jailing of over 2000 political prisoners. In 1998, more protestors were jailed and tortured.

Repressing the opponents of a state is an old history which can be observed in every country commonly in countries with up and down political situation. But the situation cannot be fixed by keeping protestors in the jail ignoring speech freedom and human rights. The violent reaction of government does not have gracious impression on a nation while it develops the mistrust and criticism against the government. It is the reason that governments sometimes show their tendency to release political prisoners in special occasions to decrease the aggregation of prisons or when they want to deflect criticism of their human rights. Here granting amnesty repairs the harm of opponents who are imprisoned because of declaration of their opinions and their non- violent activities. Although governments have scrupulous reaction in these issues, they show their tendency to release political prisoners in order to prevent from more tensions in the society. China can be illustrated as another dictatorship which its people have been repressing protests and free speech for many years. The most famous example of arrest and massacre by the government against protestors happened in 1989. China continues to use its political prisoners as hostages, often releasing a few prisoners just before foreign leaders visit in order to deflect criticism of their human rights.¹⁰

2.5. Amnesty as a tool adhered to particular conditions

The next category covers humanitarian acts which includes adherence to cultural and religious traditions. This kind of amnesty applies ordinary offences and usually is granted in circumstances like religious holidays or the anniversary of the foundation of country about special offenders such as elderly or unhealthy prisoners, minor criminals, first- time offenders, female prisoners, women or single men having underage children, pregnant women, underage persons prisoners infected with HIV or disabled persons.

3. Conclusion

In final, although acquiring the peace might not be the sole objective of amnesty, it is claimed by the governments as a tool for national reconciliation. Governments proclaim that amnesties create a climate of tranquility, confidence and assurance. Countries such as Spain, South Africa and Mozambique indicate that amnesties have gracious effects on national reconciliation even for the most serious crimes.¹¹

In all above categories, governments have multiple objectives for introducing an amnesty law such as demobilizing combatants, encouraging offenders to surrender the weapons, developing political and economic situation of the society, obtaining the ceasefire and also other peaceful restorative objectives. In short, the motivation of states for granting amnesty regardless of its long- term and short- term goals is particularly highlighted in which to promote peace and reconciliation by encouraging tranquility preventing from fighting. Such amnesties can ensure greater autonomy for people by creating a climate in which the leaders focus on the redevelopment of country and promotion of reconciliation.

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