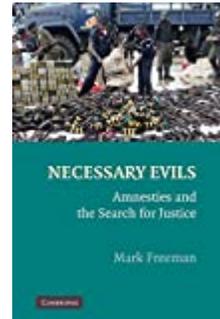


Mark Freeman. *Necessary Evils: Amnesties and the Search for Justice*. Cambridge: Cambridge University Press, 2009. xxi + 352 pp. \$90.00 (cloth), ISBN 978-0-521-89525-5.



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Published on H-Human-Rights (May, 2011)

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The Legitimate and Appropriate Application of Amnesty

As states emerge from periods of authoritarian rule or civil war, they have a variety of mechanisms at their disposal to address past human rights violations. These mechanisms—collectively referred to as transitional justice—include truth commissions, trials, and vetting processes intended to hold perpetrators accountable, as well as victim-oriented restorative justice processes, such as reparations, monuments, and public memory projects. In what is an expanding field, scholars have thoroughly explored the use and impact of these mechanisms in a variety of contexts. Yet the most common state response to past crimes is to issue an amnesty, absolving perpetrators (at least temporarily) of punishment, and this mechanism is markedly understudied. For this reason alone, Mark Freeman's *Necessary Evils: Amnesties and the Search for Justice* is a welcome addition to the academic field. Drawing on his original database of over 600 amnesty laws, Freeman provides a well-informed examination of this crucial mechanism, and urges the field to reconsider its usefulness.

Freeman contends that scholars and practitioners

have gone too far in their campaign against amnesty. Indeed, the use of amnesty now flies in the face of much of the transitional justice literature and the human rights community, and in many circles, it is no longer considered a legitimate response to atrocity. This opposition is based on a variety of sound moral, political, and legal arguments. To his credit, Freeman does not shy away from engaging them. In fact, the book is divided into two parts, the first of which is dedicated entirely to the debate on amnesties. This represents the most thorough review of the existing literature to date. Some scholars will surely disagree with his conclusion, but Freeman will not be accused of failing to adequately consider the opposing side.

In the context of engaging the theoretical debate on amnesty, Freeman provides a detailed discussion of definitions of amnesty that will prove useful to other scholars using and applying the term. He next engages the place of amnesty in international law, examining a variety of treaties and international jurisprudence with bearing on the issue. Of particular note are two stand-alone sections on the role of amnesty in the International Criminal

Court and the United Nations. These sections provide an exemplary overview and critique of how these two key institutions have engaged the issue.

Following the discussion of the debates surrounding amnesty, Freeman then lays out his argument for where and why states can use amnesties. What makes his argument so persuasive is that he effectively agrees with those who object to amnesty's use. He argues that the default position should always be to pursue justice. In extreme circumstances, however, and only such extreme circumstances, amnesty may be a necessary evil to achieve peace and security, and it should not be taken off the policy table. He contends that amnesty should be considered a "last recourse," and states should only pursue this strategy if specific criteria are met. Specifically, the situation must be urgent and grave, and all other options must have been exhausted, including other leniency options short of amnesty.

After justifying the context in which states can appropriately use amnesties, Freeman then turns to his great-

est concern: history is full of bad models of amnesty. To confront this problem, he sets out to generate an amnesty design methodology that will aid practitioners in crafting amnesties that do limited damage to victims's rights and the international rule of law. The methodology outlined by Freeman contains six main points. The amnesty must be implemented through a democratic process, with minimum legal entrenchment, and towards a legitimate end. In addition, it should have minimum leniency, impose the maximum level of conditions for beneficiaries, and have maximum viability. Within each of these six categories, Freeman outlines specific design choices for constructing an amnesty. Readers will appreciate the nuance to this methodology and the numerous examples integrated into the discussion that illustrate and reinforce the points. The only drawback is that, at times, the methodology feels too complex. One wonders if any policymaker could realistically apply such a complex framework in the real world. In the end, however, this book represents a significant advancement in the field, and it will inform scholars and practitioners working on transitional justice in the future.

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Citation: Andrew Reiter. Review of Freeman, Mark, *Necessary Evils: Amnesties and the Search for Justice*. H-Human-Rights, H-Net Reviews. May, 2011.

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